

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 549

[BOP-1047-F]

RIN 1120-AA40

Administrative Safeguards for Psychiatric Treatment and Medication

AGENCY: Bureau of Prisons, Justice.

ACTION: Finalization of Interim Rule.

SUMMARY: In this document, the Bureau of Prisons adopts as final its interim regulations on administrative procedural safeguards given an inmate prior to the provision of involuntary psychiatric treatment and medication. The intent of this amendment is to maintain appropriate administrative due process procedures in the provision of necessary health care to inmates, consistent with community standards.

EFFECTIVE DATE: September 25, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is adopting as final its interim regulations on administrative safeguards in the provision of psychiatric treatment, including medication, which were published November 12, 1992 in the Federal Register (57 FR 53820). No public

comment was received on the interim rule.

In adopting the interim rule as final, the Bureau is correcting a typographical error in § 549.41(b) and is making a minor adjustment to the definition of emergencies in § 549.43(b). In § 549.41(b), "voluntarily" had erroneously appeared as "voluntary." In § 549.43(b), the definition of a psychiatric emergency is modified to include "extreme deterioration of functioning secondary to psychiatric illness."

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 549

Prisoners.
Kathleen M. Hawk,
Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), the interim rule amending 28 CFR part 549 which was published at 57 FR 53820 on November 12, 1992 is adopted as a final rule with the following changes.

PART 549—MEDICAL SERVICES

1. The authority citation for 28 CFR part 549 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4241-4247, 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. In § 549.41, paragraph (b) is revised to read as follows:

§ 549.41 Voluntary admission and psychotropic medication.

* * * * *

(b) If an inmate is to receive psychotropic medications voluntarily, his or her informed consent must be obtained, and his or her ability to give such consent must be documented in the medical record by qualified health personnel.

3. In § 549.43, paragraph (b) is amended by revising the first sentence to read as follows:

§ 549.43 Involuntary psychiatric treatment and medication.

* * * * *

(b) *Emergencies:* For purpose of this subpart, a psychiatric emergency is defined as one in which a person is suffering from a mental illness which creates an immediate threat of bodily harm to self or others, serious destruction of property, or extreme deterioration of functioning secondary to psychiatric illness. * * *

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