I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

The purpose of this policy is to define and describe the process for psychiatric hospitalization of incarcerated individuals.

III. APPLICABILITY

This policy applies to all persons employed by or under contract with the Ohio Department of Rehabilitation and Correction (ODRC), excluding the Division of Parole and Community Services (DPCS), and all individuals incarcerated in prisons operated by the ODRC.

IV. DEFINITIONS

The definitions for the below listed terms can be found at the top of the ODRC policies page on the ODRC Intranet at the following:

**Definitions Link**
- Advocate for Retention
- Advocate for Transfer
- Due Process Hearing
- Emergency Transfer
- Due Process Hearing Officer
- Mental Illness
- Mentally Ill Person Subject to Hospitalization
- Offender Representative
- Psychiatric Hospital
- Uncontested Transfer
V. POLICY

It is the policy of the ODRC to provide a full range of mental health services that includes access to psychiatric hospitalization for those incarcerated individuals requiring a more intensive level of care.

VI. PROCEDURES

There are three (3) processes through which an incarcerated individual may be transferred to a psychiatric hospital for inpatient care: emergency transfer, uncontested transfer, and as a result of a due process hearing. The procedures for each type of transfer are detailed in the sections that follow. Any incarcerated individual in need of psychiatric hospitalization shall be housed in a safe cell and closely monitored during the hospitalization prescreening process unless an emergency exists and an immediate transfer is needed.

A. Emergency Transfer Process

1. The incarcerated individual may only be transferred to a psychiatric hospital under an emergency transfer order if the individual is mentally ill, presents as an immediate danger to self or others, and requires a hospital level of care as determined by both a. and b. below:

   a. The State Psychiatry Director of Behavioral Health Operations (BHO) or psychiatrist designee; and

   b. Either a psychiatrist employed or retained by ODRC or the psychiatric hospital, or in the absence of a psychiatrist, a psychologist employed or retained by ODRC.

2. A psychiatrist employed or retained by ODRC or the psychiatric hospital, or in the absence of a psychiatrist, a psychologist employed or retained by ODRC shall complete a Psychiatrist Examination for Hospitalization/Retention (DRC5218).

3. The completed Psychiatric Examination for Hospitalization/Retention (DRC5218) shall be faxed or scanned to the BHS State Psychiatry Director or psychiatrist designee. The institutional staff must call the BHS State Psychiatry Director or psychiatrist designee to confirm availability before faxing or scanning due to the time-sensitive nature of the request for emergency transfer.

4. The Psychiatric Examination for Hospitalization/Retention (DRC5218) shall be reviewed and the BHO State Psychiatry Director or psychiatrist designee shall determine whether the incarcerated individual is mentally ill, presents an immediate danger to self or others, requires hospital level of care, and meets the criteria for an emergency transfer within four (4) hours of receipt of the fax or scan. No transfer may occur without this process being completed.

5. If the individual is transferred to the psychiatric hospital as an emergency, within five (5) working days of the admission date, the ODRC shall hold a due process hearing at the hospital for initial hospitalization in accordance with section VI.C of this policy and hold subsequent hearings for continued hospitalization as outlined in section VI.D.
B. Uncontested Transfer Process

1. For uncontested transfers, a psychiatrist must determine if:
   
a. The individual has a mental illness or is a mentally ill person subject to hospitalization,
b. The individual requires hospital care to address the mental illness,
c. The individual has the mental capacity to make a reasoned choice regarding the individual’s transfer to a hospital, and
d. The individual agrees to a hospital admission.

2. The psychiatrist is required to complete the Waiver for Uncontested Transfer to a Psychiatric Hospital (DRC5413) and have the form signed by the incarcerated individual.

3. The psychiatrist must complete a Psychiatrist Examination for Hospitalization/Retention (DRC5218) if the psychiatrist determines that the incarcerated individual meets all the criteria for uncontested transfers listed in VI.B.1. a-d above and requires hospitalization.

4. The completed Psychiatric Examination for Hospitalization/Retention (DRC5218) shall be sent to and reviewed for appropriateness upon receipt by the State Psychiatry Director or psychiatrist designee with response as soon as possible but no later than seventy-two (72) hours after receipt. If the uncontested transfer is approved, the individual shall be transferred to the psychiatric hospital for admission.

5. While at the psychiatric hospital, the incarcerated individual may withdraw consent to transfer in writing at any time. This written request shall be submitted on the Waiver for Uncontested Hospital Admission (DRC5413) to the State Psychiatry Director or psychiatrist designee.

6. If the individual withdraws consent for hospitalization, the hospital must:
   
a. Discharge the incarcerated individual; or
b. Hold an initial hearing for continued hospitalization within five (5) working days of the withdrawn consent in accordance with VI.C of this policy and continue subsequent hearings as required and necessary for continued stay.

C. Due Process Hearing Transfer Process

1. A psychiatrist shall examine the incarcerated individual for hospitalization and complete a Psychiatric Examination for Hospitalization/Retention (DRC5218). The same psychiatrist shall be present in person or via videoconferencing to participate in the hearing process.

2. The mental health administrator (MHA) or mental health manager (MHM) shall review the psychiatrist-completed Psychiatric Examination for Hospitalization/Retention (DRC5218) for completeness and send it to the director of BHS.
3. The BHO State Psychiatry Director or designee shall appoint a hearing officer who shall schedule the due process hearing to occur within five (5) working days of completion of the Psychiatric Examination for Hospitalization/Retention (DRC5218).

4. At least twenty-four (24) hours prior to the scheduled hearing, the incarcerated individual shall be provided with a written notice of the location, date and time, and their right to:
   
   a. Be present at the hearing unless waived by the individual and their representative.
   
   b. Have a representative to explain the issues, review the documentation for transfer, and assist the individual in objecting to transfer at the due process hearing:
      
      i. If the individual shall not or is not able to choose a representative after receipt of the hearing notification, a representative shall be appointed by the hearing officer.
      
      ii. The individual has the right to decline a representative and represent themselves at the hearing subject to the approval of the hearing officer.
   
   c. Be un-medicated, if requested by the individual or representative on the day of the hearing. Individual completes the Request to Suspend Medication (DRC5228).
   
   d. Review the documentation, Psychiatric Examination for Hospitalization/Retention (DRC5218) for transfer.
   
   e. Present information by either the representative, or by the incarcerated individual, regarding objection to transfer. The length of the presentation may be limited by the hearing officer based on relevancy.
   
   f. Call witnesses on behalf of the individual, subject to the limits imposed by the hearing officer based on relevancy, security, admissibility of evidence and availability.
   
   g. Cross-examine witnesses supporting the case for transfer, subject to the limits imposed by the hearing officer based on relevancy, redundancy, and security. If institution staff members are to present evidence, they shall be present in person unless there is good cause for utilizing written statements and/or telephonic testimony.
   
   h. Have a copy of the Hearing Officer Decision (DRC5229).

5. The duties of the advocate for transfer shall be the following:
   
   a. Schedule the due process hearing after receiving the psychiatric recommendation for transfer requiring a hearing.
   
   b. Provide the incarcerated individual with a notice of hearing at least twenty-four (24) hours prior to the hearing using Notice of Hearing Transfer/Retention (DRC5220).
   
   c. Provide the incarcerated individual with a written list of Offender’s Rights at least twenty-four (24) hours prior to the hearing that includes, at minimum, the language written on the Notice of Hearing Transfer/Retention (DRC5220) and document that the individual has received it on the Notice of Hearing Transfer/Retention (DRC5220).
   
   d. Ascertain the choice of the individual for their representative.
   
   e. Assist the individual in contacting their representative for hearing.
   
   f. Be familiar with the psychiatric documentation for transfer.
g. Notify and call witnesses supporting transfer.
h. Cross-examine witnesses opposing transfer.
i. Abide by the rulings of the hearing officer.
j. Notify the incarcerated individual of the hearing officer’s decision.
k. Provide the individual with a copy of the Hearing Officer Decision (DRC5229).

6. The hearing shall be held at the sending institution.

7. The due process hearing officer shall have the following duties:
   a. Conduct the hearing in a fair, impartial, objective manner.
b. Ensure the presence of the incarcerated individual at the hearing unless there has been a waiver by them and their representative.
c. Ensure the individual has received a timely notice of the hearing sufficient for preparation.
d. Ensure the individual and/or their representative understands the nature and purpose of the hearing including the psychiatric documentation recommending transfer.
e. Ensure the individual has received a written notice of rights that includes, at minimum, the language written on the Notice of Hearing Transfer/Retention (DRC5220).
f. Appoint an incarcerated individual representative.
g. Ensure the individual has had the opportunity to consult with the representative.
h. Rule on admissibility, relevancy, redundancy, and security regarding evidence.
i. Provide for decorum in the hearing process.
j. Render a hearing decision in writing regarding transfer within twenty-four (24) hours of the hearing, except for good cause shown, leading to an additional twenty-four (24) hours extension.
k. Ensure a recording of the hearing is made and forwarded to the State Psychiatry Director or designee.
l. Arrange for the incarcerated individual to receive a copy of the hearing decision.

8. Due Process Hearing Officer Decision
   a. The hearing officer shall issue a written decision within twenty-four (24) hours after the hearing. If legal consultation is necessary, the hearing officer shall contact the BHO legal counsel.
b. The burden of proof for transfer shall be on the institution to prove by clear and convincing evidence that the incarcerated individual has been shown to have a serious mental illness, is a mentally ill person subject to hospitalization, and requires a hospital level of care.
c. If the decision is that the burden of proof has been met, the hearing officer shall notify the advocate for transfer of the decision to transfer. The advocate for transfer shall notify the State Psychiatry Director or designee, sending institution staff and the incarcerated individual of the decision, and coordinate with the hospital liaison the actual transfer to the psychiatric hospital.
d. The hearing officer’s decision to transfer is valid for up to thirty (30) calendar days of treatment at the hospital commencing on the date of hospital admission.
e. A copy of the written decision of the hearing officer shall be retained in the Mental Health file.
f. If the decision is that the burden of proof has not been met, the hearing officer shall notify the advocate for transfer who shall in turn notify the incarcerated individual and the residential treatment unit staff of the decision to retain the individual at that institution.

9. The recordings of the due process hearing are to be labeled, logged, and maintained securely in accordance with the ODRC Record Retention Schedule.

10. The following documents shall be filed in the incarcerated individual’s Mental Health file under the probate or hospital information tab by the sending institution before transferring the individual:
   a. Advocate for Transfer Retention Checklist (DRC5219),
   b. Notice of Hearing (DRC5220),
   c. Request to Suspend Medication (if utilized) (DRC5228),
   d. Hearing Officer Decision (DRC5229),
   e. Offender Representative (DRC5221),
   f. Waiver for Uncontested Psychiatric Hospital Transfer (if utilized) (DRC5413).

D. Continued Stay Hearing Procedure: Due Process Retention Hearings

1. Except as noted in VI.B.6 under uncontested transfers, a due process retention or continuation hearing must be conducted prior to the expiration of thirty (30) calendar days hospitalization, ninety (90) calendar days later if hospitalization is still necessary, then at 180-day (calendar) intervals as necessary.

2. All of the procedural elements spelled out in section VI.C.1-10 above are required for each continued stay, due process retention hearing.

3. All original forms shall be filed in the Mental Health file. The psychiatric hospital may also retain a copy.

Referenced Forms:

- Psychiatric Examination for Hospitalization/Retention DRC5218
- Advocate for Transfer/Retention Checklist DRC5219
- Notice of Hearing Transfer/Retention DRC5220
- Inmate Representative Checklist Retention/Transfer DRC5221
- Request to Suspend Medication DRC5228
- Hearing Officer Decision DRC5229
- Waiver for Uncontested Transfer to a Psychiatric Hospital DRC5413