

## **CBHC BOARD POSITION STATEMENT 11.0A:**

### *Involuntary Treatment*

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#### **Position Statement**

Involuntary treatment is a last resort option for individuals who pose an imminent risk to themselves or to the public and have exhausted all voluntary or least restrictive options.

#### **Background**

Colorado's community mental health providers have long held the values of non-coercion, personal autonomy, and recovery throughout the delivery of efficient behavioral health services. Access to voluntary treatment, strong trusting relationships, and systems that maximize personal autonomy and dignity are vital towards the promotion of good health outcomes for individuals who live with behavioral health disorders. Professional and legal standards highlight the importance of consent, and all mental health providers in Colorado must be held to the highest standard of pursuing consent whenever an individual is competent to provide it.

At times, involuntary treatment may be considered as an option for individuals whose behavioral health disorder symptoms have led them to become an imminent threat to themselves or others. In these limited instances, community mental health providers and system serve a unique role in balancing the needs of the state and the individual themselves. It is critical that in all instances where involuntary treatment of any kind is considered, the highest level of procedural protections and standards must be followed to ensure that an individual's rights are protected even if their ability to consent to treatment is impaired.

When involuntary treatment is pursued, it may occur in several forms including commitments to facilities, administration of medication or other treatments (e.g., electro-convulsive, feeding tubes, etc.), or coercion into treatment through an outpatient commitment or within a correctional setting. In Colorado, statutes within titles 27 (behavioral health) and 16 (criminal proceedings) outlines the procedures and regulatory oversight governing involuntary treatment. It is imperative that providers, consumers of services, and the public at large are well informed of the involuntary treatment process so as to ensure accountability and standardized care across all communities.

Across Colorado's healthcare, criminal justice, and other systems impacting individuals living with behavioral health disorders there must be a commitment to the value of treatment as an opportunity for recovery. For an individual to have the best possible chance at recovery and good treatment outcomes, it is critical that an individual's unique level of risk and need are considered in treatment decisions and that options are custom fit to the person's current situation and presentation. Colorado must make a commitment to ensure that all of our community members are given a fair chance at effective interventions that promote recovery.

## Policy Priorities

### 11.1 Involuntary Treatment as a Last Resort Option

At all times, it is imperative that involuntary treatment options are utilized as an utmost last resort. Pursuing informed consent, utilization of motivational techniques, and protecting individual rights is critical towards positive long term outcomes and recovery.

- ❖ CBHC supports policies that promote personal autonomy in treatment decisions by respecting involuntary treatment as a last resort option.
  - Standardized interpretations of statutory, regulatory, and professional guidelines for when involuntary treatment can be pursued.
  - Enhanced utilization of motivation techniques and creative strategies to engage individuals in non-coercive treatment.

### 11.2 Procedural Protections and Standards

When an individual is deemed too ill to consent to the treatment that they need, it is imperative that all of their rights are upheld through stringent protections and standards. Unbiased processes must be standardized across the state to ensure consistent oversight of involuntary treatment.

- ❖ CBHC supports policies, legislation, and clinical workflows that rely on unbiased opinions and a clear, standardized legal process to invoke involuntary treatment in any setting.
  - Procedural protections such as judicial hearing, petitions, and oversight.
  - Independent evaluations by unbiased professionals to determine clinical need.
  - Transparent state and legal oversight that prioritizes the best intentions for people in need.

### 11.3 Involuntary Medications

Supreme court decisions (*Washington v. Harper*, 494 U.S.210, 1990) have outlined the circumstances and procedures under which any person, regardless of their mental state, legal status, or physical location can be subjected to involuntary medications. An impartial decision and a review to ensure best medical interest of the individual, not the institution, must be maintained as a minimum standard when considering involuntary medications as an option. Across facilities, medications must be used strictly for treatment and never for population management. Until Colorado has committed to every possible strategy to redirect individuals into community treatment rather than justice involvement, policies must not enforce correctional facilities as the default stopgap for services.

- ❖ CBHC supports policies that uphold professional and legal standards for the administration of involuntary medications.
  - Requirements for impartial decision making, judicial process, and unbiased oversight.
  - Treatment and placement decisions based on the [risk-need-responsivity model](#).
- ❖ CBHC opposes policies, legislation, regulation, or programming that increases the ability of jail facilities to administer involuntary medication.
  - Promote the ability of facilities to transfer individuals in imminent need to healthcare facilities for stabilization and a comprehensive opportunity to seek voluntary treatment.
  - Increase reliance on diversion programming that allows individuals living with severe behavioral health disorders to be removed from the criminal justice system early and receive treatment within community services.

## 11.4 Advanced Directives

Research has demonstrated the promise of utilizing advanced directives to promote personal autonomy and better treatment outcomes. Advanced directives allow individuals to designate, while in good health, the treatment they would like to receive should their decisional capacity be impaired at a later date.

- ❖ CBHC supports legislation and policies that increase utilization of advance directives for all individuals, including those living with behavioral health disorders or chronic conditions.
  - Creation of a statewide system for advanced directives which allows for individuals to create and update them and grants access to healthcare and other relevant professionals.
  - Inclusion of psychiatric and mental health crisis directives in any advance directive system.
  - Promotion of advance directives for all individuals, not just those living with chronic conditions or behavioral health disorders, through partnerships between healthcare delivery systems and other wide-reaching systems (e.g., public health, transportation, etc.)

### Effective Period

The Colorado Behavioral Healthcare Council (CBHC) Board of Directors approved this policy on 09/20/2018. It is reviewed as required by the Public Policy Advisory Committee.

### Policy Updated

Updates to this policy position were approved by the CBHC Board of Directors on xx/xx/xxxx.

**Expiration: 09/20/2020**