



## COUNTY OF DEL NORTE

County Counsel  
981 "H" Street, Suite 220  
Crescent City, CA 95531  
Phone (707) 464-7208

---

### Memorandum

**AGENDA DATE:** April 26, 2022

**TO:** Board of Supervisors

**FROM:** County Counsel

**SUBJECT:** Designating the Jail as a "treatment facility"

---

**Recommendation:** Approve and Adopt "A Resolution Designating the Jail to Provide Medically Approved Medication to Defendants Found to be Mentally Incompetent, Pursuant to Penal Code Section 1369.1."

**Discussion:** A person may not be tried for a crime while that person is mentally incompetent, meaning as a result of a mental health disorder or developmental disability, the defendant is unable to understand the nature of the criminal proceedings or assist counsel in the conduct of a defense in a rational manner. (Penal Code §1367.) When someone charged with a felony is found to be mentally incompetent they are ordered to be transferred to a state hospital or other facility under the control of the Department of State Hospitals to be treated and hopefully restored to competency. Typically, when a court makes such an order, it also orders that the treatment facility may administer psychotropic medications without the consent of the inmate. Unfortunately, the state hospital system is heavily impacted, and inmates often wait several months before being transferred.

Penal Code Section 1369.1 provides that a "treatment facility" includes the county jail, and upon concurrence of the board of supervisors, the county mental health director, and the county sheriff, the jail may be designated to provide medically approved medication to defendants found to be mentally incompetent. This would allow the jail to medicate, even involuntarily, inmates who are waiting for transport to a state hospital. This will help reduce the occurrence of very mentally ill people spending months in the jail without receiving the medication and treatment they need.

Pursuant to 15 California Code of Regulations Section 1209, if the county does not elect to designate the jail to provide medication to mentally incompetent inmates, an inmate who appears to be a danger to himself or others or is gravely disabled "shall" be transferred for further evaluation to a designated Lanterman Petris Short treatment facility. These facilities are far away from Del Norte County, and can be very selective of the patients they admit, particularly when a patient is an inmate of the jail charged with a violent felony. Though designating the jail to

provide medication will solve every problem, it provides the jail with an important tool to help address a large and growing problem.

### **Policies and Procedures**

If the board does designate the jail to administer medications to incompetent defendants, the jail health authority must establish policies and procedures to provide for involuntary administration of medications (attached). Development of policies is included in the contract with Wellpath.

### **Financial Impact**

There may be an increased cost associated with the administration of medications. Under the County's current contract with Wellpath, staff time for the administration of medication, including prescribing and monitoring involuntary medications, are covered in our base cost. However, the cost of the medications themselves are a "pass through" cost the county pays. However, any cost associated with medications will be offset by dramatic savings in liability, availability of jail space, and a reduction in staff time and injuries from violent, un-medicated inmates.

Barclays Official California Code of Regulations Currentness  
Title 15. Crime Prevention and Corrections  
Division 1. Board of State and Community Corrections  
Chapter 1. Board of State and Community Corrections  
Subchapter 4. Minimum Standards for Local Detention Facilities  
Article 11. Medical/Mental Health Services

15 CCR § 1209

§ 1209. Mental Health Services and Transfer to Treatment Facility.

(a) The health authority, in cooperation with the mental health director and facility administrator, shall establish policies and procedures to provide mental health services. These services shall include but not be limited to:

1. Identification and referral of inmates with mental health needs;
2. Mental health treatment programs provided by qualified staff, including the use of telehealth;
3. Crisis intervention services;
4. Basic mental health services provided to inmates as clinically indicated;
5. Medication support services;
6. The provision of health services sufficiently coordinated such that care is appropriately integrated, medical and mental health needs are met, and the impact of any of these conditions on each other is adequately addressed.

(b) Unless the county has elected to implement the provisions of Penal Code Section 1369.1, a mentally disordered inmate who appears to be a danger to himself or others, or to be gravely disabled, shall be transferred for further evaluation to a designated Lanterman Petris Short treatment facility designated by the county and approved by the State Department of Mental Health for diagnosis and treatment of such apparent mental disorder pursuant to Penal Code section 4011.6 or 4011.8 unless the jail contains a designated Lanterman Petris Short treatment facility. Prior to the transfer, the inmate may be evaluated by licensed health personnel to determine if treatment can be initiated at the correctional facility. Licensed health personnel may perform an onsite assessment to determine if the inmate meets the criteria for admission to an inpatient facility, or if treatment can be initiated in the correctional facility.

(c) If the county elects to implement the provisions of Penal Code Section 1369.1, the health authority, in cooperation with the facility administrator, shall establish policies and procedures for involuntary administration of medications. The procedures shall include, but not be limited to:

1. Designation of licensed personnel, including psychiatrist and nursing staff, authorized to order and administer involuntary medication;
2. Designation of an appropriate setting where the involuntary administration of medication will occur;
3. Designation of restraint procedures and/or devices that may be used to maintain the safety of the inmate and facility staff;
4. Development of a written plan to monitor the inmate's medical condition following the initial involuntary administration of a medication, until the inmate is cleared as a result of an evaluation by, or consultation with, a psychiatrist;
5. Development of a written plan to provide a minimum level of ongoing monitoring of the inmate following return to facility housing. This monitoring may be performed by custody staff trained to recognize signs of possible medical problems and alert medical staff when indicated; and
6. Documentation of the administration of involuntary medication in the inmate's medical record.

Note: Authority cited: Section 6030, Penal Code. Reference: Section 6030, Penal Code.

#### HISTORY

1. Editorial correction of NOTE filed 9-30-82 (Register 82, No. 40).
2. Amendment filed 8-4-94; operative 9-5-94 (Register 94, No. 31).
3. Amendment filed 4-2-98; operative 4-2-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).
4. Amendment of section heading and section filed 1-11-2001; operative 2-10-2001 (Register 2001, No. 2).
5. Amendment of subsection (b) filed 6-2-2005; operative 7-2-2005 (Register 2005, No. 22).
6. Amendment filed 4-20-2009; operative 5-20-2009 (Register 2009, No. 17).
7. Amendment of subsections (a) and (b) filed 1-26-2017; operative 4-1-2017 (Register 2017, No. 4).

This database is current through 4/1/22 Register 2022, No. 13

15 CCR § 1209, 15 CA ADC § 1209

---

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

**BOARD OF SUPERVISORS  
COUNTY OF DEL NORTE, STATE OF CALIFORNIA,  
RESOLUTION NO. 2022-**

**A Resolution Designating the Jail to Provide Medically Approved Medication to  
Defendants Found to be Mentally Incompetent, Pursuant to Penal Code Section 1369.1.**

**WHEREAS**, a person may not be tried for a crime while that person is mentally incompetent, meaning as a result of a mental health disorder or developmental disability, the defendant is unable to understand the nature of the criminal proceedings or assist counsel in the conduct of a defense in a rational manner (Penal Code §1367); and

**WHEREAS**, the court must order that a mentally incompetent defendant be delivered by the sheriff to a State Department of State Hospitals facility, or to any other available public or private treatment facility approved by the community program director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status as specified in Section 1600 (Penal Code §1370); and

**WHEREAS**, the Department of State Hospital does not have enough bed space in its facilities to meet the ever-growing demand from county jails. Consequently, inmates are spending long periods of time in the county jail waiting for transport, and if they do not voluntarily take the psychotropic medications, they may spend that time un-medicated and untreated; and

**WHEREAS**, the Board of Supervisors, with the concurrence of the County Mental Health Director and the Sheriff, may designate the jail to administer psychotropic medications. The inmate ill still have to be transferred to the state for full restoration treatment, but will not have to remain in jail un-medicated while waiting for space. Furthermore, many defendants respond quickly to medication, and may return to competency without an extensive stay at a state hospital;


**NOW, THEREFORE, BE IT RESOLVED** that the Del Norte County Board of Supervisors, with the concurrence of the Local Mental Health Director and the County Sheriff, orders that jail bedesignated to provide medically approved medication to defendants found to be mentally incompetent and unable to provide informed consent due to a mental disorder, pursuant to Penal Code Section 1369.1.

APPROVED AND ADOPTED this 26<sup>th</sup> Day of April, 2022.

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Gerry Hemmingsen, Chair  
Board of Supervisors  
Del Norte County, California

Kylie Goughnour, Clerk of the Board

 4-19-22

Chris Starets-Foote  
Acting Director of Health and Human Services  
and County Mental Health Director

 4/19/22

Lieutenant Daniel Schneck  
Acting Sheriff