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POLICY TITLE: PRISONER OUT OF STATE TRANSFERS

POLICY NUMBER: 23.5

CHAPTER 23: CLASSIFICATION AND CASE MANAGEMENT

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STATE of MAINE
DEPARTMENT OF CORRECTIONS

Approved by Commissioner: _____

PROFESSIONAL STANDARDS: See Section VII

EFFECTIVE DATE: _____ LATEST REVISION: _____

CHECK ONLY IF APA

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I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Sections 1403, 9223, and 9423.

II. APPLICABILITY

All Department Adult Facilities

III POLICY

It is the policy of the Department of Corrections to provide for a classification process for the review of requests for out of state prisoner transfer, individual case management plans for transferred prisoners, and requests for transferred prisoners to be returned to Maine. Nothing within the provisions of this policy may be construed to limit the authority of the Commissioner to transfer prisoners out of state or to return prisoners to Maine in his/her complete discretion.

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None

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VI. PROCEDURES

Procedure A: Out of State Transfer Committee

1. The Commissioner shall designate three (3) staff members to serve on an out of state transfer committee. The committee shall be comprised of the Department's Director of Classification, who shall serve as the chairperson, a treatment staff member, and a security staff member. A representative from the Department facility where the prisoner is currently housed shall present the reason(s) for voluntary or involuntary transfer of the prisoner to the committee.
2. The committee shall review and make written recommendations to the Commissioner regarding the request for out of state transfer, a case management plan for the prisoner, if transferred, and any request for the transferred prisoner to be returned to Maine.

Procedure B: Transfers Out of State – Involuntary

1. The Chief Administrative Officer of the facility where a prisoner is currently housed may make a written request to the Department's Director of Classification for the prisoner to be transferred out of state. The factual basis and reason(s) to support the request shall be forwarded at the same time.
2. Prisoners may be transferred to an out of state correctional facility if the prisoner constitutes a threat to the security or orderly management of a Department facility or the safety of another person, the prisoner cannot be safely managed in general population or protective custody in a Department facility, or the prisoner requires medical or psychiatric treatment unavailable in Maine.
3. The Director of Classification shall notify the prisoner and, if applicable, the prisoner's guardian or the prisoner's legal counsel of the receipt of the request within five (5) working days of its receipt.
4. The Department's Director of Classification shall provide to the prisoner and, if applicable, the prisoner's guardian or the prisoner's legal counsel the information provided to support the request, as permitted by state and federal confidentiality law, and that person shall be given an opportunity to submit to the Director reasons in writing in support of the prisoner's position on the transfer request.

Any submission must be received by the Director of Classification within ten (10) working days of when the Director forwarded the information.

5. The out of state transfer committee shall review the request for transfer, the information provided by the facility, and any written submission made in support

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of the prisoner's position and shall forward the materials reviewed and its recommendation and reason(s) for the recommendation, in writing, to the Commissioner within thirty (30) days of receipt of the request by the Director of Classification.

6. The Commissioner shall notify the prisoner and, if applicable, the prisoner's guardian or the prisoner's legal counsel of the Commissioner's decision and reason(s) for the decision, as permitted by state and federal confidentiality law, in writing no later than two (2) working days following the transfer. The Commissioner shall, in writing, notify the prisoner's designated next of kin of a transfer within two (2) working days following the transfer, if permitted by state and federal confidentiality law.

7. The Commissioner may transfer any prisoner out of state without following the above procedures if the Commissioner determines it is necessary in his/her complete discretion. The commissioner shall notify the prisoner and, if applicable, the prisoner's guardian or the prisoner's legal counsel, and the out of state transfer committee of the Commissioner's decision and reason(s) for the decision, as permitted by state and federal confidentiality law, in writing within two (2) working days following the transfer. The Commissioner shall, in writing, notify the prisoner's designated next of kin of the transfer within two (2) working days following the transfer, if permitted by state and federal confidentiality law.

8. If the Commissioner transfers a prisoner out of state without following the above procedures, the prisoner or, if applicable, the prisoner's guardian or the prisoner's legal counsel may appeal the decision to the Commissioner in writing. Any appeal must be received by the Commissioner, within fourteen (14) days following the transfer. The out of state transfer committee shall review the appeal and the information provided by the Commissioner and shall forward its recommendation and reason(s) for its recommendation, in writing, to the Commissioner within 30 days of receipt of the appeal. The Commissioner shall review the appeal and notify the prisoner, and, if applicable, the prisoner's guardian or the prisoner's legal counsel, in writing, of the Commissioner's decision on the appeal and reason(s) for the decision, as permitted by state and federal confidentiality law.

9. The decision whether to transfer a prisoner to an out of state correctional facility or whether to grant an appeal is within the complete discretion of the Commissioner.

Procedure C: Transfers Out of State -- Voluntary

1. A prisoner, or, if applicable, the prisoner's guardian or the prisoner's legal counsel may make a written request to the prisoner's Unit Management

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Team/Program Review Committee for the prisoner to be transferred out of state, and shall include the reason(s) for the request.

2. The Unit Management Team/Program Review Committee shall forward a copy of the request and its recommendation to the Chief Administrative Officer.

3. The Chief Administrative Officer shall forward his/her recommendation to the Department's Director of Classification. The factual basis and reason(s) to support the recommendation shall be forwarded at the same time.

4. The Department's Director of Classification shall provide to the prisoner and, if applicable, the prisoner's guardian or the prisoner's legal counsel the information provided by the facility as permitted by state and federal confidentiality law, and that person shall be given an opportunity to submit to the Director any written comments on the information provided. Any submission must be received by the Director of Classification within ten (10) working days of when the Director forwarded the information.

5. The out of state transfer committee shall review the request for transfer, the information provided by the facility, and any written submission made in support of the prisoner's position and shall forward the materials reviewed and its recommendation and reason(s) for the recommendation, in writing, to the Commissioner within thirty (30) days of receipt of the recommendation of the Chief Administrative Officer by the Director of Classification.

6. The Commissioner, or designee, shall notify the prisoner and, if applicable, the prisoner's guardian or the prisoner's legal counsel of the Commissioner's decision and reason(s) for the decision, as permitted by state and federal confidentiality law, in writing.

7. The decision whether to transfer a prisoner to an out of state correctional facility is within the complete discretion of the Commissioner.

Procedure D: Case Management Plan

1. Within forty-five (45) days following a prisoner's transfer out of state the Director of Classification shall recommend to the Commissioner an individual case management plan.

2. Within sixty (60) days following a prisoner's transfer out of state, the Department's Director of Classification shall ensure that, the prisoner's case management plan, as approved by the Commissioner, is forwarded to the receiving state, with a copy sent to the prisoner and, if

applicable, the prisoner's guardian or the prisoner's legal counsel, as permitted by state and federal confidentiality law.

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3. For an involuntary transfer, the plan shall clearly identify the requirements, to include specific timeframes, for the prisoner to participate in recommended treatment services and/or programs in order to be considered for return to Maine. In addition, the plan shall set out the period of time the prisoner must be free of major discipline in order to be considered for return to Maine.

4. For a voluntary transfer, the plan shall include recommendations to the receiving state for treatment services and/or programs. The plan shall include a time frame of a minimum of six (6) months prior to requesting return to Maine.

Procedure E: Returns to Maine

1. Reports about the transferred prisoner from the out of state facility where the prisoner is housed shall be reviewed by the Director of Classification.

2. According to the timeframes stipulated in the prisoner's plan, the prisoner or, if applicable, the prisoner's guardian or the prisoner's legal counsel may make a written request to the Department's Director of Classification, for the prisoner to be returned to Maine.

3. The Director of Classification shall notify the prisoner and, if applicable, the prisoner's guardian or the prisoner's legal counsel of the receipt of the request within five (5) working days of its receipt.

4. The Director shall forward a copy of the request to the Chief Administrative Officer of the Department facility where the prisoner was last housed. The Chief Administrative Officer, shall forward his/her recommendation to the Department's Director of Classification. Reason(s) to support the recommendation shall be forwarded at the same time.

5. Within ten (10) working days of receipt of the request, the Director of Classification shall contact the state where the prisoner is currently housed for information about the prisoner's compliance with his/her case management plan and any other information the Director determines to be relevant, with a request that the information be provided to the Director of Classification within twenty (20) working days of the contact.

6. The Department's Director of Classification shall provide to the prisoner, and, if applicable, the prisoner's guardian or the prisoner's legal counsel the information provided by the facility as permitted by state and federal confidentiality law, and that person shall be given an opportunity to submit to the Director reason(s) in writing in support of the prisoner's request to

be returned. Any submission must be received by the Director of Classification within ten (10) working days of when the Director forwarded the summary information.

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7. The out of state transfer committee shall review the request for return, the information provided by the facility, and any written submission made in support of the prisoner's request and shall forward the materials reviewed and its recommendation and reason(s) for the recommendation, in writing, to the Commissioner within thirty (30) days of receipt of the information from the out of state facility by the Director of Classification.

8. The Commissioner shall notify the prisoner and, if applicable, the prisoner's guardian or the prisoner's legal counsel of the Commissioner's decision and reasons for the decision, as permitted by state and federal confidentiality law, in writing.

9. The Commissioner may return any prisoner to Maine without following the above procedures if the Commissioner determines it is necessary in his/her complete discretion.

10. The decision whether to return a prisoner from an out of state correctional facility is within the complete discretion of the Commissioner.

Procedure F: Extenuating Circumstances

1. If the reason for a transfer request is an extenuating circumstance, such as a terminal medical condition of a close family member in another state, the Director of Classification shall make all reasonable efforts to verify the reason and to expedite the review of the transfer request, including, if appropriate, asking the Commissioner to make a decision whether to transfer the prisoner out of state without following the above procedures.

2. If the reason for a return request is an extenuating circumstance, such as a terminal medical condition of a close family member in Maine, the Director of Classification shall make all reasonable efforts to verify the reason and to expedite the review of the return request, including, if appropriate, asking the Commissioner to make a decision whether to return the prisoner to Maine without following the above procedures.

VII. PROFESSIONAL STANDARDS

None

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