

10A NCAC 26D .1104 INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION

(a) Psychotropic medication may be administered to any non-consenting client who has a mental illness and is receiving inpatient mental health treatment if any one or more of the following conditions exist:

- (1) failure to treat the client's illness or injury would pose an imminent substantial threat of injury or death to the client or those around him; or
- (2) there is evidence that the client's condition is worsening and, if not treated, is likely to produce acute exacerbation of a chronic condition that would endanger the safety or life of the client or others; and:
 - (A) the evidence of substantial and prolonged deterioration is corroborated by medical history; and
 - (B) the source of the history is documented in the client's record.

(b) Medication refusal shall mean a client has refused to take medication within 30 minutes of the initial offer. A client who accepts medication within 30 minutes of the initial offer shall not be considered to have refused medication.

(c) Medication Refusal:

- (1) All incidents of medication refusal shall be:
 - (A) reported as promptly as possible to the psychiatrist who is treating the client; and
 - (B) documented on progress notes and the medication chart by staff responsible for administering the medication.
- (2) The administering staff shall attempt to determine the reason for refusal by questioning the client and encouraging him to accept the medication. Such shall be documented in the client's record.
- (3) A member of the treatment team shall discuss the reasons for refusal directly with the client and attempt to resolve those concerns that are the source of the refusal before a forced medication order is written.

(d) Initial Emergency Situation:

- (1) In an initial emergency situation the physician:
 - (A) may initiate procedures and write an order for administering emergency forced medication for a period not to exceed 72 hours; and
 - (B) shall document in the client's record the pertinent circumstances and rationale for the psychotropic medication.
- (2) Psychotropic medication may be administered if the physician determines that the condition set forth in Paragraph (a) of this Rule exists and:
 - (A) the medication is a generally accepted treatment for the client's condition;
 - (B) there is a substantial likelihood that the treatment will effectively reduce the signs and symptoms of the client's illness; and
 - (C) the proposed medication is the least intrusive of the possible treatments.

In all cases, the medication shall not exceed the dosage expected to accomplish the treatment and the client shall be monitored for adverse reactions and side effects.

(3) Continuation of emergency situation:

- (A) If needed, two subsequent emergency periods of 72 hours may be authorized only after the attending psychiatrist has received the written or verbal concurrence from another psychiatrist not currently involved in the client's treatment.
- (B) If the client continues to refuse medication after it is determined that psychotropic medication is still warranted, procedures for administering medication in a non-emergency situation shall be implemented.

(e) Non-Emergency Situations:

- (1) If a client refuses psychotropic medication in a non-emergency situation, the attending physician shall:
 - (A) make every effort to determine the cause of the refusal;
 - (B) inform the client of indications for psychotropic medication, including benefits and risk, and the advantages and disadvantages of alternate courses of treatment; and
 - (C) request his or her consent.
- (2) The treatment team may also assist in efforts to explain the advantages of medication to the client.
- (3) The client's record shall contain documentation that efforts have been made to determine the cause of refusal and advantages of medication.

- (4) The physician shall initiate a referral to the Involuntary Medication Committee if the client continues to refuse medication. The Committee shall:
 - (A) determine whether either of the conditions as set forth in Paragraph (a) of this Rule exists before authorizing an involuntary medication order; and
 - (B) apply the criteria set forth in Subparagraphs (d)(1) and (2) of this Rule in making its determination.
 - (C) If neither of the conditions set forth in Paragraph (a) of this Rule exists, the client shall not be involuntarily medicated.
- (f) Involuntary Medication Committee:
 - (1) The members of the Involuntary Medication Committee shall be appointed by the Chief of Psychiatry and shall consist of a psychiatrist, a psychologist, and a mental health nurse who is a Registered Nurse.
 - (A) If the psychiatrist who issued the involuntary medication order is the individual who normally sits on the committee, another psychiatrist shall serve in that capacity.
 - (B) Other prison staff who have pertinent information that may be useful to the committee in making its determination shall be required by the committee to attend the hearing.
 - (2) In conducting the hearing, the committee chairman, appointed by the Chief of Psychiatry, shall ensure that the client:
 - (A) has received written and verbal notice of the time, date, place, and purpose of the hearing;
 - (B) is informed of his or her right to hear evidence providing the basis for the involuntary medication, the right to call witnesses on his or her behalf; and the right to request that the Client Representative attend the hearing as set forth in Subparagraph (g)(2) of this Rule;
 - (C) attends the hearing unless his or her clinical condition is such that his or her attendance is not feasible. In this case, the Committee shall:
 - (i) state the reasons for determining that the presence of the client is not feasible;
 - (ii) allow the client to be interviewed in his or her room by the client representative and one or more members of the Committee; and
 - (iii) allow the client representative an opportunity to present facts relevant to whether an involuntary medication order should be issued;
 - (D) shall be allowed a reasonable number of witnesses, to be determined by the committee chairman, or:
 - (i) written statements may be considered in lieu of direct testimony; and
 - (ii) specific client witnesses may be excluded from direct testimony if the unit superintendent or designee determines a justifiable security risk would occur if they were brought to the hearing site; and
 - (E) be given the opportunity to question any staff who present evidence that supports the need to involuntarily medicate.
 - (3) After the committee has received all relevant information, the committee shall:
 - (A) consider the facts and arrive at a majority decision;
 - (B) ensure that the authorization to involuntarily medicate shall not exceed 30 days;
 - (C) prepare and file in the client's record a written summary of the evidence presented and the rationale for the decision; and
 - (D) consult an attorney from the Attorney General's Office, assigned to represent the Department, concerning the legal propriety of forcibly administering medication in a given case.
 - (4) If, after the initial 30 day period, involuntary medication is still deemed necessary, the psychiatrist may again present the case to the Involuntary Medication Committee, which:
 - (A) shall conduct a review of the record and the reasons presented in support of continuing involuntary medication; and
 - (B) may then authorize the administration of involuntary medication for 90 additional days. Subsequent 90-day periods may be authorized only after similar reviews.
- (g) Client Representative:
 - (1) If a client is recommended for forced medication on a non-emergency basis, the Chief of Psychiatry or his or her designee shall appoint a member of the treatment staff to serve as a Client Representative, whose role shall include:

- (A) assisting the client in verbalizing the reasons for his or her refusal of psychotropic medications in meetings with his or her treatment team;
 - (B) providing this information to the Involuntary Medication Committee; and
 - (C) preparing a summary of the reasons for the refusal and documenting it in the client's record.
- (2) The Client Representative shall appear before the Involuntary Medication Committee whenever he feels that it is in the best interest of the client or at the client's request.
 - (3) When reviewing a case involving the involuntary administration of medication, the Involuntary Medication Committee shall consider oral or written comments from the Client Representative.
- (h) If physical force is actually employed, documentation of all actions relating to the forceful administration of medication shall be included in the client's record and reported to the Unit Superintendent on a "Use of Force Report" (DC-422).

*History Note: Authority G.S. 148-19(d);
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