

Chapter DOC 383

USE OF PSYCHOTROPIC MEDICATION

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DOC 383.01 Authority and purpose. This chapter interprets s. 938.505 (2), Stats., and is promulgated under the authority of ss. 227.11 (2), 301.03 and 938.48 (16), Stats. This chapter provides guidance to institution staff concerning the administration of psychotropic medications. Involuntary treatment, as described in this chapter, is considered by the department to be a treatment of last resort.

History: Cr. Register, June, 2000, No. 534, eff. 7-1-00.

DOC 383.02 Applicability. This chapter applies to the department and to all youth under the supervision of the department and placed in a type 1 secured correctional facility.

History: Cr. Register, June, 2000, No. 534, eff. 7-1-00.

DOC 383.03 Definitions. In this chapter:

(1) “Advanced practice nurse prescriber” (APNP) means an “advanced practice nurse” who has been certified to prescribe drugs in Wisconsin as defined in s. 441.16 (2), Stats., and ch. N 8.

(2) “Department” means the department of corrections.

(3) “Guardian” means the person named by the court having the duty and authority of guardianship.

(4) “Institution” means a type 1 secured correctional facility operated by the department.

(5) “Legal custody” has the meaning given in s. 938.02 (12), Stats.

(6) “Nurse” means a registered or licensed practical nurse as defined by ch. 441, Stats.

(7) “Parent” has the meaning given in s. 938.02 (13), Stats.

(8) “Pharmacological therapeutic classification” means the classification of a psychotropic medication as one of the following:

- (a) Anti-psychotic.
- (b) Anti-depressant.
- (c) Agent for control of mania and depression.
- (d) Anti-anxiety agent.
- (e) Sedatives or hypnotic.
- (f) Psychomotor stimulant.

(9) “Physician” means a person licensed as a physician in Wisconsin under ch. 448, Stats.

(10) “Physician assistant” means a person licensed as a physician assistant in Wisconsin under ch. 448, Stats.

(11) “Psychologist” means a person licensed to practice psychology in Wisconsin as defined in ch. 455, Stats.

(12) “Psychotropic medication” means medication that is used for the purpose of modifying psychological functioning or behavior.

(13) “Social worker” means a person certified to be a social worker in Wisconsin as defined in ch. 457, Stats.

(14) “Youth” means a person or persons under the supervision of the department in an institution consistent with the requirements of law and regardless of age.

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DOC 383.04 General standards for use of psychotropic medications. (1) **ORDER AND PURPOSE.** Psychotropic medications may be administered to youth only upon the written order of a physician or APNP and only for an appropriate therapeutic purpose, including alleviating psychiatric disorders or enhancing the coping capacity of the youth. Medication may not be administered for the purpose of punishing the youth, producing docility or as a substitute for counseling and treatment.

(2) **PRESCRIPTION.** In prescribing psychotropic medication, the physician or APNP shall do all of the following:

(a) Review the youth’s medical history and appropriate physical and laboratory examinations before prescribing medication, and document the behaviors, symptoms and diagnosis, if known, which the medication is to treat or modify.

(b) Prescribe the lowest effective dose of a clinically indicated medication.

(c) Use caution in prescribing drugs known to produce psychological or physiological dependency, or to have significant potential for abuse.

(d) Indicate in the medical record a specific stop date.

(e) Specify limited amounts and limited refills, if any, for prescriptions.

(f) Reduce or withdraw medication as soon as clinically indicated.

(3) **ONGOING EVALUATION.** (a) The physician or APNP shall review and evaluate the appropriateness and need for psychotropic medications, the need for continuation of treatment, and possible side effects for each youth. All reviews shall be according to established professional standards for the administration of psychotropic medications.

(b) When treatment is voluntary, a review shall be completed, as often as professional practice requires, but at least once every 180 days.

(c) When treatment is involuntary, a review shall be completed, as often as professional practice requires, but at least every 30 days.

(4) **CONSENT FOR PSYCHOTROPIC MEDICATIONS.** (a) A physician or APNP shall obtain written consent from the following persons before administering psychotropic medications to a youth:

1. The parent with legal custody or youth’s guardian if the youth is less than 14 years of age.

2. The youth and the parent with legal custody or the youth’s guardian if the youth is at least 14 years of age, but less than 18 years of age.

3. The youth, if the youth is 18 years of age or older.

(b) A consent to administer psychotropic medications is valid for one year. Renewal requires obtaining another written consent from the youth, a parent with legal custody or a guardian as under par. (a) to continue administering the medication.

(c) If a parent with legal custody or guardian unreasonably refuses to give permission, cannot be located to give a consent, or no parent has legal custody, the department may petition the court for permission under s. 938.505 (2), Stats., to administer psy-

chotropic medications to a youth aged at least 14 years, but not yet 18 years of age, who wishes to take the medication.

(d) If the department believes a youth at least 14 years, but not yet 18 years of age, needs psychotropic medication and the youth consents, medication may be administered temporarily without written consent of the parent or guardian, with the court's authorization, but not for more than 10 days after the request to the court, pending the hearing on the petition under par. (c), consistent with s. 938.505 (2) (b), Stats.

(e) When a prescriber changes an order to a psychotropic medication not listed on the original consent, written consent of the appropriate person(s) under par. (a) shall be obtained before administering the new medication, unless the new medication is in the same pharmacological therapeutic classification as the previous medication.

(f) For youth who are taking a prescribed psychotropic medication upon admission to the institution, approval from a physician or APNP shall be obtained in the form of a written order to continue the medication while written consent of the parent with legal custody or guardian is sought. Medication will not be continued for more than 30 days without consent of the parent or legal guardian, except as provided in par. (d) or if authorization is granted by the court under par. (c).

Note: Pursuant to par. (a) 3, consent shall be obtained from a youth aged 18 years or older.

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DOC 383.05 Voluntary treatment with psychotropic medication. Youth may be treated with psychotropic medications in an institution without being committed under ch. 51, Stats. Each institution shall ensure that treatment is voluntary by doing all of the following:

(1) The physician or APNP shall discuss the following with the youth and the parent or guardian of a youth under 18 years of age, or a legal guardian of an incompetent individual 18 years or older:

- (a) The nature of the condition.
- (b) The purposes, nature and dose of the medication.
- (c) The desired effects of the medication.
- (d) The risks and side effects of the medication.
- (e) Appropriate alternatives as available.
- (f) Prognosis without medication.

Note: The discussion shall be with a youth aged 18 years or older pursuant to s. DOC 383.04 (4) (a) 3.

(2) The physician or APNP shall ask the youth to consent to take medication, and may proceed with voluntary treatment only if:

- (a) The youth consents in writing.
- (b) Parent or guardian consent is obtained as specified in s. DOC 383.04 (4).

(3) The physician or APNP may not prescribe medication if the physician or APNP believes that the youth is agreeing to take medications as a result of coercion, threats, or other improper means. This does not preclude the physician or APNP, or others, from discussing with the youth the desired effects of medication, such as improvements in mental, emotional, or behavioral functioning.

(4) A youth 14 years or older or a parent or guardian who consented under s. DOC 383.04 (4) may withdraw or reinstate consent at any time in writing to the physician or APNP who shall

make the final determination as to whether psychotropic medication is needed. A youth may not be disciplined for refusing psychotropic medication.

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DOC 383.06 Involuntary treatment with psychotropic medication. A youth may be treated involuntarily with psychotropic medications only under the following circumstances:

(1) In an emergency, after reasonable interventions have proved unsuccessful, the attending licensed psychologist, social worker or physician or APNP shall determine whether a recommendation for an emergency transfer to a state treatment facility under s. 51.35 (3) (e), Stats., should be made to the superintendent. Pending that determination, the attending physician or APNP may order involuntary treatment with psychotropic medication. The youth may be treated involuntarily with psychotropic medications pending an emergency transfer, or for 72 hours, whichever is shorter. If an emergency transfer is initiated, the attending physician or APNP may order continued involuntary treatment with psychotropic medications pending completion of the transfer proceedings. In this subsection, "emergency" means a situation in which either of the following is true:

(a) The youth's perception of reality appears to be severely impaired as a result of mental illness.

(b) The youth appears to pose an immediate danger to self or others, evidenced by a recent overt act or attempt or threat to inflict serious bodily harm.

(2) If a youth is committed under s. 51.20, Stats., on an outpatient basis with an order to treat involuntarily in an institution and a court has found the youth 14 years or older incompetent to refuse psychotropic medications, a physician, physician assistant, APNP, or nurse shall distribute or administer the medications. The following steps shall be followed:

(a) A physician, physician assistant, APNP or nurse shall give the youth an opportunity to take the medication voluntarily. If it is not possible to comply with s. DOC 383.05 (1) due to the youth's behavior, the physician, physician assistant, APNP, or nurse shall record the reasons in the youth's clinical or medical services record.

(b) If the youth refuses to take the medication, the physician, physician assistant, APNP, or nurse shall counsel the youth and attempt to persuade the youth to take the medication.

(c) If the youth continues to refuse, the attending physician, physician assistant or APNP shall decide the course of action to be taken. Possible actions include:

1. Take no action for a period of time.
2. Send the youth to a special unit within the institution for treatment of mental illness.
3. When appropriate, put the youth in observation status pursuant to ch. DOC 375.
4. Recommend transfer of the youth to an appropriate health care setting.
5. If appropriate, a licensed psychologist or physician may recommend to the superintendent transfer of the youth to a state treatment facility under s. 51.35 (3) (e), Stats.
6. Direct that the youth be ordered to take the medication and that force be used to administer it, if necessary. Only the minimum amount of force required to effectively administer the medication shall be used.

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