2960.0620 USE OF PSYCHOTROPIC MEDICATIONS.

Subpart 1. **Conditions for use of psychotropic medications.** When psychotropic medications are administered to a resident in a facility certified under parts 2960.0580 to 2960.0700, the license holder is responsible for ensuring that the conditions in items A to C are met.

A. Use of the medication must be included in the resident's individual treatment plan and is based on the prescribing physician's diagnosis and the diagnostic and functional assessments defined in Minnesota Statutes, section 245.4871.

B. The license holder must document subitems (1) and (2) in the resident's individual treatment plan:

(1) a description in observable and measurable terms of the symptoms and behaviors that the psychotropic medication is to alleviate; and

(2) data collection methods the license holder must use to monitor and measure changes in the symptoms and behaviors that are to be alleviated by the psychotropic medication.

C. Psychotropic medication must not be administered as punishment, for staff convenience, as a substitute for a behavioral or therapeutic program, or in quantities that interfere with learning or other goals of the individual treatment plan.

Subp. 2. **Monitoring side effects.** The license holder must monitor for side effects if a resident is prescribed a psychotropic medication and must have the prescribing physician or a pharmacist list possible side effects. The license holder, under the direction of a medically licensed person, must document and check for side effects at least weekly for the first six weeks after a resident begins taking a new psychotropic medication or a significantly increased or decreased dose of a currently used psychotropic medication, and at least quarterly thereafter. Minor increases or decreases in the dose of a currently used psychotropic medication need not be monitored as frequently as a new medication or a significant increase or decrease of a currently used psychotropic medication. In addition to appropriate physical or laboratory assessments as determined by the medically licensed person, standardized checklists or rating scales, or scales developed for a specific drug or drug class, must be used as monitoring tools. The license holder must provide the assessments to the medically licensed person for review.

Subp. 3. **Monitoring for tardive dyskinesia.** The license holder, under the direction of a medically licensed person, must monitor for tardive dyskinesia at least every three months if a resident is prescribed antipsychotic medication or amoxapine and must document the monitoring. A resident prescribed antipsychotic medication or amoxapine for more than 90 days must be checked for tardive dyskinesia at least 30 and 60 days after discontinuation of the antipsychotic medication or amoxapine. Monitoring must include

use of a standardized rating scale and examination procedure. The license holder must provide the assessments to the physician for review if the results meet criteria that require physician review.

Subp. 4. **Training required to administer psychotropic medications.** An employee other than a medically licensed person who is responsible for medication assistance must provide a certificate verifying successful completion of a trained medication aide program for unlicensed personnel. The program must be offered through a postsecondary institution or the medication aide must be trained according to a formalized training program offered by the license holder that must be taught and supervised by a medically licensed person to provide medication assistance. The specific medication administration training provided by a medically licensed person to unlicensed personnel must be documented and placed in the unlicensed employee's personnel records. A medically licensed person must provide consultation and review of the license holder's administration of medications at least weekly. The consultation must review the license holder's compliance with subparts 5 and 6.

Subp. 5. **Psychotropic medication review.** If a resident is prescribed a psychotropic medication, the license holder must conduct and document a psychotropic medication review as frequently as required by the physician, but at least monthly for the first six months and at least quarterly thereafter. The license holder must consider and document items A to D at the quarterly review and provide the information to the physician for review:

A. targeted symptoms and behaviors of concern;

B. data collected since the last review;

C. side effects observed and actions taken; and

D. status of the resident's goals in the individual treatment plan.

Subp. 6. **Informed consent.** The license holder must obtain informed consent before any nonemergency administration of psychotropic medication. To the extent possible, the resident must be informed and involved in the decision making.

A. Informed consent is required either orally or in writing before the nonemergency administration of psychotropic medication, except that for antipsychotic or neuroleptic medication, informed consent must be in writing. If oral informed consent is obtained for a nonantipsychotic medication, subitems (1) to (4) must be followed:

(1) an explanation why written informed consent could not be initially obtained;

(2) documentation that the oral consent was witnessed and the name of the witness;

(3) oral and written communication of all items required in subpart 7; and

(4) an explanation that written informed consent material is immediately being sent by the license holder to the resident's parent or legal representative, that the oral consent expires in one month, and that the medication must be discontinued one month from the date of the telephone consent if written consent is not received.

B. Informed consent for any psychotropic medication must be renewed in writing at least yearly.

C. Informed consent must be obtained from an individual authorized to give consent. An individual authorized to give consent is specified in subitems (1) to (4).

(1) If the resident has a legal representative or conservator authorized by a court to give consent for the resident, consent is required from the legal representative or conservator.

(2) If subitem (1) does not apply, consent is required from at least one of the resident's parents. If the parents are divorced or legally separated, the consent of a parent with legal custody is required, unless the separation or marriage dissolution decree otherwise delegates authority to give consent for the resident.

(3) If the commissioner of human services is the resident's legal representative, consent is required from the county representative designated to act as legal representative on behalf of the commissioner of human services.

(4) If the resident is an emancipated minor according to Minnesota Statutes, section 144.341, or the resident has been married or borne a child, the resident may give consent under Minnesota Statutes, section 144.432.

D. Informed consent is not necessary in an emergency situation where the physician determines that the psychotropic medication is needed to prevent serious and immediate physical harm to the individual or others. In the event of the emergency use of psychotropic medication, the license holder must:

(1) inform and document that the individual authorized to give consent was informed orally and in writing within 24 hours or on the first working day after the emergency use of the medication;

(2) document the specific behaviors constituting the emergency, the circumstances of the emergency behaviors, the alternatives considered and attempted, and the results of the use of the emergency psychotropic medication; and

(3) arrange for an interdisciplinary team review of the individual treatment plan within seven days of the emergency to determine what actions, if any, are required in light of the emergency. If a psychotropic medication continues to be required, the license holder must seek a court order according to Minnesota Statutes, section 253B.092, subdivision 3.

E. Informed consent must be obtained by the license holder within 30 days to continue the use of psychotropic medication for a resident admitted with prescribed psychotropic medication.

Subp. 7. **Information communicated in obtaining consent.** The information in this subpart must be provided both orally and in writing in nontechnical language to the resident's parent, the resident's legal representative, and, to the extent possible, the resident. The information must include:

A. the diagnosis and level of severity of the symptoms and behaviors for which the psychotropic medication is prescribed;

B. the expected benefits of the medication, including the level to which the medication is to change the symptoms and behavior and an indication of the method used to determine the expected benefits;

C. the pharmacological and nonpharmacological treatment options available and the course of the condition with and without the treatment options;

D. specific information about the psychotropic medication to be used, including the generic and commonly known brand name, the route of administration, the estimated duration of therapy, and the proposed dose with the possible dosage range or maximum dose;

E. the more frequent and less frequent or rare but serious risks and side effects of the psychotropic medication, including how the risks and possible side effects must be managed;

F. an explanation that consent may be refused or withdrawn at any time and that the consent is time-limited and automatically expires as described in subpart 6; and

G. the names, addresses, and telephone numbers of appropriate professionals to contact if questions or concerns arise.

Subp. 8. **Refusal of routine administration of psychotropic medication.** If the authorized person refuses consent for a routine administration of psychotropic medication, the conditions in items A to C apply.

A. The psychotropic medication must not be administered or, if the refusal involves a renewal of consent, the psychotropic medication for which consent had previously been given must be discontinued according to a written plan as expediently as possible, taking into account withdrawal side effects.

B. A court order must be obtained to override the refusal.

C. Refusal to consent to use of a specific psychotropic medication is not grounds for discharge of a resident. A decision to discharge a resident must be reached only after the

alternatives to the specific psychotropic medication have been attempted and only after an administrative review of the proposed discharge has occurred. If the refusal to consent to the routine administration of a psychotropic medication results in an emergency situation, then the requirements of subpart 6, item D, must be met when psychotropic medication will be administered to a resident.

Statutory Authority: *L 1995 c 226 art 3 s 60; MS s 241.021; 245A.03; 245A.09*

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