

Policy Title:	Psychotropic Medication Management – OAR		
Policy Number:	I-E.3.3.1 413-070-0400 thru 0490		Effective Date: 6-30-10

Approved By: *on file*

Date Approved: 6-30-10

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- Policy
 - Procedures
 - Forms, etc.
 - Definitions
 - References
 - Contact
 - History

Reference(s):

- ORS 418.517

Form(s) that apply:

- CF 173a, Notice to Parties of Psychotropic Medication Use
http://dhsresources.hr.state.or.us/WORD_DOCS/CE0173a.doc
- CF 173b, Psychotropic Medication Consultation Request, Review and Recommendations
http://dhsresources.hr.state.or.us/WORD_DOCS/CE0173b.doc
- CF 173c, Psychotropic Medication Consent Form
http://dhsresources.hr.state.or.us/WORD_DOCS/CE0173c.doc

Rules:

413-070-0400

Purpose

These rules, OAR 413-070-0400 to 413-070-0490, describe the responsibilities of the *substitute caregiver* and the Department when a *child* or *young adult* placed in *substitute care* by the Department is prescribed or administered *psychotropic medication*.

Stat. Auth.: ORS 109.675, 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.005, 418.517

413-070-0410

Definitions

The following definitions apply to OAR 413-070-0400 to 413-070-0490:

- (1) "Antipsychotic medication" means a medication, specified in class 28:16:08 by the American Hospital Formulary Service, used to treat psychosis and other conditions.
- (2) "Assessment" means the determination of a *child* or *young adult's* need for mental

health services through interviewing the *child* or *young adult* and obtaining all pertinent medical and psychosocial history information from the individual, family, and collateral sources. The *assessment* --

- (a) Addresses the current complaint or condition presented by the *child* or *young adult*,
 - (b) Determines a diagnosis; and
 - (c) Provides treatment direction and individualized services and supports.
- (3) "Child" means a person under 18 years of age.
- (4) "Department" means the Department of Human Services, Child Welfare.
- (5) "Designee" means a person whom the designator directly and immediately supervises or a person with equal or greater management responsibility than the designator.
- (6) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for an unrelated *child* or *young adult* placed in the home by the Department.
- (7) "Licensed medical professional" means an individual who meets the criteria of both of the following subsections:
- (a) The individual holds at least one of the following valid licensures or certifications:
 - (A) Physician licensed to practice in the State of Oregon;
 - (B) Nurse Practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or
 - (C) Physician's Assistant licensed to practice in the State of Oregon.
 - (b) Is an individual whose training, experience, and competence demonstrate expertise in children's mental health, the ability to conduct a mental health *assessment*, and the ability to provide *psychotropic medication* management for children and young adults.
- (8) "Medically accepted indication" means any use for a covered outpatient drug that is approved under the Federal Food, Drug and Cosmetic Act, recommended by the Drug Use Review Board, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:
- (a) American Hospital Formulary Services drug information;
 - (b) United States Pharmacopoeia drug information or any successor publication;
 - (c) The DRUGDEX Information System; or
 - (d) Peer-reviewed medical literature.

- (9) "Provider" means a person approved by a licensed private child-caring agency to provide care for a *child* or *young adult*, or an employee of a licensed private child-caring agency approved to provide care for a *child* or *young adult*.
- (10) "Psychotropic medication" means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.
- (11) "Qualified mental health professional" means an individual who meets the requirements of both of the following subsections:
- (a) Holds at least one of the following educational degrees:
- (A) Graduate degree in psychology;
 - (B) Bachelor's degree in nursing and licensed by the State of Oregon;
 - (C) Graduate degree in social work;
 - (D) Graduate degree in a behavioral science field;
 - (E) Graduate degree in recreational, art, or music therapy; or
 - (F) Bachelor's degree in occupational therapy and is licensed by the State of Oregon.
- (b) Whose education and experience demonstrates the competencies to --
- (A) Identify precipitating events;
 - (B) Gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts;
 - (C) Assess family, social, and work relationships;
 - (D) Conduct a mental status examination;
 - (E) Document a multiaxial DSM diagnosis;
 - (F) Develop and supervise a treatment plan;
 - (G) Conduct a mental health *assessment*; and
 - (H) Provide individual, family, or group therapy within the scope of his or her practice.
- (12) "Relative caregiver" means a person who operates a home that has been approved by the Department to provide care for a related *child* or *young adult* who is placed in the home by the Department.

- (13) "Substitute care" means the out-of-home placement of a *child* or *young adult* who is in the legal or physical custody and care of the Department.
- (14) "Substitute caregiver" means a *relative caregiver*, *foster parent*, or *provider* who is authorized to provide care to a *child* or *young adult* who is in the legal or physical custody of the Department.
- (15) "Urgent medical need" means the onset of psychiatric symptoms requiring professional attention within 48 hours to prevent a serious deterioration in a *child* or *young adult's* mental or physical condition.
- (16) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in *substitute care* or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 109.675, 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.005, 418.517

413-070-0430

Department Records, Medication Review, and Consent Requirements

- (1) The Department must keep the medical and mental health records of any *child* or *young adult* in *substitute care*. As used in this section, "medical and mental health care records" includes a *child* or *young adult's* records of medical and mental health care, including but not limited to the names of former and current health providers, medical services and diagnoses, evaluations, immunizations, and prescribed medications.
- (2) The caseworker must support timely exchange of medical and mental health care information for a *child* or *young adult* in *substitute care* unless:
 - (a) A *child* or *young adult* has the authority to consent to his or her own health and mental health care; or
 - (b) The *child* or *young adult's* parent or legal guardian retains authority to consent to health care decisions through a Voluntary Custody Agreement or Voluntary Placement Agreement.
- (3) The caseworker must:
 - (a) Provide records of previous mental health assessments and *assessment* updates, including multi-axial DSM diagnosis and treatment recommendations, and progress records from mental health treatment services to the *licensed medical professional* prior to the medical appointment or no later than the time at which the *licensed medical professional* examines the *child* when a *child* or *young adult* may be receiving a prescription for a *psychotropic medication*.
 - (b) Document and timely inform the *substitute caregiver* of the *child* or *young adult's* known health information, including information regarding any prescribed and administered *psychotropic medication*:
 - (A) At the time of placement; and

- (B) When new or updated health information becomes known to the Department.
- (4) To keep accurate medical records and documentation for a *child* or young adult's medical and mental health history record, the caseworker must:
 - (a) Retain copies of all medical and mental health records received by the Department in the medical section of the case file of the *child* or *young adult* in *substitute care*.
 - (b) Document and update records of known health conditions, services, and supports of the *child* or *young adult* in *substitute care* when developing the case plan and at each case plan review.
 - (c) Receive and review monthly the medication log of the *child* or *young adult* in *substitute care* and file a copy in the medical section of the case record of the *child* or *young adult*.
 - (d) Document the medical information of the *child* or *young adult* in the Department's information system.
- (5) The Department must inform the *substitute caregiver* of the *child* or *young adult* that written consent, as set forth in the following subsections, is required prior to filling a prescription for a new *psychotropic medication* unless there is an urgent medical need, in which case prior written consent is not required.
 - (a) Unless an exception in subsection (d) of this section applies, the Child Welfare Program Manager or *designee* must provide written consent prior to the administration of any new prescription of *psychotropic medication* to a *child* or *young adult* in *substitute care* when the requirements of at least one of the following paragraphs applies:
 - (A) The Department is the legal guardian of the *child*;
 - (B) Parental rights have been terminated and the court has ordered permanent commitment of the *child* and placed the *child* in legal custody and guardianship of the Department; or
 - (C) A child's parents have signed a Release or Surrender Agreement giving the Department guardianship and control over the *child*.
 - (b) When the authority to provide consent to *psychotropic medication* is not given to the Department in the Voluntary Placement Agreement or Voluntary Custody Agreement, the Department must obtain the written consent of a child's parent or legal guardian for the administration of *psychotropic medication*.
 - (c) A *child*, 14 years of age or older or a *young adult* may provide written consent for *psychotropic medication* under ORS 109.675.
 - (d) Written consent of the Child Welfare Program Manager or *designee* is not required prior to the administration of any new prescription of *psychotropic*

medication to a child or young adult in substitute care when the requirements of at least one of the following paragraphs applies:

- (A) A change in the delivery system of a previously prescribed medication;
 - (B) A change in the dosage of a previously prescribed medication;
 - (C) A change in medication within the same drug classification;
 - (D) A one-time medication given prior to a medical procedure; or
 - (E) An anti-epileptic medication prescribed for a seizure disorder.
- (6) After the caseworker has obtained the written consent for *psychotropic medication* required under section (5) of this rule, the caseworker must:
- (a) Complete the notifications required under OAR 413-070-0480 and 413-070-0490.
 - (b) Ensure a report has been made to the prescribing *licensed medical professional* when the condition of the *child or young adult in substitute care* is not improving, is deteriorating, or when the *child or young adult, caseworker, substitute caregiver, or other individual* has observed suspected side-effects of the medication.
 - (c) Request and receive updated health information about the *child or young adult in substitute care* and the effects of the prescribed *psychotropic medication* therapy from the substitute caregiver during the 30 day contact with the *substitute caregiver* required under OAR 413-080-0059.
- (7) Prior to administration of a new prescription for more than one *psychotropic medication* or any *antipsychotic medication*, the Department must ensure a *child or young adult in substitute care* has received an *assessment* from a *qualified mental health professional or licensed medical professional* unless:
- (a) A medication was prescribed for an urgent need; or
 - (b) The prescription is described in paragraphs (5)(d)(A) to (E) of this rule.
- (8) The *assessment* required under section (7) of this rule either must --
- (a) Have been completed within the three months prior to the prescription for *psychotropic medication*; or
 - (b) Be an update of a prior *assessment*, which focuses on a new or acute problem, and information from the *assessment* must be communicated to the *licensed medical professional* prior to the issuance of a prescription for *psychotropic medication*.
- (9) The Department must ensure the requirements of both of the following subsections are met:
- (a) An annual review of psychotropic medications, by an individual other than the

prescriber when:

- (A) *A child or young adult* has more than two prescriptions for psychotropic medications; or
 - (B) *A child* is under six years of age.
- (b) The annual review required under subsection (a) of this section must be conducted by one of the following:
- (A) *A licensed medical professional*;
 - (B) *A qualified mental health professional* with the authority to prescribe drugs; or
 - (C) A licensed pharmacist with the Drug Use Review Program under OAR 410-121-0100.

Stat. Auth.: ORS 109.675, 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.005, 418.517

413-070-0450

Disclosure Requirements for the Department Regarding a Child 14 Years of Age and Older and a Young Adult in Substitute Care

Pursuant to ORS 109.675, a *child* 14 years of age or older or a *young adult* in *substitute care* may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder, or a chemical dependency, excluding methadone maintenance, by a physician, licensed psychologist, nurse practitioner, licensed clinical social worker, or a community mental health and developmental disabilities program established and operated pursuant to ORS 430.620. However, when a *child* 14 years of age or older or a *young adult* is in *substitute care*, and the *substitute caregiver* or the Department has knowledge of that prescription, the notification requirements of OAR 413-070-0470, 413-070-0480, and 413-070-0490 apply.

Stat. Auth.: ORS 109.675, 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.005, 418.517

413-070-0470

Substitute Caregiver Responsibilities

- (1) The *substitute caregiver* must:
- (a) Notify the Department within one business day after receiving a new prescription or knowledge of a new prescription for *psychotropic medication* for a *child* or *young adult*; and
 - (b) Obtain consent from the Department prior to filling a prescription for and administering a new *psychotropic medication*.

- (2) The *substitute caregiver* must provide written or verbal notification to the caseworker or caseworker's supervisor within one business day when a *licensed medical professional* prescribes a change in dosage, suspension, or discontinuation of the current *psychotropic medication*.
- (3) The *substitute caregiver* must keep current medical and mental health care records and medication logs of a *child* or *young adult* in the care or custody of the Department. The records must include:
 - (a) Medical and mental health appointments for the *child* or *young adult* in *substitute care*.
 - (b) Medical and mental health appointment follow-up reports provided to the *substitute caregiver*.
 - (c) Any record of any immunization obtained while in the care of the *substitute caregiver*.
 - (d) A record of all prescribed medications administered to the *child* or *young adult* in *substitute care*.
- (4) A *substitute caregiver* certified by the Department must keep a current medication log on a form approved by the Department. A *provider* must keep a current medication log either on the form approved by the Department or on a form provided by the private child-caring agency. The medication log record must include all medications administered to the *child* or *young adult* in *substitute care* and must include:
 - (a) The name of the *child* or *young adult* in *substitute care*.
 - (b) The brand or generic name of the medication, including the prescribed dosage and prescribed dosage administration schedule.
 - (c) Times and dates of administration or monitored self-administration of the medication.
 - (d) The name or initials of the substitute caregiver administering the medication or monitoring the self-administration.
- (5) The *substitute caregiver* must provide completed medication logs and any medication records obtained during medical visits and records of appointments to the Department at the end of each month. This must include logs of all medication administered to the *child* or *young adult* at school or in settings other than the home of the *substitute caregiver*.
- (6) The *substitute caregiver* must keep all psychotropic medications properly stored and must:
 - (a) Ensure the *psychotropic medication* specifies the dosage and prescribed dosage administration schedule of the *licensed medical professional* for the *psychotropic medication*; and
 - (b) Ensure the *psychotropic medication* is kept in locked storage and stored as

prescribed. *Psychotropic medication* requiring refrigeration must be kept under refrigeration in a locked box.

- (7) The *substitute caregiver* may not discontinue, change, or otherwise alter the prescribed administration of a *psychotropic medication* for a *child* or *young adult* in *substitute care* without direction from the *licensed medical professional*.
- (8) The *substitute caregiver* may not use alternative medications intended to alter or affect mood or behavior, such as herbals or homeopathic remedies, without direction and supervision of a *licensed medical professional* and must notify the Department when any such alternative medication is directed.

Stat. Auth.: ORS 109.675, 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.005, 418.517

413-070-0480

Notification Timelines for Psychotropic Medication Therapy

- (1) The Department must provide written notification to the parties identified in section (2) of this rule within a timely manner, not to exceed ten business days of --
 - (a) The Department receiving notice that a *psychotropic medication* has been prescribed for a *child* or *young adult* in *substitute care*; or
 - (b) Either of the following changes occur in the treatment of a *child* or *young adult* in *substitute care*:
 - (A) The prescribed dosage of a *psychotropic medication*; or
 - (B) Discontinuation of existing *psychotropic medication* therapy.
- (2) When a *child* or *young adult* is in *substitute care*, written notification is provided to:
 - (a) The parent or legal guardian unless a parent has relinquished parental rights or had parental rights terminated;
 - (b) The attorney of the parent or legal guardian;
 - (c) The attorney of the *child* or *young adult*;
 - (d) The court appointed special advocate of the *child* or *young adult*, if one has been appointed;
 - (e) Any other legal parties to the case; and
 - (f) The *substitute caregiver*.

Stat. Auth.: ORS 109.675, 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.005, 418.517

413-070-0490

Notification Content for Psychotropic Medication Therapy

The notification described in OAR 413-070-0480 must contain:

- (1) The name and contact information of the prescribing *licensed medical professional*;
- (2) The diagnosed condition of the *child* or *young adult* for which the medication was prescribed;
- (3) The name of the prescribed *psychotropic medication*;
- (4) The prescribed dosage;
- (5) The dosage recommended pursuant to a *medically accepted indication*;
- (6) The reason the medication was prescribed;
- (7) The expected benefit of the medication;
- (8) The side-effects of the medication; and
- (9) Notice of the right to petition the juvenile court for a hearing if there is an objection to the use of the prescribed medication or prescribed dosage.

Stat. Auth.: ORS 109.675, 418.005, 418.517

Stats. Implemented: ORS 109.675, 418.005, 418.517

Procedure(s) that apply:

- Child Welfare Procedure Manual, Medical care service, Chapter 4, Section 21
http://www.dhs.state.or.us/caf/safety_model/procedure_manual/ch04/ch4-section21.pdf
- Psychotropic Medication Reference Tool, Medication Chart, Chapter 4, Appendix 4.14
http://www.dhs.state.or.us/caf/safety_model/procedure_manual/appendices/ch4-app/4-14.pdf

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Policy History

- 09/15/95
- 12/29/95
- 05/01/07