

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 325
ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS
TO CHILDREN FOR WHOM
DCFS IS LEGALLY RESPONSIBLE

Section

- 325.10 Purpose
- 325.20 Definitions
- 325.30 General Provisions
- 325.40 Medication Approval Standards
- 325.50 Children in Residential Facilities
- 325.60 Children in Foster Care
- 325.70 Miscellaneous Provisions

AUTHORITY: Implementing Section 5 of the Children and Family Services Act [20 ILCS 505/5], the Juvenile Court Act of 1987 [705 ILCS 405], and the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-100].

SOURCE: Adopted at 19 Ill. Reg., effective June 15, 1995.

Section 325.10 Purpose

The following standards and procedures shall govern the administration of psychotropic medications to persons under the guardianship of the Department pursuant to court order or for whom the Department has custody and has, by court order or via an adoptive surrender, been authorized to consent to major medical procedures. It is the purpose of this rule to create a system which promptly identifies and evaluates the needs of children for psychotropic medication, provides timely access to such medication, and monitors children on such medication, while recognizing the risks that such medications pose, particularly if they are not prescribed and monitored with care. Psychotropic medication must not be used simply for the convenience of staff members, to punish children, or as a substitute for adequate staffing and programming.

Section 325.20 Definitions

"Authorized agent" means Department staff who have been appointed and authorized by the Director to officially act in the place of the Guardianship Administrator to authorize and consent to matters concerning children for whom the Department has legal responsibility.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody as authorized by the Abused and Neglected Child Reporting Act, children for whom the Department has been appointed legal custodian or guardian by order of a Juvenile Court, children whose parent(s) have signed an adoptive surrender, or children for whom the Department has temporary custody via a voluntary placement agreement. For purposes of consenting to the administration of psychotropic medications, the Department must

ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS TO CHILDREN FOR WHOM DCFS IS LEGALLY RESPONSIBLE

June 15, 1995 - PT 95.17

be the legal guardian or custodian which has been granted the authority to consent to major medical care.

"Department" means the Illinois Department of Children and Family Services.

"Emergency" means circumstances exist in which a child for whom the Department is legally responsible poses a threat of imminent serious harm to self or others.

"Pharmacological Review Committee" means a committee appointed by the Department which is comprised of at least three representatives, at least one of whom is a Board certified psychiatrist who specialize in the treatment of children and adolescents. This Committee shall have certain powers and duties as prescribed in this Part.

"Psychiatric consultant" means a psychiatrist as defined in 405 ILCS 5/1-121 who has specialized in child and adolescent psychiatry.

"Psychotropic medication" means medication whose use for antipsychotic, antidepressant, antimanic, antianxiety, behavioral modification or behavioral management purposes is listed in *AMA Drug Evaluations, latest edition, or Physician's Desk Reference, latest edition* or which are administered for any of these purposes. [405 ILCS 5/1-121.1]

"Residential facility" means any facility in which one or more children for whom the Department of Children and Family Services is legally responsible are housed, whether or not that facility is located within the State of Illinois, including but not limited to group homes, child care institutions, inpatient mental health facilities, including those operated by the Illinois Department of Mental Health and Developmental Disabilities. Facilities operated by the Illinois Department of Corrections are not residential facilities, as defined in this Part.

Section 325.30 General Provisions

- a) The administration of psychotropic medication to children for whom the Department is legally responsible as punishment for bad behavior, for the convenience of caregivers or as a substitute for adequate ongoing programming for the children's needs is prohibited.
- b) Except in an emergency, and subject to (a) above and (c) below, psychotropic medication shall never be administered to children for whom the Department is

**ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS
TO CHILDREN FOR WHOM DCFS IS LEGALLY RESPONSIBLE**

June 15, 1995 - PT 95.17

legally responsible without the prior approval of an authorized agent as set forth in this Part.

- c) Children for whom the Department of Children and Family Services is legally responsible who have been committed to facilities operated by the Illinois Department of Corrections are governed solely by the rules of the Illinois Department of Corrections (20 Ill. Adm. Code 415, Health Care) which also pertains to committed adults and emancipated minors, the Unified Code of Corrections [730 ILCS 5], and corrections case law for purposes of the administration of psychotropic medications. In its role as guardian, the Department of Children and Family Services may contest decisions made by the Illinois Department of Corrections in accordance with 20 Ill. Adm. Code 415 regarding the involuntary administration of psychotropic medications to Department wards placed in facilities operated by the Illinois Department of Corrections.
- d) The Department shall establish a Pharmacological Review Committee which shall develop and publish a Pharmacy and Therapeutic Manual. The manual shall list all acceptable psychotropic medications which are approved by the committee for use with children for whom the Department is legally responsible and shall list their purposes, the acceptable range of dosages, contraindications and time limits, if any. The names, qualifications, and professional positions of the members of the pharmacological review committee shall be listed in the front of the manual. The committee shall also review the Pharmacy and Therapeutic Manual on at least an annual basis and make recommendations for change, as necessary.
- e) The Pharmacy and Therapeutic Manual and any revisions to it shall be provided to all authorized agents and to all residential facilities in which children for whom the Department is legally responsible reside.
- f) Authorized agents shall be provided with regular periodic training in the use and contents of the manual. The Department shall appoint, subject to the review of the Pharmacological Review Committee, a professional who specializes in treating children and adolescents to provide training to authorized agents on the use of the manual and its contents. The training shall include:
 - 1) initial training before the authorized agent assumes the responsibilities of the position. This training shall include an explanation of the purpose of the manual, the contents of the manual including an explanation of commonly prescribed psychotropic medications, the appropriate dosages for children and adolescents, common side effects, danger signs, illnesses for which the medication is commonly prescribed, how to use the manual, the discretion left to the authorized agent, and the procedure for approval or denial of the psychotropic medication;

ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS TO CHILDREN FOR WHOM DCFS IS LEGALLY RESPONSIBLE

June 15, 1995 - PT 95.17

- 2) annual training; and
- 3) training before any revisions to the manual take effect.
- g) The Guardianship Administrator shall review the authorized agent's consents given pursuant to this Part within 30 days after the start of the authorized agent's use of the manual and at least once every 90 days thereafter.
- h) The Department shall employ or contract with one or more psychiatric consultants. Authorized agents shall consult with the psychiatric consultant employed or contracted by the Department as provided in Section 325.40, Medication Approval Standards.
- i) The Department shall provide the Pharmacological Review Committee with statistical and non-identifying data regarding the administration of psychotropic medication to children governed by this Part including, where applicable, statistical and non-identifying data from foster parent licensure reviews and administrative case reviews. The Committee shall review such data at least annually to determine whether psychotropic medication is being administered appropriately and in compliance with these rules. The Committee shall determine whether additional or different data shall be collected and whether this Part should be modified to achieve the goals set forth above.

Section 325.40 Medication Approval Standards

- a) Authorized agents may, in their discretion, approve the administration of any psychotropic medication whose use and dosage is listed in the Pharmacy and Therapeutic Manual, provided that children for whom the Department is legally responsible are not taking any other psychotropic medications and subject to the provisions of Section 325.30(a). Authorized agents may approve the administration of any psychotropic medication which does not meet the criteria listed in this subsection only following consultation with the Department's psychiatric consultant. The authorized agent shall note on the consent form when consent has been given for the administration of a psychotropic medication which is not listed in the Pharmacy and Therapeutic Manual.
- b) Additionally, whenever the authorized agent is advised that a child for whom the Department is legally responsible objects to the administration of psychotropic medication, the authorized agent must consult with both the physician who is recommending the medication and the psychiatric consultant employed or contracted by the Department prior to approving or denying the medication. Authorized agents

ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS TO CHILDREN FOR WHOM DCFS IS LEGALLY RESPONSIBLE

June 15, 1995 - PT 95.17

shall assess the basis for the child's objection to the psychotropic medication. This assessment may include asking the child's caseworker to interview the child to determine the basis for his/her objection. The reason for the child's objection must be fully documented on the approval form provided for in Section 325.50(a) below.

- c) Every authorization for the administration of psychotropic medication shall be limited in time. Under no circumstance may psychotropic medication be authorized for a period exceeding 180 days. At the expiration of the period set forth in the authorization, psychotropic medication may be reauthorized pursuant to the standards and procedures contained in this Part.
- d) Whenever a physician recommends the administration of psychotropic medication to a child for whom the Department is legally responsible, the child shall be advised of the purposes and effects of the medication and of the potential side effects of the medication to the extent that such advice is consistent with the nature and frequency of the side effects and the child's ability to understand the information communicated. The child shall also be provided written information concerning the medication and its side effects, unless it has been determined that such information could not be understood by the child. This written information shall be provided in the child's primary language. Nothing in this section shall be deemed to create any liability on the part of the physician or the residential facility based upon the failure to provide the child with complete and accurate information.
- e) Authorized agents retain the authority to deny consent to the administration of psychotropic medications whether or not they are among those listed in the Pharmacy and Therapeutic Manual or whether they have been approved by the psychiatric consultant. Authorized agents may only deny consent to the administration of psychotropic medication after consulting both the prescribing physician and the psychiatric consultant. The Pharmacy and Therapeutic Manual shall contain a statement setting forth this authority. In the event of a denial of a medication request, the specific reasons for the denial shall be set forth on the Psychotropic Medication Approval form provided for in Section 325.50(a) below.
- f) Authorized agents must render their oral approval or denial of psychotropic medication within 24 hours from the time they receive the request for approval, and shall confirm their approval in writing within two working days, unless the reason for the delay is the unavailability of the prescribing physician to consult with the authorized agent. If oral approval or denial of the request for medication is not rendered within 24 hours from the time the request was received, the requesting party shall contact the Office of the Guardianship Administrator or designee for assistance in obtaining a response.

Section 325.50 Children in Residential Facilities

**ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS
TO CHILDREN FOR WHOM DCFS IS LEGALLY RESPONSIBLE**

June 15, 1995 - PT 95.17

- a) The Department shall create and distribute a Psychotropic Medication Approval form. Copies of the form shall be distributed to all residential facilities in which wards of the Department reside and to all authorized agents. That form shall include the following information:
- 1) the child's name, age, weight, and diagnosis;
 - 2) the medication to be administered;
 - 3) the dosage and frequency of the medication;
 - 4) the duration, which in no event shall exceed 180 days;
 - 5) target symptom(s) and behavior;
 - 6) other medication the child is receiving;
 - 7) the potential side effects of the medication which are of greatest concern;
 - 8) the name of the prescribing physician;
 - 9) in the case of children who are 14 years of age or older, whether the ward objects to the administration of the medication.
- b) Residential facilities which provide care to children for whom the Department is legally responsible shall be advised by the Department that, whenever they seek approval of an authorized agent for the administration of a psychotropic medication, they will be asked the questions on the Psychotropic Medication Approval form. The residential facility shall complete a copy of the approval form which is to be kept in the child's medical record at the facility. Whenever approval is granted by an authorized agent, the agent shall complete and sign three copies of the form, retain one copy for the child's case record, and forward a copy to the Guardianship Administrator and to the residential facility where the child resides.
- c) Prior consent from an authorized agent is not required when an emergency exists as defined in this Part. However, the authorized agent shall be notified in writing of the administration of medication within one week of its initial administration. The Department shall provide each residential facility with Emergency Psychotropic Medication forms to be used by the residential facility in reporting to the authorized agent the administration of emergency medication. This form shall be completed by either a registered nurse or a physician who has examined the child and shall contain the information set forth in subsection (a) above. Additionally, the form shall require a brief explanation of the nature and circumstances of the emergency. A copy of this form shall be placed in the child's medical file at the residential facility and a copy shall be forwarded to the Guardianship Administrator and the authorized agent for the child. Emergency medication may not continue for more than 48 hours, excluding Saturdays, Sundays and holidays. The administration of psychotropic medication beyond this period may only occur if approved by an authorized agent as provided for in this Part.
- d) The administration of psychotropic medication shall be monitored as follows:

**ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS
TO CHILDREN FOR WHOM DCFS IS LEGALLY RESPONSIBLE
June 15, 1995 - PT 95.17**

- 1) The medical director of each residential facility, or designee who has been licensed in accordance with the provisions of the Illinois Nursing Act of 1987 [225 ILCS 65], shall conduct a monthly review of all psychotropic medications and record that review in writing. This record shall be reviewed during the on-site inspections required by this Part. During this monthly review, the medical director or designee shall conduct an inventory of all psychotropic medications and shall verify that:
 - A) psychotropic medications are labelled with the child's name, directions for administering the medication, the date and prescribing physician's name, prescription number, and drug store or pharmacy;
 - B) all medications are stored in a locked cabinet or within a locked refrigerator, if required for proper storage;
 - C) all controlled substances are accounted for or, if any amount of a controlled substance is missing, an incident report has been filed with the Director of the facility;
 - D) psychotropic medications are dispensed in accordance with the requirements of the prescription;
 - E) written consents for the provision of psychotropic medications have been received from the parent or guardian, as appropriate;
 - F) any medications for children who have left the facility or who have been on runaway status 14 days or longer have been properly disposed.
- 2) The Guardianship Administrator's office shall collate all Emergency Psychotropic Medication forms and all Psychotropic Medication Approval forms in binders divided according to residential facility. The Guardianship Administrator's office shall review these binders monthly. The psychiatric consultant shall also review these binders every 90 days.
- 3) The Department shall conduct unannounced on-site reviews at least annually to assure that the approval forms reflect the actual practice in the residential facility and that the residential facility is in compliance with this Part. Such reviews shall include an investigation into whether the emergency psychotropic medication request forms and the psychotropic medication request forms accurately reflect those minors who have objected to the administration of medication.

**ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS
TO CHILDREN FOR WHOM DCFS IS LEGALLY RESPONSIBLE**

June 15, 1995 - PT 95.17

- e) The Department shall offer training at least once every six months for personnel employed by residential facilities concerning the content of this Part and the procedures through which psychotropic medication may be authorized.

Section 325.60 Children in Foster Care

- a) The Department shall provide training for all foster parents (including but not limited to relative family homes and foster homes supervised directly by the Department as well as homes supervised by private agencies) concerning the procedures for approving psychotropic medication and the need for and use of psychotropic medications. This training shall include training in the those circumstances in which the child may self-medicate, where appropriate.
- b) Except in an emergency, no psychotropic medication shall be administered to any child for whom the Department is legally responsible who resides in foster care unless the physician who is prescribing the medication has obtained prior approval for such medication from an authorized agent.
- c) The Health Passport, which is issued by the Department to all children for whom it is legally responsible, shall contain a statement that, except in an emergency, no psychotropic medication may be administered to any such child without the approval of an authorized agent.
- d) Authorized agents shall use the same standards, forms and rules for approving psychotropic medication for children in foster care as are set forth above in Section 325.50.
- e) The foster parent shall inform the prescribing physician that:
 - 1) the child is in foster care;
 - 2) the consent of an authorized agent is required before psychotropic medication may be administered to the child; and
 - 3) psychotropic medication may only be administered pursuant to this Part.

Section 325.70 Miscellaneous Provisions

- a) The Psychotropic Medication Approval form specified in Section 325.50(a) shall be attached as an exhibit to the Client Service Plan form for each psychotropic medication which is being administered.

**ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS
TO CHILDREN FOR WHOM DCFS IS LEGALLY RESPONSIBLE**

June 15, 1995 - PT 95.17

- b) When a child has a neurological or psychiatric condition for which the administration of psychotropic medications is likely, the Department shall request from the Juvenile Court the power to consent to major medical care including specifically the administration of psychotropic medication.
- c) Minors who have been declared emancipated for the purposes of consent to medical treatment by any court shall have the qualified right to refuse psychotropic medication as provided for adults in the Mental Health and Developmental Disabilities Code [405 ILCS 5/2-107 and 2-107.1] but subject to Section 325.30(c).
- d) Children for whom the Department is legally responsible who have reached the age of 18 shall have the qualified right to refuse psychotropic medication as provided for adults in the Mental Health and Developmental Disabilities Code [405 ILCS 5/2-107 and 2-107.1] but subject to Section 325.30(c).