

MERSEY CARE NHS FOUNDATION TRUST – HOW WE MANAGE MEDICINES

Medicines Management Services aim to ensure that
(i) Service users receive their medicines at times that they need them and in a safe way.
(ii) Information on medicines is available to staff, service users and their carers

- **PROCEDURE AND GUIDELINES FOR THE ADMINISTRATION OF MEDICATION IN FOOD OR DRINK TO PEOPLE UNABLE TO GIVE CONSENT TO OR WHO REFUSE TREATMENT MM10**

KEY ISSUES

Although there is legal support under certain circumstances to prescribe medication to adults who mentally cannot consent to treatment there are no nationally agreed protocols or standards for the administration of such medication covertly given in food or drink. It is left to local services to develop their own protocols and standards.

These guidelines apply to the administration of medication to service users who cannot give consent to treatment who are refusing or unable to take tablets or syrup when openly presented to them, and for whom medication is then administered in food such as jam or in flavoured drinks or other substances.

Mersey Care NHS Foundation Trust recognises that service users should be placed at the heart of all decision making with regard to their treatment.

Medicines Management Procedure – MM010
Approved by Drugs and Therapeutics Committee
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Aims of Procedure

This procedure aims to provide guidance to staff members with regards to the covert administration of medications on:-

- 1 – The circumstances in which covert administration may be appropriate – ‘the context of care’
- 2- Legal justification for the potential covert administration
- 3- Procedures for administration and the recording thereof
- 4- Arrangements for appeal by service user/carers

1 The Context of Care

There are three main areas where service users may refuse or not be able to take prescribed medication.

Firstly there are service users who are clearly refusing to take treatment and that if they are told that they are taking medication administered in food or drink would refuse to eat/drink it.

There is a second group of patients who refuse because they do not understand in broad terms the consequences of refusal, the importance of the medication to the health and/or quality of life of that person.

The third group of service users who may be seen to refuse to take treatment because they find it difficult to swallow the size of the tablet or find the taste of the liquid unpalatable, they have swallowing difficulties or they don't understand what to do when they are presented with a pill or a spoonful of medication.

The later group do not appear to be actively refusing to take treatment but find the treatment unpalatable or difficult to take because of physical difficulties, or don't understand what to do when presented with treatment. This group of service users are not actively refusing treatment but are having difficulty in complying with taking treatment and if they knew that they were taking medication administered in food or drink they would consume the treatment. This would not amount to covert medication.

2 Legal Justifications

The advance decisions of service users should be respected, if, while capable, a service user makes a decision in which they refuse medication this decision should stand unless it doesn't apply to the current set of circumstances. Where it is available and appropriate, mental health legislation, such as the Mental Health Act 1983 (MHA 1983), should be used.

The treatment provisions in MHA 1983 over-ride any advance decision, so that a patient detained under the Act may be compelled to accept medical treatment for

his/her mental disorder, even if s/he has made an advance decision refusing such treatment. Where a patient is incapable of making a decision about his / her medical treatment, it may be that consent for that treatment can be given by an Attorney under a Lasting Power of Attorney the patient executed while capable, or by a Deputy appointed by the Court of Protection. An Attorney or Deputy will stand in the patient's shoes in this regard, and if s/he has the power to consent to medical treatment, s/he will also have the power to withhold such consent.

In the case of a patient aged 16 years or more who is capable of making decisions about his/her healthcare, treatment other than under MHA 1983 may be given with his/her consent, but not without it. Where a patient is incapable, such treatment must be given under MCA if it is confirmed that it is in the patient's best interests to do so and consistent with both MCA and its Code of Practice. Although the views of others will be relevant – and must be sought – when an incapable patient's best interests are to be determined unless it is clear that the patient would not have wished this, they need only be taken into account and will not be conclusive.

Although it may be lawful under the general powers of the MCA to give medical treatment in the best interests of an incapable patient, it will not be so where the effect of the treatment would be to deprive the patient of his/her liberty. ***Were this the case authorisation can only be granted a Standard Deprivation of Liberty Safeguard Order is required (or a Court of Protection Order).*** There is no simple definition of what it means to deprive someone of his/her liberty, and the question will have to be considered afresh in every case.

3 Procedure for all service users who are refusing treatment

In accordance with the Code of Practice it is the responsibility of the Responsible Clinician (RC) to ensure that the following assessments are undertaken:

1. The service user's ability to consent to and/or refuse treatment should be assessed. This only applies when consent cannot be given to treatment. Service users with capacity to consent, can consent themselves to receiving medication in food or drink.
2. A review of the importance of the medication and whether it is essential to continue with it should also be made. A judgment about the importance of the treatment to the patient's/client's quality of life and general health should be formulated to decide whether to give the treatment or to discontinue it.
3. An assessment should consider whether the service user is actively refusing to take treatment or having difficulty complying with treatment. This should include checking whether the service user understands what the treatment is, what it is hoped it will do and how nursing/care staff are promoting this awareness at each medication giving.
4. A best interests meeting should take place to decide the least restrictive course of action for the service user. The results of the assessment should be brought to the Multidisciplinary Team for action. The wishes of the nearest relative/carer or advocate should be sought.

(Note: the views of relatives etc are not binding in law unless they have Welfare Attorney status... and then only for treatments not authorised under Part IV of the Mental Health Act).

In line with NICE quality standard QS85, medicines should not be administered covertly until after a best interests meeting has been held. However, if the clinical situation is urgent, it is acceptable for a less formal discussion to occur between the prescriber, healthcare staff and family or advocate to make an urgent decision. A formal best interests meeting should be arranged as soon as possible afterwards.

5. A care plan must then be established, documented and the service user's GP informed.

The care plan should be reviewed on at least a weekly basis; the care pathway documentation in annex 1 must be completed.

4 Appeal process

If a member of staff, a relative, carer, friend or representative of the patient, or an IMCA wishes to raise concerns about the use of covert means to administer medication, or about the process by which it was decided to use such means, they can be referred to the Medical Director or Chief Pharmacist. If a patient lacks capacity and the issue cannot be resolved locally it may be necessary to refer to the Court of Protection.

5. Information available from the Pharmacy Department

Crushing tablets, opening capsules and/or mixing medication with food or drink is unlicensed (off-label), unless specified in the product Summary of Product Characteristics (SPC). Use of unlicensed medicines alters and probably increases professional responsibility and liability. Therefore covert medication use must be specifically authorised by the prescriber, following consultation with the multidisciplinary team and pharmacy guidance.

If it is decided that medication is to be given in food/drink the Pharmacy Department-ward pharmacy team, or Medicines Information Service should be consulted about what type of preparation should be used to ensure appropriate delivery of treatment. Pharmacy may be able to order in unlicensed manufacturer 'Special' formulations to meet individual needs, such as liquid medicines that are not commercially available. However, there may be delay between ordering and receiving such medicines and advance notice is important. Medication can only be given in food or drink where specific instructions to do so are written under "Additional Instructions" section of the medication card by the prescribing doctor. For medicines that are suitable for crushing, crush using the recommended tablet crushers and single use disposable plastic sachets provided. Empty sachets should be disposed of in the same bin as medicine tots on the ward.

The Medicines Information Service is available on 0151 250 6011 and operates Monday to Friday 9am to 5pm. At other times a Pharmacist is available via Switchboard.

Annex 1

COVERT MEDICATION CARE PATHWAY*

Name of patient

DOB

X number

Location

<p>Define Covert Medication & distinguish from simply a method of medication administration</p>	
<p>What treatment is being considered for covert administration?</p>	
<p>Why is this treatment necessary?</p>	
<p>Where appropriate, refer to clinical guidelines e.g. NICE</p>	
<p>What alternatives did the team consider? (e.g. other ways to manage the person or other ways to administer treatment)</p> <p>Why were these alternatives rejected?</p>	
<p>Outline the assessment of capacity. Covert meds <i>may</i> be administered to detained patients who have capacity. Also, in many cases, where patient lacks capacity this will amount to a general method of administration and will not amount to covert medication.</p>	<p>Assessed by: _____ Date: _____</p>
<p>What legal steps were followed?</p>	<p>Legal documentation completed:</p> <p>Date: _____</p>
<p>Treatment may only be given if it is likely to benefit the person. What benefit will the person receive?</p>	

<p>Is this the least restrictive way to treat the person? Give reasons.</p>	
<p>What are the person's present views on the proposed treatment, if known?</p>	
<p>Has the person expressed views in the past that are relevant to the present treatment? If so, what were those views?</p>	
<p>Who was involved in the decision? N.B. A qualified pharmacist must give advice on administration if this involves crushing tablets or combining with food and drink.</p>	<p>Staff involved:</p> <p>Relatives or other carers involved:</p>
<p>Do any of those involved disagree with the proposed use of covert medication?</p> <p>If so they must be informed of their right to challenge the treatment. Date informed:</p>	<p>Yes/No</p>
<p>When will the need for covert treatment be reviewed?</p>	<p>Date of first planned review:</p>

Name of Responsible Clinician:.....

Signature of Responsible Clinician:

Designation:

Date:

(*Adapted with permission from: Mental Welfare Commission for Scotland. Good Practice Guide. Covert Medication)

COVERT MEDICATION CARE PATHWAY REVIEW*

Name of patient

DOB

X number

Location

<p>Is treatment still necessary? If so, explain.</p>	
<p>Is covert administration still necessary? If so, explain why.</p>	
<p>Who was consulted as part of the review?</p>	
<p>Is legal documentation still in place and valid?</p>	
<p>Date of next review</p>	

Name of Responsible Clinician:.....

Signature of Responsible Clinician:.....

Designation:.....

Date:

(*Adapted with permission from: Mental Welfare Commission for Scotland. Good Practice Guide, Covert Medication)