NHS Tayside

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Clinical Area

Covert Medication

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1. PURPOSE AND SCOPE

This policy describes the responsibilities of practitioners when considering the use of covert medication. The policy sets out a series of conditions that must be satisfied before administering covert medication and defines the process to be followed.

This Policy must be used in conjunction with national guidance from professional bodies as well as local polices and procedures NHS Tayside have in place for safe and secure handling of medicines. Practitioners involved with Covert medication will have read and understood the guidance developed by the Mental Welfare Commission for Scotland regarding the legal and practical issues in relation to Covert Medication. (November 2006)

2. STATEMENT OF POLICY

This policy has been developed from existing good practice statements and the requirements of the law in Scotland.

There is current guidance from the Royal College of Psychiatrists and the Nursing and Midwifery Council. The Mental Welfare Commission for Scotland issued guidance in a previous version *of Rights. Risks and Limits to freedom*. Part 5 of the Adults with Incapacity (Scotland) Act 2000 provided authority to give medical treatment to a person who lacks capacity, by means of a completed incapacity certificate.

Covert Medication must never be given to someone who is capable of deciding about medical treatment. It is generally unlawful to administer medication without consent. Where the individual is incapable of consenting, it could still be regarded as an assault unless done appropriately. Other alternatives must have been explored and found to be impracticable. Staff must not give medication in a disguised form unless the adult has refused to take medication and their health is at risk because of this. Staff must record this in the patient's records. Documentation must be completed as per the pathways in the appendix to ensure patient safety and effective continuity of care. The Medical Practitioner has the responsibility for ensuring the completion of the documentation, which must be kept in the main medical record. It is for local agreement in individual cases, following discussion with team members, if copies are required in other records.

3. DEFINITIONS

The following definitions apply to this document:

Practitioners refers to all health care staff, directly or indirectly, involved in administrating covert medication, including employees, bank, locum or agency staff working within NHS Tayside.

Covert Medication is the administration of any medical treatment in disguised form. This usually involves disguising medication by administering it in food and drink. As a result, the person is unknowingly taking medication.

Incapacity Under The 2000 Act, is defined as incapable of:

- acting ; or
- making decisions; or
- communicating decisions; or
- understanding decisions; or
- retaining the memory of decisions

This must be because of a mental disorder, or an inability to communicate due to a physical disorder. Mental disorder is defined broadly but has some exceptions. Inability to communicate only results in incapacity if it cannot be overcome by translation or communication aids.

4. THE LAW AND COVERT MEDICATION

In Scotland the mechanisms for giving medical treatment to people who lack capacity are covered by two significant pieces of legislation which are:

- The Adults with Incapacity (Scotland) Act 2000 (**AWI**)
- The Mental Health (Care and Treatment) (Scotland) Act 2003 (**MHA**)

The 2000 Act (**AWI**) covers a variety of interventions for adults who lack capacity. It is based on a firm set of principles that govern all interventions, including covert treatment, these are:

- The intervention must be of benefit to the adult.
- The intervention must be the least restrictive in relation to the person's freedom in order to achieve the desired benefit.
- Interventions will take account of the past and present wishes of the adult.
- Interventions will take account of the views of relevant other parties.
- Interventions will encourage the adult to use existing skills and develop new skills.

5. DECIDING WHETHER TO GIVE COVERT MEDICATION

It is essential to consider the necessity of treatment, which is so essential that it needs to be given by deception. Practitioners must base their decision on clinical evidence. Any benefit of covert medication needs to be balanced with the risk of giving medication covertly. Advanced statements and the person's past and present wishes will be taken into account. If the person has capacity to decide about medical treatment, covert medication must not be considered.

If the person lacks capacity, the authorised practitioner must certify incapacity on a Section 47 certificate (as required by the **AWI** Act 2000), or use appropriate documentation where the person is being treated under the **MHA** Act 2003.

The decision to use Covert Medication must be a multidisciplinary discussion which includes all practitioners directly or indirectly involved in covert medication, and never without the expert guidance of a pharmacist. Practitioners who may be required to administer Covert Medication must make themselves fully aware of guidance from their own Professional Bodies. If the person has a welfare proxy (welfare attorney or guardian), that person must be consulted unless impracticable. Treatment cannot proceed if that person objects. If there is no welfare proxy, relatives and friends most closely involved must be consulted.

6. COVERT MEDICATION IN PRACTICE

If covert medication is considered the NHS Tayside Covert Medication Pathway (Appendix I) must be used. The medical practitioner primarily responsible for the person's care will take responsibility for documenting the care pathway in consultation with relevant others.

Pharmacists must be consulted, as crushing tablets may mean the medication is being given out with its product licence. Particular danger is possible if slow-release or enteric-coated tablets are crushed, as this may change the way the medication is absorbed, which could be a risk to the patient.

NHS Tayside Covert Medication Care Pathway Review (Appendix II) must be utilised when the need for covert medication is reviewed. The Royal College of Psychiatrists suggest weekly review. The Mental Welfare Commission guidance refers to reviews being dependant on individual circumstances, but states that the first review must happen within 1 week, which NHS Tayside will implement. Further reviews must not be less frequently than every 4 weeks, or prior as circumstances dictate.

INITIAL COVERT MEDICATION CARE PATHWAY

Name of Patient : **Location:**	**Date of Birth (CHI) :**
Responsible Physician	Name:
What treatment is being considered for covert administration?	
Why is this treatment necessary? Where appropriate, refer to clinical guidelines e.g. SIGN.	
What alternatives did the team consider? (e.g. other ways to manage the person or other ways to administer treatment) Why were these alternatives rejected?	
Treatment may only be considered for a person who lacks capacity. Outline the assessment of capacity.	Assessed by:
Treatment may only be administered under a certificate of incapacity (Section 47, AWI) or appropriate mental health Act documentation. What legal steps were followed?	**Legal documentation completed:** Adults with Incapacity Act, Section 47 □ Mental Health Care Treatment Act 2003 □ Date:
Treatment may only be given if it is likely to benefit the person. What are the perceived benefits the person will receive? Is this the least restrictive way to treat the person? Give reasons.	

What are the person's present views on the proposed treatment, if known? Do they have an advance statement/living will? If Yes – Detail any reference to Covert Medication. (i.e. Refusal of life prolonging treatment/anti-biotics etc)	
Has the person expressed views in the past that are relevant to the present treatment? If so, what were those views?	
Who was involved in the decision? The prescribing practitioner **must** ensure exact directions regarding the method of administration of medicines; i.e. mixed with/crushing/disguising in food or drink, are clearly documented on the prescription sheet. A pharmacist **must** give advice on administration if this involves crushing tablets or combining with food and drink. N.B. If there is any person with power to consent (welfare attorney, welfare guardian), then the treatment may only be administered covertly with that person's consent, unless this is impracticable.	Practitioner staff involved: Name of Pharmacist consulted: Relatives or other carers involved: Do they have welfare power of attorney:
Do any of those involved disagree with the proposed use of covert medication? If so they must be informed of their right to challenge the treatment.	Yes/No Date informed:
When will the need for covert treatment be reviewed?	Date of first planned review:

Signed:

Name
Designation
Date

COVERT MEDICATION CARE PATHWAY *REVIEW*

Name of Patient : **Location:**	**Date of Birth (CHI) :**
Responsible Physician	
Has the patient's capacity changed? Specify	
Has the patient benefited from the treatment?	
Is treatment still necessary? If so, explain.	
Is covert administration still necessary? If so, explain why.	
Is the method of administration still appropriate for patient compliance?	
Who was consulted as part of the review?	
The prescribing practitioner **must** ensure exact directions regarding the method of administration of medicines, i.e. mixed with/crushing/disguising in food or drink, and are clearly documented on the prescription sheet.	
Is legal documentation still in place and valid?	
Date of next review	

Signed:

Name
Designation
Date

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