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Rules for the Administration of Nonemergency Involuntary Psychiatric Medications

1. POLICY STATEMENT

The Department of Developmental and Mental Health Services is committed to providing voluntary mental health care in a service system that respects consumers' health, safety, and dignity. The Department recognizes the right of a legally competent person to make decisions regarding medication. At the same time the Department acknowledges that involuntary care is currently unavoidable in certain circumstances as set forth in the Mental Health Act. The Department continues to work toward the development of a service system in which coercion and involuntary care will no longer be necessary. Until that ideal is achieved, the Department will strive to provide involuntary care found to be necessary in a manner that affords as much protection as possible for the respect, dignity and rights of the individual.

2. AUTHORITY

These rules are authorized by 18 V.S.A. § 7628.

3. AVAILABILITY

A copy of these rules shall be made available to any person who requests a copy.

4. DEFINITIONS

4.1 *The Commissioner:* The Commissioner of the Department of Developmental and Mental Health Services or a designee as authorized by 18 V.S.A. §7401(13).

4.2 *Competence: A* person is competent if a person is able to make a decision regarding medication and to appreciate the consequences.

4.3 *Court Order:* An order from the family court authorizing the Department of Developmental and Mental Health Services to administer involuntary medication to the person named in the order.

4.4 *The Department:* The Department of Developmental and Mental Health Services.

4.5 *Designated Facility:* A hospital or medical psychiatric unit in a correctional facility demonstrating the ability to meet the requirements of this protocol, including the requisite

trained staff, medical personnel and physical space and as designated by the Commissioner to provide care for a patient with mental illness.

4.6 *Medical Staff:* A physician, nurse, or psychiatric technician.

4.7 *Patient:* An individual who is the subject of a court order authorizing the Department of Developmental and Mental Health Services to administer involuntary medication to that individual.

4.8 *Treatment Team:* The patient's community and treating psychiatrist(s), case manager and any other individual the community treatment team deems clinically appropriate. If the patient does not have a treatment team in the community, the members of the team will be the patient's inpatient treating psychiatrist, case manager and any other individual deemed clinically appropriate.

4.9 *Impartial Evaluator:* A contracted individual not employed by the Department nor under the supervision of the Commissioner, who has no prior personal knowledge of the circumstances under review.

5. NOTICE OF INTENT TO ADMINISTER MEDICATION

5.1 Prior to executing a court order authorizing the administration of involuntary medication,

5.1.01 The Department shall:

a. Allow the patient's legal counsel twenty-four hours to inform the patient of the court's order; and

b. Notify the patient's treatment team of the court order.

5.1.02 The patient's treating physician shall meet with the patient:

a. After the patient has been informed by his or her legal counsel of the court order; or

b. After the patient's legal counsel has had twenty-four hours to inform the patient of the court order, regardless of whether the legal counsel has chosen to meet with the patient.

5.1.03 The treatment team must:

a. Inform the patient orally and in writing in a language and in a manner understandable to the patient of:

i the type of medication to be administered;

ii the dose that will be administered;

iii the method of delivery;

iv the route of delivery;

v the frequency of delivery;

vi the intended effects;

vii any risks in keeping with standard medical practice, including likely side effects, unlikely but serious side effects, health problems that might be encountered, common drug interactions including those of street drugs and alcohol, and in the case of all women of child bearing age, the effects of neuroleptics on a fetus or nursing child; and

b. Offer the patient an opportunity to take oral medication unless the court order authorizes the administration of a long-acting medication which can only be administered by injection.

6. ADMINISTRATION OF NONEMERGENCY MEDICATION

6.1 The physician writing the Physician's Order for the medication at the hospital shall be responsible for assessing and documenting the following which shall then be provided to the facility administering the medication:

6.1.01 The patient's current physical health status;

6.1.02 Whether the patient is currently taking any other medications;

6.1.03 The patient's history of side effects from medication;

6.1.04 Whether the patient is pregnant if a woman of child bearing age;

6.1.05 The patient's medical history, including any history of substance abuse; and

6.1.06 That the physician's order is in compliance with the court's medication order with respect to the type of medication, the dosage, the length of administration and the method of administration.

6.2 The treating physician shall conduct monthly reviews of the medication to assess the continued need for involuntary medication, the effectiveness of the medication, the existence of any side effects, and shall document this review in detail in the patient's chart.

6.3 The treating physician shall provide written notice to the court to terminate the medication order when involuntary medication is no longer required.

6.4 The treatment team shall:

6.4.01 Make best efforts to obtain the patient's preference on the manner of medication administration after the court issues an order granting the application and immediately prior to the administration of medication;

6.4.02 Provide the facility administering the medication with a current, written medical history of the patient that includes whether the patient has a history of trauma;

6.4.03 Have at least one member present when the medication is administered and at the time of release; and

6.4.04 Assure that the patient has the opportunity to choose a support person, to be present to offer emotional support when the medication is administered. If the chosen support person is not available within a reasonable period of time or interferes with the administration of medication, or the frequency of administration precludes the presence of the support person each time, medication may be administered without the support person's presence.

6.5 Location

6.5.01 Medications must be administered at the Vermont State Hospital or at a facility designated by the Commissioner of the Department of Developmental and Mental Health Services as a hospital where involuntary medication may be administered.

6.5.02 The medication must be given in an area of the hospital that provides the patient with privacy.

6.5.03 If, and only if, the patient's treating physician or another member of the treatment team makes an individualized determination, documented in the patient's chart, that physical restraint is necessary to prevent the patient from inflicting serious physical injury to the patient or another person, a sheriff may transport the patient to or from the designated facility.

6.5.04 If the patient is transported by sheriff, a member of the treatment team shall be present when the sheriff picks up the patient for transport, and will accompany the patient during the transport, if the parties agree.

6.6 Oral Medication

6.6.01 The person who gives the medication to the patient shall be:

a. A licensed nurse or doctor, except that at Vermont State Hospital, a psychiatric technician may administer the medication, 26 V.S.A. Section 1583(6); and

b. Trained in the administration of medication when treating a resistant patient.

6.6.02 The person who gives the medication to the patient shall:

a. Verify that the patient is the subject of a current involuntary medication order;

b. Verify that the proper medication is provided to the patient in the proper dosage; and

c. Follow clinically appropriate practices and procedures for the administration of oral medication.

6.6.03 The person who gives the medication to the patient may perform a mouth check to verify that the patient has swallowed the medication.

6.6.03 After administering the medication, a hospital staff member shall personally observe the patient long enough to ensure there are no adverse side effects and to ensure patient safety.

6.6.04 If the patient refuses to comply with a mouth check then, in the discretion of the treatment team, voluntary oral medication may not be offered the next time medication is administered.

6.7 Injectible Medication

6.7.01 The person who administers the medication to the patient shall be:

a. A licensed nurse or doctor; and

b. Trained in the administration of medication when treating a resistant patient.

6.7.02 The person who administers the medication shall:

a. Verify that the patient is the subject of a current involuntary medication order;

b. Verify that the proper medication is prepared in the proper dosage;

c. Fully inform the patient of all aspects of the procedure;

d. Give the patient a choice of clinically appropriate injection sites and follow that

preference if medically safe;

e. Follow clinically appropriate practices and procedures for the administration of injectible medication;

f. Be of the gender chosen by the person receiving the medication if at all possible;

g. Ensure that a physician is immediately accessible; and

h. Be responsible for assuring that a support person of the patient's choosing is present when the medication is administered, unless the support person interferes with the administration of the medication or, the frequency of administration precludes the presence of the support person each time.

6.7.03 The person who administers the medication shall be accompanied by at least one health professional of the gender chosen by the patient.

6.7.04 After administering the medication, a staff member shall:

a. personally observe the patient long enough to ensure there are no adverse side effects endangering patient safety;

b. offer emotional support to the patient.

6.7.05 All procedures shall be documented in accordance with standard medical practice.

7. FUTURE ADMINISTRATION OF INVOLUNTARY MEDICATION

7.1 Where the court's medication order authorizes future administration of involuntary medication, the treating physician shall execute and file with the Commissioner a certification executed under penalty of perjury stating the following:

7.1.01 The patient has refused medication;

7.1.02 The patient is not competent to make a decision regarding medication and to appreciate the consequences;

7.1.03 The proposed medications, the dosage range, length of administration and method of administration; and

7.1.04 The substantial probability that in the near future the person will pose a danger of harm to self or others if not hospitalized and involuntarily medicated.

7.2 Within 24 hours of receipt of the physician's certification, the Commissioner shall

provide the amount of notice required by the court order to the patient, the patient's attorney and the court.

7.2.01 The notice shall state that the patient may request an immediate hearing to contest the order.

7.2.02 The patient may be hospitalized in a designated hospital on the date specified in the notice for up to 72 hours in order to administer involuntary medication.

7.3 The procedures set forth in Section 6 of these rules shall be followed for any patient subject to a future administration of involuntary medication.

8. USE OF RESTRAINTS WHEN ADMINISTERING NONEMERGENCY INVOLUNTARY MEDICATION

8.1 Restraints only may be used in emergency circumstances to protect the safety of the patient or others. Restraints should never be used: a) as a threat; b) in lieu of adequate staffing; c) as a technique for behavior management or control; d) as a replacement for active treatment; or e) as a convenience. The following should be prohibited under all circumstances: a) orders that trigger restraint without an individual assessment of need, and b) policies automatically assigning patients to any form of restraint.

8.2 Each use of restraints shall be authorized only by a physician who has personally evaluated the patient and who has checked the patient's record for a history of trauma.

8.3 No form of restraint which places the individual in a prone (i.e. face down) position should be done.

8.4 Restraint should never occur in a public place or in the individual's own hospital room, unless no other appropriate alternatives are available.

8.5 Before applying restraints, the medical staff shall:

8.5.01 Strive to calm the patient and to reassure the patient's concerns;

8.5.02 Attempt to redirect the patient and to gain the patient's cooperation; and

8.5.03 Address any questions or concerns raised by the patient.

8.6 If the patient still refuses to cooperate with medication administration, a physician shall assess the safety risks, taking into account:

8.6.01 The patient's risk to harm himself or herself by struggling when medication is administered;

8.6.02 The patient's risk to harm others by struggling when medication is administered;

and

8.6.03 Any other pertinent factors.

8.7 A Certificate of Need for emergency restraints shall be entered into the patient's record that documents the emergency circumstances requiring the use of restraints.

8.8 Legal counsel for the patient shall be notified and provided with a copy of the Certificate of Need within twenty-four hours following administration of medication.

8.9 The least restrictive method of restraint must be used and applied in a manner which provides for padding and protection of all parts of the body where pressure areas might occur by friction and shall:

8.9.01 Be adjusted to eliminate the danger of gangrene, sores and paralysis;

8.9.02 Allow room for healthy breathing; and

8.9.03 Allow the patient as much freedom as possible.

8.10 Restraints shall be applied under direct supervision of a nurse who is trained in the use of restraints. The following should not be used under any circumstances: a) face down restraint with back pressure; b) any technique that obstructs the airway or impairs breathing, c) any technique that obstructs vision, d) any technique that restricts the recipient's ability to communicate.

8.11 Medical staff must constantly observe a patient in restraints. Vital signs should be checked initially and regularly thereafter (every fifteen minutes at a minimum) if abnormal.

8.12 A patient in restraints shall be encouraged to take liquids, be allowed reasonable opportunity for toileting and shall be provided appropriate food, lighting, ventilation and clothing or covering. An individual being restrained should always be informed about what is happening, verbally and during the restraint period. Information should include what events or behaviors precipitated the use of restraint, and when and under what circumstances the patient can expect to be released.

8.13 A patient shall be removed from restraints as soon as it is determined that safety reasons no longer necessitate the use of restraints. Restraint orders should always be time-limited, and should be removed as soon as it becomes safe to do so, even if the time-limited order has not expired. Every hour, a nurse shall review the need for continued restraint. No physician's order for the use of restraints shall extend beyond a two-hour period.

8.14 Medical staff shall examine a patient for injuries immediately after being released from restraints.

8.15 Following the removal of restraints, medical staff must inquire if the patient wishes to have a particular person notified of the use of restraints. If so, medical staff must notify that person within twenty-four hours of the restraint.

8.16 Patient and staff debriefing should be required after every incident of seclusion or restraint, both separately and together. Gender concerns should be addressed as part of the debriefing.

9. DISCHARGE OF PATIENT NOT SUBJECT TO ORDER OF HOSPITALIZATION

9.1 If a person is brought into the hospital only pursuant to a medication order, a physician must determine the amount of time that the patient will be required to stay at the hospital prior to discharge, but in no case longer than the time period allowed in the court order. This decision shall be based on appropriate clinical practices and procedures regarding the discharge of a patient who has received the type of medication administered to the patient.

9.2 Prior to discharge, the patient shall receive any support and counseling necessary to ensure the patient's comfort.

9.3 Prior to discharge, a member of the treatment team shall provide the patient with written instructions regarding:

9.3.01 Side effects;

9.3.02 Required after-care;

9.3.03 A person's or persons' name and phone number to contact if the patient has any questions or concerns or starts to experience side effects;

9.3.04 Grievance procedures; and

9.3.05 Follow-up with the community mental health center.

9.4 A physician must approve the patient's release after making a determination that there are minimal clinical risks.

9.5 A member of the treatment team shall arrange transportation to return the patient to their residence. If the patient does not have housing available, a member of the treatment team shall arrange temporary housing for the patient.

10. COMPLIANCE AND ENFORCEMENT

10.1 A member of the treatment team shall report to the Commissioner every time a

patient is administered involuntary medication in a designated facility within seventy-two hours of entering the hospital.

10.2 The Commissioner shall review on a periodic basis every instance of a patient being administered involuntary medication in a designated facility.

10.3 The Commissioner shall conduct periodic reviews of every patient who is subject to an involuntary medication order.

10.4 A facility's designation shall depend upon strict compliance with this protocol.

10.5 Any patient who is subject to an involuntary medication order may file a grievance with the appropriate agency alleging a violation of this protocol. The grievance must be filed within ninety (90) days of the action that is being grieved. This time limit may be extended if the patient did not know or understand the right to appeal. The agency shall report the filing and substance of a grievance to the Commissioner within seventy-two hours of receiving the grievance.

10.6 Within thirty (30) days of receiving the grievance, the community mental health center or designated facility shall notify the patient of its decision in writing, in a language and manner understandable to the patient, including the reasons for the decision.

10.7 The decision made by the community mental health center or designated facility concerning the grievance may be appealed to the Commissioner. Any such appeal must be filed within thirty (30) days of the day the patient received written notice of the decision.

10.8 Upon receipt of the appeal, the Commissioner shall assign an impartial evaluator to conduct a review of the appealed incident. Within thirty (30) days of receipt of the appeal assignment, the evaluator shall recommend to the Commissioner whether to affirm or change the decision of the agency or designated facility. Within ten (10) days of receiving the evaluator's decision, the Commissioner shall notify the patient of his/her decision in writing, in a language and manner understandable to the patient, including the reasons for the decision.

<General Materials (GM) - References, Annotations, or Tables>

CVR 13150011, VT ADC 13 150 011

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