

**RULES  
OF  
TENNESSEE DEPARTMENT OF MENTAL HEALTH  
AND MENTAL RETARDATION**

**OFFICE OF THE COMMISSIONER**

**CHAPTER 0940-1-3  
PROCEDURES FOR PRESCRIPTION AND ADMINISTRATION OF  
PSYCHOTROPIC MEDICATIONS AT DEVELOPMENTAL CENTERS AND  
MENTAL RETARDATION SECURE FACILITIES**

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**0940-1-3-.01 PURPOSE.** The purpose of these rules is to regulate the procedures to be followed at developmental centers and mental retardation secure facilities in the prescription or administration of psychotropic medication in conformity with chapter 0940-1-1.

**Authority:** T.C.A. §§33-1-203 through 33-1-205, 33-3-104 and 33-1-105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

**0940-1-3-.02 PROCEDURES RELATING TO INFORMED CONSENT UNDER RULE 0940-1-1-.03.**

- (1) A resident's consent for a class of medication may be obtained only by a staff member who has satisfactorily completed the DMHMR course established under rule 0940-1-1-.09 (4). A resident's consent may be obtained by such a staff member only after:
  - (a) a clinical professional has determined that the resident does not lack capacity, and
  - (b) a clinical professional who is qualified to obtain consent has discussed the following with the resident: the nature, type dosage, and route of the medication prescribed and the anticipated benefits; the risks, consequences and side effects of the medication; the advantages and risks of alternative treatments; and the prognosis if the medication is not given; and
  - (c) a staff member who is qualified to obtain consent has provided the resident with a consent form and medication fact sheet, discussed the content of the form and sheet, offered to answer questions and advised the resident that the resident may revoke consent at any time.
- (2) Any member of the developmental center staff may encourage a resident to consent to take medication. A consent is not voluntary if it is given in response to force or the threat of force, discharge, involuntary commitment, transfer to a more restrictive environment, or loss of privileges. Providing information about the benefits of taking medication and adverse consequences of not taking medication is permitted.
- (3) Consent forms shall be kept in the resident's chart. The medication information fact sheet shall be accessible to the resident upon request.
- (4) The medication information fact sheet shall include:

(Rule 0940-1-3-.02, continued)

- (a) names of the medication (trade or generic),
  - (b) nature of the medication (e.g. major tranquilizer),
  - (c) dosages, ranges and usual routes of administration,
  - (d) use and usual effects,
  - (e) significant risks, consequences and side effects.
  - (f) measures which might counter side effects, and
  - (g) any other considerations helpful in securing informed consent and promoting optimal effect of the medication.
- (5) Consent forms shall include notice of:
- (a) a voluntary resident's right to refuse psychotropic medication except in emergency,
  - (b) an involuntary resident's rights to refuse and to seek review under these rules,
  - (c) a resident's right of access to IDT members to assist if the resident has questions about or wishes to refuse medication,
  - (d) the definition of emergency and the duration of medication allowed in emergency situations, and
  - (e) the right of revocation and procedures and for revocation.
- (6) The consent form shall state the class of medication prescribed. It shall contain an acknowledgment that the staff member who obtained the consent has fully discussed with the resident the contents of the consent form and medication information fact sheet and offered to answer questions and advised that the consent may be revoked at any time. Such discussion shall include nature, type, dosage, and route of the medication prescribed and the anticipated benefits; the risks, consequences and side effects of the medication; the advantages and risks of alternative treatments; the prognosis if the medication is not given. The form shall include the name of each person who performed the steps required by subsections (1) (a) - (c).
- (7) The consent form shall be signed and dated by the person consenting and the person who obtained the consent. If a resident or guardian gives oral consent to medication but refuses or is unable to sign the consent form, oral consent shall be noted on the consent form and witnessed by a second staff member.

**Authority:** T.C.A. §§33-1-203 through 33-1-205, 33-3-104 and 33-3-105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

**0940-1-3-.03 PROCEDURES FOR DOCUMENTATION OF REVOCATION OF CONSENT UNDER RULE 0940-1-1-.04.** If a resident revokes a consent to medication, the revocation shall be documented immediately on the consent form by a qualified staff member and shall be recorded on the daily medication log, and a physician's order shall be written for discontinuance of the revoked medication.

(Rule 0940-1-3-.03, continued)

**Authority:** T.C.A. §§33-1-203 through 33-1-205, 33-3-104 and 33-3-105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

**0940-1-3-.04 PROCEDURES FOR EMERGENCY ADMINISTRATION OF MEDICATION UNDER RULE 0940-1-1-.05.**

- (1) When a physician determines that emergency medication may be administered under Rule 0940-1-1-.05, the physician shall document:
  - (a) what less restrictive measures were considered,
  - (b) the reasons for ordering the medication, documenting the existence of at least one of the three criteria below:
    1. an immediate threat of serious physical harm to the resident or to others caused by the violent behavior of the resident,
    2. an immediate threat to the resident of deteriorating physical well-being with risk to life or long term health caused by the effects of mental illness, or
    3. actual violent behavior by the resident causing substantial property damage, and
  - (c) the resident's behavior, distinguishing between what the physician personally observed and that observed by the other staff.
- (2) The pertinent documentation and authorization shall be recorded on the Emergency Medication Form.
- (3) By the end of the next regular working day a copy of the Emergency Medication Form shall be provided to:
  - (a) the resident's clinical chart,
  - (b) the Medical Director, and
  - (c) The Behavior Management Committee.
- (4) The resident or a clinical professional may request a review by the BMC. A clinical professional shall immediately request a review by the BMC if the resident requests that it be done.
- (5) Within twenty-four hours of receipt of a request for review of emergency medication or, if such period expires on a weekend or a legal holiday, by the end of the next regular working day, the BMC or designating members shall review the case.

**Authority:** T.C.A. §§33-1-203, and 33-3-104 through 33-3-105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

**0940-1-3-.05 PROCEDURES FOR ADMINISTRATION OF MEDICATION UNDER RULE 0940-1-1-.06 TO RESIDENTS WHO LACK CAPACITY TO GIVE OR WITHHOLD CONSENT.**

- (1) A clinical professional in consultation with the resident's IDT, shall determine whether a resident lacks capacity and shall document the basis for the determination.

(Rule 0940-1-3-.05, continued)

- (2) A physician who determines that medication is a necessary part of a resident's habilitation plan, for which there is no reasonable alternative, shall document the basis for the determination and shall consider, among other relevant criteria, the following:
  - (a) whether the medication is necessary to prevent a substantial deterioration of the resident's mental health,
  - (b) whether the need to prevent violence is greater than the potential harm to the resident,
  - (c) whether there is any appropriate treatment that can be provided without the use of psychotropic medication, and
  - (d) whether the resident's lack of capacity is likely to be transitory and can be remedied by medication.
- (3) If a physician, who is not a member of the resident's regular Interdisciplinary Team, prescribes medication under rule 0940-1-1-.06, the Interdisciplinary Team or designated members shall review such action by the end of the next regular working day.
- (4) By the end of the next regular working day following the Interdisciplinary Team's review, a copy of the documentation prepared under subsections (1) and (2) shall be provided to:
  - (a) The resident's clinical chart,
  - (b) the Medical Director,
  - (c) the Behavior Management Committee, and
  - (d) the Human Rights Committee.
- (5) The BMC shall review the case at its next regular meeting. The BMC shall document comments or recommendations and shall provide copies of the documentation to:
  - (a) the resident's clinical chart,
  - (b) the Medical Director, and
  - (c) the Human Rights Committee.
- (6) The HRC shall review the case at its next regular meeting. The HRC shall document comments or recommendations and shall provide copies of the documentation to the Superintendent.
- (7) When the resident or clinical professional requests review, the BMC or the HRC shall review the case at its next regular meeting, and shall document comments or recommendations and shall provide copies of the documentation to the Superintendent.

**Authority:** T.C.A. §§33-1-203 through 33-1-205, 33-3-104 and 33-3-105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

**0940-1-3-.06 PROCEDURES FOR ADMINISTRATION OF MEDICATION UNDER RULE 0940-1-1-.08 TO RESIDENTS WHO DO NOT LACK CAPACITY AND WHO REFUSE MEDICATION.**

- (1) If a resident who does not lack capacity refuses to consent to administration of medication other than emergency medication under rule 0940-1-1-.05, the Interdisciplinary Team shall inform the resident of the Interdisciplinary Team process and of the resident's right to discuss the case with the members of the Team and to participate in the Team meeting. The resident's participation shall be encouraged but is not mandatory.
- (2) The resident may request any personal representative to assist or to speak on the resident's behalf in all meetings under this rule.
- (3) Staff members may continue non-coercive efforts to persuade the refusing resident to take the prescribed and proffered medication throughout the procedures under this rule.
- (4) The Interdisciplinary Team shall discuss the physician's recommendations and the resident's response.
- (5) The Team shall attempt to formulate a plan that is acceptable to the resident, e.g., reduced dosage, alternate medication, alternative treatment if any is available, or a possible trial period of medication, etc. The team chairperson shall document the recommendations of the Interdisciplinary Team in the resident's chart.
- (6) If after the Interdisciplinary Team meeting, the Team finds that medications is a necessary part of the resident's habilitation plan and the resident still refuses the medication, the team shall report the case to the HRC. The HRC shall review the case at its next regular meeting and make recommendations to the Superintendent. The Superintendent shall document the final decision and provide copies to:
  - (a) the resident's clinical chart,
  - (b) the Medical Director, and
  - (c) the Human Rights Committee.

**Authority:** T.C.A. §§33-1-203 through 33-1-205, 33-3-104 and 33-3-105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.