APPROVED REGULATION OF

THE STATE BOARD OF HEALTH

LCB File No. R012-20

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EXPLANATION – Matter in ***italics*** is new; matter in brackets **[**~~omitted material~~**]** is material to be omitted.

AUTHORITY: §§1-14, NRS 433.324.

A REGULATION relating to mental health; establishing a procedure for determining whether to involuntarily administer psychotropic medication to a patient at a public or private mental health facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations governing the procedure for the involuntary administration of medication to patients at a mental health facility. (NRS 433.324) **Sections 8-14** of this regulation prescribe such a procedure for the involuntary administration of psychotropic medication, and **section 7** of this regulation provides that this procedure does not apply to medications administered as a chemical restraint or in the case of an emergency. **Sections 8 and 9** of this regulation prohibit the involuntary administration of psychotropic medication to a patient at a public or private mental health facility unless: (1) the director of the facility or his or her designee requires the involuntary administration of the medication after following a prescribed procedure; or (2) if the facility has not established the prescribed procedure and the patient has been admitted to the facility on an involuntary court-ordered admission, the practitioner who is primarily responsible for treating the patient has obtained a court order for the involuntary administration of the medication.

Section 10 of this regulation prescribes the conditions that must be met before a practitioner who is primarily responsible for the treatment of a patient may request to involuntarily administer psychotropic medication to the patient. If such a request is made, **section 11** of this regulation requires the director of the facility or his or her designee to appoint: (1) a committee to hold a hearing on the request; and (2) an advisor to assist the patient in presenting his or her position at the committee. **Section 12** of this regulation prescribes the duties of the advisor. **Section 13** of this regulation prescribes the procedure for the hearing and requires the committee to forward its written recommendation to the director of the mental health facility. **Section 14** of this regulation requires the director or a psychiatrist designated by the director to review the recommendation of the committee and issue a final decision concerning the involuntary administration of psychotropic medication to the patient. If the director or his or her designee orders the involuntary administration of psychotropic medication, **section 14** authorizes the continuation of the involuntary administration of the medication for not more than 30 days. If the

practitioner who is primarily responsible for treating the patient determines that it is necessary to continue administering the medication to the patient for more than 30 days and the patient refuses to consent to continued administration of the medication, **section 14** requires the practitioner to submit another request for the involuntary administration of psychotropic medication to the patient.

Section 1. Chapter 433 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. ***As used in sections 2 to 14, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.***

Sec. 3. ***"Director" means:***

1. The medical director of a division facility; or

2. The person in charge of the provision of care to patients at any other public or private mental health facility.

Sec. 4. ***"Practitioner" means a physician, physician assistant or advanced practice registered nurse.***

Sec. 5. ***"Public or private mental health facility" means:***

1. A community triage center, as defined in NRS 449.0031;

2. A psychiatric hospital, as defined in NRS 449.0165, including, without limitation, a psychiatric hospital endorsed as a crisis stabilization center pursuant to NRS 449.0915; or

3. Any other facility for the diagnosis, care and treatment of mental illness which provides 24-hour care.

Sec. 6. ***"Working hours" means hours of operation during the week and excludes any hours on Saturday, Sunday or a holiday.***

Sec. 7. ***The provisions of sections 2 to 14, inclusive, of this regulation do not apply to:***

1. The use of a chemical restraint, as defined in NRS 433.5456; or

2. The involuntary administration of psychotropic medication in an emergency, as defined in NRS 433.5466.

Sec. 8. *If a public or private mental health facility has not established the procedures set forth in sections 9 to 14, inclusive, of this regulation, psychotropic medication must not be administered to the patient without consent of the patient unless:*

1. The patient has been admitted to the facility involuntarily by court order pursuant to NRS 433A.200 to 433A.330, inclusive; and

2. The practitioner who is primarily responsible for treating the patient obtains from the court that ordered the involuntary admission of the patient an order to involuntarily administer the medication to the patient.

Sec. 9. *Psychotropic medication may only be administered to a patient at a public or private mental health facility that has established the procedures set forth in sections 9 to 14, inclusive, of this regulation, without the consent of the patient after the procedures have been completed and a decision has been made to involuntarily administer the medication pursuant to section 14 of this regulation.*

Sec. 10. *To initiate the procedures set forth in sections 9 to 14, inclusive, of this regulation for the involuntary administration of psychotropic medication to a patient at a public or private mental health facility that has established such procedures, the practitioner who is primarily responsible for treating the patient must submit to the director of the facility a request to involuntarily administer psychotropic medication to the patient. Such a request may be made by the practitioner if:*

1. The patient is currently admitted to the public or private mental health facility under an emergency admission pursuant to NRS 433A.150 or an involuntary court-ordered admission pursuant to NRS 433A.200;

2. The practitioner:

(a) Determines that the patient presents a substantial likelihood of serious harm to himself or herself or others, as determined pursuant to NRS 433A.0195, or is unable to care for himself or herself without the administration of the medication; and

(b) Explains to the patient the nature of the condition for which the psychotropic medication is necessary, the basis for the diagnosis of the condition, the benefits and risks of using the medication including, without limitation, possible side effects from use, any alternative treatment and the potential outcome if the condition remains untreated;

3. The patient refuses to provide informed written consent to the administration of the psychotropic medication after receiving the explanation described in paragraph (b); and

4. The practitioner documents in the medical record of the patient that the provisions of subsections 1, 2 and 3 were satisfied.

Sec. 11. *1. Upon receiving a request from a practitioner pursuant to section 10 of this regulation to involuntarily administer psychotropic medication to a patient, the director of a public or private mental health facility or his or her designee shall:*

(a) Appoint a committee consisting of three members, at least two of whom are professionally knowledgeable in the field of psychiatric mental health and at least one of whom is a licensed psychiatrist. A person must not be appointed to serve as a member of the committee if the person is:

(1) Involved in the diagnosis or care of the patient;

(2) The director of the facility; or

(3) Designated by the director to review the decision of the committee pursuant to section 14 of this regulation.

(b) Appoint an advisor to perform the duties prescribed by section 12 of this regulation. The advisor must be a person who:

(1) Is not currently involved in the care of the patient;

(2) Understands psychiatric issues; and

(3) Has received training on the procedures set forth in sections 9 to 14, inclusive, of this regulation and understands the role of the advisor.

2. A committee appointed pursuant to subsection 1 shall schedule a hearing to review the request from a practitioner pursuant to section 10 of this regulation to involuntarily administer psychotropic medication to a patient. The hearing must be held not less than 24 working hours after the receipt of the request. The committee shall notify the patient and his or her advisor not less than 24 hours before the hearing of the date and time of the hearing.

Sec. 12. *An advisor appointed pursuant to section 11 of this regulation:*

1. Shall meet with the patient before the hearing held pursuant to section 11 of this regulation to assist the patient in preparing for the hearing.

2. Shall assist the patient to present his or her position concerning the administration of medication to the committee at the hearing.

3. Shall not present his or her personal opinion concerning the appropriateness of the proposed treatment.

Sec. 13. *1. A patient who is the subject of a hearing held pursuant to section 11 of this regulation must be allowed to be present during the entire hearing. Unless the patient has*

indicated in writing or through his or her advisor that he or she will not participate in the hearing, the hearing must not begin until the patient is present.

2. At the hearing, the patient must be allowed to:

(a) Cross-examine any person interviewed by the committee; and

(b) Present evidence and witnesses to the committee.

3. The committee conducting the hearing may interview any person or request any document it deems necessary to assist the committee in making its determination.

4. The committee conducting the hearing shall:

(a) Keep a written, audio or audiovisual record of the hearing;

(b) Prepare a written decision upon the conclusion of the hearing;

(c) Transcribe minutes of the hearing;

(d) Place a copy of the minutes and the written decision of the committee in the medical record of the patient; and

(e) Provide a copy of the minutes and its written decision to the patient.

5. Upon conclusion of the hearing, the committee may recommend approving the request to involuntarily administer psychotropic medication to the patient only if the member of the committee who is a psychiatrist and at least one other member determine that the patient presents a substantial likelihood of serious harm to himself or herself or others, as determined pursuant to NRS 433A.0195, or is unable to care for himself or herself without the administration of the medication. In making that recommendation, the committee must consider:

(a) Any stated objections of the patient to the administration of the medication;

(b) If the patient has completed an advance directive for psychiatric care pursuant to NRS 449A.600 to 449A.645, any relevant instructions contained in that advanced directive;

(c) Any documents or evidence offered by the patient, including, without limitation, the testimony of any witness;

(d) Whether the condition of the patient is likely to improve if the medication is not administered to the patient and, if so, whether such improvement would be significantly slower than had the medication been administered;

(e) Whether there is a less invasive means to accomplish the same or similar results to those achieved by administration of the medication;

(f) Any prior experience of the patient with taking the medication; and

(g) Any additional factor deemed relevant by the committee. Any such additional factor must be described in the written decision of the committee.

6. The committee shall forward its written recommendation to the director of the public or private mental health facility for review pursuant to section 14 of this regulation.

Sec. 14. *1. The director of a public or private mental health facility or a psychiatrist designated by the director shall conduct a review of a recommendation to approve or deny a request for the involuntary administration of psychotropic medication made by a committee pursuant to section 13 of this regulation not later than 24 working hours after receiving the recommendation. In reviewing the recommendation, the director must consider, without limitation, the medical record of the patient and any other document reviewed by the committee. The director may also:*

(a) Interview any person whom the director or his or her designee believes may have relevant information; and

(b) Conduct an examination of the patient.

2. During the review conducted by the director or his or her designee, the director or his or her designee shall consider:

(a) Whether the committee followed the proper procedures;

(b) Whether the proposed psychotropic medication is medically appropriate for the patient based on the diagnosis and medical history of the patient;

(c) Any stated objections of the patient to the administration of the medication; and

(d) Any other factor deemed relevant.

3. After conducting a review pursuant to this section, the director or his or her designee may:

(a) Require the involuntary administration of psychotropic medication to the patient in the manner requested by the practitioner with the primary responsibility for treating the patient;

(b) Require the involuntary administration of psychotropic medication to the patient in the manner determined appropriate by the director or his or her designee; or

(c) Prohibit the involuntary administration of psychotropic medication to the patient.

4. If the director or his or her designee requires the involuntary administration of psychotropic medication to a patient pursuant to subsection 3, the medication may be administered involuntarily to the patient for not more than 30 days. If the practitioner who is primarily responsible for treating the patient determines that it is necessary to continue administering medication to the patient for more than 30 days, the practitioner must request the consent of the patient. If the patient refuses to provide consent to continued administration

of the medication, the practitioner must submit another request to involuntarily administer psychotropic medication pursuant to section 10 of this regulation.