

**PROPOSED REGULATION OF
THE STATE BOARD OF HEALTH**

LCB File No. R009-22

April 13, 2022

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

AUTHORITY: §§ 1 and 2, NRS 433.324.

A REGULATION relating to mental health; revising the conditions under which a practitioner who is primarily responsible for treating a patient may request to involuntarily administer psychotropic medication to the patient; 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 persons with mental illness. (NRS 433.324) Existing regulations authorize the practitioner who is primarily responsible for treating a patient at a public or private mental health facility to initiate that procedure by submitting to the director of the facility a request to involuntarily administer psychotropic medication to the patient under certain circumstances. Specifically, existing regulations authorize a practitioner to submit such a request if: (1) the patient is admitted under an emergency admission or an involuntary court-ordered admission; (2) the practitioner determines that the patient presents a substantial likelihood of serious harm to himself or herself or others or is unable to care for himself or herself without the administration of the medication; and (3) certain other conditions are met. (Section 10 of LCB File No. R012-20) **Section 1** of this regulation removes the authorization for a practitioner to submit such a request concerning a patient who is admitted under an emergency admission. **Sections 1 and 2** of this regulation also replace language authorizing such a request, and the recommendation to approve such a request, if the patient who is unable to care for himself or herself or others with language authorizing such a request, and the recommendation to approve such a request, if the patient is at serious risk of incurring serious injury or illness resulting from complete neglect of certain basic needs.

Section 1. Section 10 of LCB file No. R012-20 is hereby amended to read as follows:

Sec. 10. To initiate the procedures set forth in sections 9 to 14, inclusive, of LCB File No. R012-20, 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 ~~;~~, *as amended by section 36 of Senate Bill No. 70, Chapter 481, Statutes of Nevada 2021, at page 3086;*

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~~ *is at serious risk of incurring serious injury or illness resulting from complete neglect of his or her basic need for food, clothing, shelter or personal safety* 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);~~ *(b) of subsection 2;* and

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

Sec. 2. Section 13 of LCB File No. R012-20 is hereby amended to read as follows:

Sec. 13. 1. A patient who is the subject of a hearing held pursuant to section 11 of LCB File No. R012-20 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~~ *at serious risk of incurring serious injury or illness resulting from complete neglect of his or her basic need for food, clothing,*

shelter or personal safety 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 LCB File No. R012-20.