

**10A NCAC 28D .0403 REFUSAL IN STATE FACILITIES OTHER THAN MR CENTERS**

(a) This Rule applies to all state facilities with the exception of mental retardation centers. Mental retardation centers shall comply with Rule .0404 of this Section.

(b) In the case of an emergency, procedures specified in Rule .0401 of this Section shall apply.

(c) In the case of a client's refusal of psychotropic medication in a non-emergency, the best interest test as specified in Rule .0402 of this Section shall apply. A court order issued regarding the administration of medication for forensic patients would take precedence over this Rule.

(d) Administration to Involuntary Clients.

(1) When an involuntary client or his legally responsible person refuses psychotropic medication in a situation that is not an emergency, the following procedures are required:

(A) The attending physician shall speak to the client or legally responsible person, if applicable, and attempt to explain his assessment of the client's condition, the reasons for prescribing the medication, the benefits and risks of taking the medication, and the advantages and disadvantages of alternative courses of action. If the client or his legally responsible person still refuses and the physician still believes that psychotropic medication administration is in the best interest of the client as specified in Rule .0402 of this Section:

(i) the physician shall tell the client and the legally responsible person, if applicable, that the matter will be discussed at a meeting of the client's treatment team;

(ii) if the client's clinical condition permits, the physician shall invite the client and the legally responsible person, if applicable, to attend the meeting of the treatment team; and

(iii) the physician shall suggest that the client and the legally responsible person, if applicable, discuss the matter with a person of his own choosing, such as a relative, friend, guardian or client advocate.

(B) The treatment team shall meet to review the client's or legally responsible person's response and assess the need for psychotropic medication.

(i) If the client or legally responsible person is present, the treatment team shall attempt to formulate a treatment or habilitation plan that is acceptable to both the client or legally responsible person and the treatment team. The client or legally responsible person may agree to take medication unconditionally or under certain conditions that are acceptable to the treatment team.

(ii) If the client or legally responsible person is not present, the treatment team shall review its previous recommendations and the client's response and shall document their decision in the client record.

(C) If, after assessing the need, the treatment team still believes that psychotropic medication administration is in the best interest of the client as specified in Rule .0402 of this Section and the client or legally responsible person still refuses administration of the prescribed medication, the Director of Clinical Services or his physician designee, who is not a member of the client's treatment team, shall interview the client and review the record, and may approve the administration of the medication over the objection of the client and legally responsible person.

(2) Such refusal shall be documented in the client record.

(e) Administration to Voluntary Clients.

(1) When a voluntary client in a state facility refuses psychotropic medication in a non-emergency situation, the medication shall not be administered to:

(A) a competent adult client without the client's consent;

(B) an incompetent adult client without consent of the legally responsible person; or

(C) a minor client without the consent of the legally responsible person.

(2) Such refusal shall be documented in the client record.

(f) Independent Psychiatric Evaluation.

(1) Whenever the Director of Clinical Services is asked to review a psychotropic medication decision, the Director of Clinical Services may retain an independent psychiatric consultant to evaluate the client's need for psychotropic medication. The use of a psychiatric consultant may be particularly

indicated in cases where there is a disagreement between the prescribing physician and other members of the treatment team.

- (2) If the client is evaluated by an independent psychiatric consultant, the Director of Clinical Services shall file a report in the client record indicating:
  - (A) the recommendation of the consultant; and
  - (B) why the Director of Clinical Services made a decision to follow, or not to follow, the consultant's recommendation.

(g) Case Review by the Director of Clinical Services.

- (1) The Director of Clinical Services or his physician designee shall review each week the treatment or habilitation program of each client who is refusing to accept psychotropic medication administration voluntarily to determine:
  - (A) whether the client is still receiving the prescribed medication;
  - (B) whether psychotropic medication is still in the best interest of the client as specified in Rule .0402 of this Section; and
  - (C) whether the other components of the client's treatment or habilitation plan are being implemented.
- (2) The Director of Clinical Services (not his designee) shall review quarterly the treatment or habilitation program of each client who is refusing to accept psychotropic medication administration voluntarily to determine:
  - (A) whether the client is still receiving the prescribed medication;
  - (B) whether psychotropic medication is still in the best interest of the client as defined in Rule .0402 of this Section; and
  - (C) whether the other components of the client's treatment or habilitation plan are being implemented.

(h) Documentation.

- (1) Each step of the procedures outlined in Paragraphs (d) through (g) of this Rule shall be documented in the client record.
- (2) Whenever the client or his legally responsible person has refused the administration of psychotropic medication and later agrees to such administration, the documentation of consent, either verbal or written, shall be included in the client record.

(i) A client's willingness to accept medications administered by mouth in lieu of accepting medications administered by an intramuscular route does not necessarily constitute consent. The responsible professional shall ensure that the client is indeed willing to accept the medication and is not responding to coercion.

(j) Statistical Record. The State Facility Director shall maintain a statistical record of the use of psychotropic medication against the client's will which shall include, but not be limited to, the number of administrations by client, unit of like grouping, responsible physician, and client characteristics. The statistical record shall be made available to the Division Director and Human Rights Committee on a monthly basis.

*History Note: Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;  
Eff. October 1, 1984;*

*Amended Eff. April 1, 1990; July 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*