

# State of New Mexico

## CHILDREN, YOUTH and FAMILIES DEPARTMENT

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### PROGRAM INSTRUCTION GUIDELINE 11-2021-#20

**TO:** All PSD Staff  
**FROM:** Emily Martin, Acting Protective Services Division Director  
**DATE:** November 4<sup>th</sup>, 2021  
**RE:** RE-ISSUE Permanency Planning Update: PR 17—Psychotropic Medication Sections

The purpose of this Program Instruction Guideline (PIG) is to provide guidance to all PSD staff on Psychotropic Medication. Please see below for updates on this section.

If you have any questions or concerns regarding this instruction, please contact Serra Dittel-Payne, PSD Policy & Procedure Coordinator ([Serra.Dittel-Payne@state.nm.us](mailto:Serra.Dittel-Payne@state.nm.us)).

#### **SOCIAL SERVICES**

#### **CHILD PROTECTIVE SERVICES**

#### **PERMANENCY PLANNING PROCEDURES (8.10.8 NMAC)**

#### **PR 17 – MEDICAL AND BEHAVIORAL HEALTH**

**8 PSYCHOTROPIC MEDICATION:** The use of psychotropic medication is one of several interventions used to address the emotional and behavioral needs of children in PSD custody and is used in concert with other interventions in accordance with the treatment plan. Children are to be free from unnecessary or excessive medication as expressed in the Children’s Code 32A-6A-12A (12). The PPW inquires with psychiatric clinical experts about the most appropriate use of medication, dosage and ongoing monitoring. Depending on the age of the child or number of medications prescribed higher level of monitoring may be warranted. See matrix in paragraph 8.6 below to identify when a higher level of monitoring is needed by the PPW or other PSD worker. [09-29-2015; 03-15-2016; 11-04-2021]

#### **8.1 Prescription and Use of Psychotropic Medications:**

1. Prescription: PSD only accepts prescriptions of psychotropic medications, including “as needed” (PRN) psychotropic medications, prescribed by professional providers who have been licensed to prescribe such medications.

Prior to the initial prescription, the PSD worker requests the prescribing provider to conduct a comprehensive evaluation, and explain the need for the medication related to the child’s mental health diagnosis. The PSD worker requests that the

prescribing provider discuss the potential side effects, as well as risks and benefits of taking the medications versus not taking the medication (See Informed Consent below). The PSD worker or the child's parent or guardian reserves the right to request a second opinion if there is reason to question the prescription of psychotropic medication for a child. The decision on consent to the child taking the psychotropic medication is made by the child if the child is 14 years or older and by the parent or legal guardian of children under 14 years of age unless parental rights have been terminated. If parental rights have been terminated the PSD worker in consultation with their supervisor and the child's foster parent or other caretaker. (See PSD Approval Process below).

2. Therapeutic Use: It is the intent that each child in PSD custody attain and maintain their highest level of functioning and well-being. Psychotropic medication is one component of the total therapeutic approach and use of such medication must be included in the child's treatment plan that is reviewed at regular intervals by the child's treatment team, of which the PSD worker is an active participant. The treatment plan is located in the Treatment Planning section in FACTS. Psychotropic medication will only be used for the purpose of treating the symptoms related to the child's diagnosed psychiatric condition. Other interventions to address the symptoms should be considered in the overall behavioral health treatment plan. [09-29-2015; 03-15-2016]

**8.2 PSD Approval Process:** Prior to approving the prescribed medication (including off-label usage and over the counter medication) for the child or youth, the PSD worker consults with the prescribing provider, parent, guardian or custodian, and their supervisor within seven calendar days of the medication recommendation.

1. Informed Consent: Appropriate informed consent must be obtained in order for a child in PSD custody to receive psychotropic medication. At a minimum, informed consent is the process of the prescribing provider presenting information to the child and parent or guardian regarding the risks and benefits of medication and presenting all other possible treatments for the child. The intent being that the child 14 years and older and parent or guardian of a child under 14 years of age can make an informed decision regarding which treatment option is most appropriate for the child. The PSD worker uses the questions from "*Questions for Parents, Guardians and Workers to Ask Doctors*" () to guide discussion when obtaining medication information from the provider:
  - a. What is the medication being prescribed for?
  - b. What changes should we expect to see from the use of this medication?
  - c. How long before the medication begins to have a therapeutic effect?
  - d. What are the possible side effects that I should be watching for? What can I do to address any side effects from the medication?
  - e. Are there any drug interactions that I should be aware of while this child is on this medication?
  - f. How long will the child need to be on the medication? (Is this a long term medication, a trial medication, or a short term fix?)
  - g. Are there any alternatives that could be used instead of medication to treat the behavior or the symptoms that we could try at home?
2. Differing Parental Opinion or Absent Parent for a Child under 14 Years of Age:

- a. When the child's parent, guardian or legal custodian, or PSD worker does not agree with the treatment option of using psychotropic medication to address symptoms of a diagnosed behavioral health condition, the PSD worker contacts another prescribing provider for a second opinion regarding the use of psychotropic medication. The PSD worker invites the parent, guardian or custodian to the child's appointment. If the parent, guardian or custodian is unable to attend, the PSD worker discusses the second opinion with the child's parent, guardian or custodian. If the parent, guardian or custodian continues to object to the use of psychotropic medication, but PSD supports the use of psychotropic medication to address the symptoms, the worker requests a family centered meeting (FCM), or court mediation.
  - b. In cases where there is an absent parent, PSD will continue its effort to locate parent and document efforts to locate in the case record.
3. Youth Age 14 and Older: Consent to the use of psychotropic medication is required from the child when the child is age 14 and older. The PSD worker seeks consent from the child for the use of the psychotropic medication. The worker discusses what medication is used for and the possible side effects. In accordance with NMSA 32A-6A-15, when the child does not give consent, but the PSD worker and parent/guardian/custodian supports the use of psychotropic medication to address the symptoms of a diagnosed behavioral health condition, then the PSD worker may obtain two physician evaluations to determine incapacity or they may seek a court order to determine whether the child has the capacity to make such a decision. If the court determines the child does not have the capacity to make such a decision, the PSD worker may request the appointment of a mental health treatment guardian who then will decide whether or not to consent to the medication on behalf of the child. If PSD seeks a court order, the prescribing provider must be willing and able to testify. The youth should also be told what is happening and why and also be encouraged to contact their youth attorney to request a FCM, court mediation or a hearing related to the use of psychotropic medication.

Obtaining informed consent by a child age 14 and older is a three-part process that ensures the child's understanding regarding the use of psychotropic medication and its potential effects, side effects, and drug interactions with other medications or substances. The PSD worker discusses with the child, taking into consideration:

- a. the child's developmental abilities;
- b. the child's treatment options;
- c. the child's right to speak with a youth attorney regarding the presumption of capacity to consent;
- c. the child voluntarily choosing to undergo treatment options; and
- d. how the child is communicating this choice or refusal to consent and how it is documented. This process should be clearly documented in the child's case record in FACTS. [09-29-2015; 03-15-2016; 11-04-2021]

The PSD worker should communicate any changes to the foster parent or other person with whom the child is staying the nature and purpose of the medication, the instructions for safe storage of any medications, including a requirement that

any medications in the household or facility be locked up such that the children/youth in the household or facility are unable to access the medication without adult supervision.

- 8.3 Emergency Use of Psychotropic Medication:** The emergency use of psychotropic medications will be allowed only for children placed in a hospital facility or a Psychiatric Residential Treatment Facility per federal guidelines and must follow the requirements of state law (the Children’s Mental Health and Developmental Disabilities Act).

If emergency use of psychotropic medications or chemical restraints is a frequent use for emergency behavior modification for a child/youth (more than twice during an entire placement), an emergency treatment team meeting must take place to explore other alternatives or to discuss root causes and determine approaches other than medications to address the exhibited behavior. CYFD will assure all in-state and out-of-state hospital and psychiatric residential treatment facilities to which children in CYFD custody are admitted understand these limitations, document the use of emergency medications in a consistent and timely manner in the facility’s records regarding the child, and notify via email or other written communication the PPW or PSD Worker within 24 hours of their use. The PPW or PSD Worker so notified shall document this medication use in the the CYFD FACTS system. [09-29-2015; 11-04-2021]

- 8.4 Documentation of Medical Information:** The PSD worker documents in FACTS all appointments with the child’s medical provider, medications and health recommendations. Upon the completion of each visit with the provider, changes to medication or other health updates is entered into the electronic case record.

Prior to every court hearing, the PSD worker documents, within the court report, the following questions (which are questions on “*Considerations for Courts in Child and Family Cases Involving Children and Youth on Psychotropic Medications*” handout located on the intranet):

1. What other supportive therapeutic interventions are being used? Ask for details, as appropriate. (Were these interventions tried without the medication first?)
2. Who has assessed or evaluated this child? (Was there an evaluation?)
3. How has this child been assessed or evaluated?
4. What medication has been prescribed by a psychiatric prescriber?
5. What other medications or substances have been prescribed by another prescriber or are being used by the child?
6. Why has this child been prescribed a psychotropic and what specific symptom/s is this medication designed to address?
7. How many psychotropics have been prescribed?
8. What dosage? Is this the smallest possible dosage? If not, why?
9. Is it off-label for this particular child (age, symptoms, etc.?) and if so, is it prescribed for a good, defined reason?
10. Was a history of the child gathered from parents and past caretakers for the child?
11. Were the parents asked to provide input on the use of medication, and have they?
12. How has the child 14 years or older, or the guardian for the child under 14, given consent?
13. Was the advisement couched in developmentally appropriate language and in a language the child/youth understood? Was the consent informed?

14. Who gave permission for this child to take this medication?
15. Is this child able to comply with the proper use of this medication?
16. Was there a second opinion, if so, who provided it?
17. Who is monitoring this child?
18. What monitoring for effectiveness is occurring? What benefit, if any, has occurred?
19. What side effects are possible? What side effects have been seen?
20. What monitoring for side effects is occurring?
21. Has this child gained or lost weight?
22. Does this child have involuntary movements?
23. What duration is expected for this treatment and why?
24. When is the child's next psychiatric or medical appointment? [09-29-2015; 03-15-2016; 11-04-2021]

**8.5 Monitoring and Tracking:** When a psychotropic medication has been prescribed to a child, the PSD worker is responsible for regularly assessing the impact the medication has on the child. The PSD worker participates in every medication management meeting with the treatment team either in person or by phone. The meetings occur with the prescribing physician at least monthly if the child is in TFC/RTC or more frequently if recommended by the prescriber. Meetings with the prescribing physician must be held at least every 90 days for children in other settings, or more frequently as recommended by the prescriber. The child's or youth's CYFD and MCO care coordinators must participate in the treatment team meetings. Other treatment team members may participate as requested or applicable.

PSD monitors and tracks trends of psychotropic medication for children in care through its management information system (FACTS). Reports are monitored and reviewed by the Research, Assessment and Data unit. Information is shared with field staff to monitor well-being for children in care.

Ongoing training is provided to PSD staff on the use of psychotropic medication regarding diagnosis, symptoms, and typical classes of medication.

A list of potential medications to be considered psychotropics and any potential side effects or interactions with other medications (medical or behavioral health) needs will be maintained by the agency clinical expert and reviewed and updated regularly.

**8.6 Higher level of monitoring:** While there are specified practices when the child is prescribed psychotropic medication, most of these practices are also relevant for children who have chronic health conditions. Prescription medication should always be monitored closely; however, there are certain criteria the PSD worker must always be aware of, which indicate a higher level of review and monitoring are needed.

Below is a matrix outlining the criteria indicating when a higher level of review or staffing is needed. If a child meets any of the below criteria, the PSD worker must submit a request for consultation from an independently licensed clinician (or higher licensure).

The PPW will schedule staffings at least every 60 days to review the child's or youth's medication use. More frequent staffings will be called if the child/youth is experiencing

difficulties with the medications or side effects, or recurring or uncontrolled symptoms. The PSD worker should invite the following individuals to participate:

1. PSD supervisor;
2. Psychiatry consultant;
3. Assigned CBHC, if applicable;
4. MCO care coordinator;
5. Youth if 14 years or older;
6. Child if less than 14 years old, if applicable or appropriate;
7. Parent, guardian or custodian, unless the child (especially those 14 or older) requests they not be present ;
8. Resource parent;
9. GAL, Youth Attorney, CASA, mental health treatment guardian, or other representative unless the child or legal guardian requests they not be involved.

During the case staffings/reviews, the following topics are discussed:

1. What psychotropic medications are currently prescribed and their dosages;
2. What other medications, supplements, or substances is the child currently using;
3. A review of the child's height, weight and if there have been any recent lab work or studies conducted;
4. If there are any medical or nutritional issues experienced;
5. What is working or not working with the medication;
6. Side effects or interactions with other medications or substances the child/youth may be experiencing;
7. What other therapeutic interventions the child or youth is engaging in;
8. How long the child or youth is expected to be on the medication;
9. Where the medications are or will be stored and how they will be administered; and
10. Next steps.

## CRITERIA INDICATING NEED FOR FURTHER REIVEW & MONTHLY STAFFINGS

*If a child or youth in PSD foster care has one or more of the six criteria below, a referral for "Medication Consultation" must be submitted and 60 day staffings must occur to monitor medication use until the child no longer meets the criteria.*

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| <b>Criteria One</b>   | The child/youth is taking medications and does not have an assessment, including a DSM-5 diagnoses, in the child's case file.   |
| <b>Criteria Two</b>   | The child/youth has been on psychotropic medications for a period of 3-6 weeks and their symptoms are worsening or not improving.   |
| <b>Criteria Three</b> | The child/youth is prescribed three or more psychotropic medications at the same time (excluding over the counter medications or vitamins/supplements).   |
| <b>Criteria Four</b>  | The child/youth is prescribed of any of the following at the same time:<br>A) Two or more stimulants<br>B) Two or more alpha agonists/antihypertensives<br>C) More than two antidepressants<br>D) More than one antipsychotics<br>E) One or more mood stabilizers ( <i>including Lithium and anticonvulsants</i> )  |
| <b>Criteria Five</b>  | The prescribed psychotropic medication is not consistent with appropriate care for the child or youth's diagnosed mental disorder or with documented targeted symptoms usually associated with a therapeutic response to the medication prescribed.   |
| <b>Criteria Six</b>   | Psychotropic medications are prescribed for children of very young age, including children receiving the following medications with an age of:<br>A) <b>Stimulants:</b> <i>Less than four years of age</i><br>B) <b>Alpha Agonists:</b> <i>Less than five years of age</i><br>C) <b>Antidepressants:</b> <i>Less than five years of age</i><br>D) <b>Mood Stabilizers:</b> <i>Less than twelve years of age</i><br>E) <b>Antipsychotics:</b> <i>Less than twelve years of age</i> |

\*\*Adapted for The New Mexico Department of Children, Youth and Families by The Children's Psychotropic Task Force for New Mexico Department of Children, Youth and Families with permission from Texas Department of Family and Protective Services

[09-29-2015; 03-15-2016; 11-04-2021]