

# Mental Health Act Commission

## Practice Note 2

### NURSES, THE ADMINISTRATION OF MEDICINE FOR MENTAL DISORDER AND THE MENTAL HEALTH ACT

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#### Introduction

The need for a full appreciation by nurses, together with other disciplines involved, of the consent to treatment requirements of the Mental Health Act 1983 and in particular Section 58 of the Act is essential if the rights and interests of patients are to be safeguarded.

The Mental Health Act Commission urges Health Authorities and Trusts to include the following information on consent procedures in their policies and guidelines about the administration of medicines.

#### The Three Month Rule

The three month rule legally authorises a doctor to prescribe and a nurse to administer medication for mental disorder to patients detained under the 1983 Mental Health Act if they refuse or are incapable of giving valid consent. The three month period commences with the date of the first dose of medication during any continuous period of detention. *This includes any medication given under Section 2.* (Please note that not all patients detained under the Act are subject to the provisions of Section 58. See overleaf and paragraph 16.2b of the Mental Health Act Code of Practice).

Following the three month period, medicines for the treatment of mental disorder can be given to the patient either with the patient's consent as recorded by the patient's responsible medical officer (RMO) on Form 38\* or, in the absence of the patient's consent, only if authorised under a Form 39\* completed by a second opinion appointed doctor (SOAD)—a registered medical practitioner appointed by the Mental Health Act Commission.

*\*Forms 38 and 39 are statutory documents and can be found at schedule 1 of the Mental Health (Hospital, Guardianship and Consent to Treatment) Regulations 1983 (S.I. 1983 NO. 893)*

**If the patient gives valid consent** this must be certified either by the patient's RMO (the Registered Medical Practitioner in charge of the treatment of the patient) or the SOAD. and Form 38 must then be completed.

**If the patient does not consent** then a SOAD will complete a Form 39 if he or she agrees to the treatment being prescribed. A visit from a SOAD can be arranged by contacting the Commission. (Please note,

in particular, paragraph 16.26 of the Revised Edition of the Mental Health Act Code of Practice published in August 1993). Before completing the Form 39 the second opinion doctor must have interviewed the patient, discussed the treatment with the patient's RMO and consulted with two persons who have been professionally concerned with the patient's medical treatment. One must be a nurse and the other must be neither a nurse nor a doctor.

### **Administration of Medication**

The nurse administering the prescribed medication to patients detained under the 1983 Mental Health Act and subject to the provisions of Section 58 of that Act must ensure that he or she is legally entitled to administer that medication by ensuring that all necessary legal requirements have been met. Following the three month period the legal authority is embodied in Forms 38 and 39. The nurse should fully understand the legal significance of these documents. A copy should be kept with the medicine card and reference made to it at the time of administering any medication used for the treatment of mental disorder.

The nurse should:

- i check the medicine card for date of entry of Prescription and dosage;
- ii ensure, if within the 3 month rule that the 3 month period has not been exceeded by checking the date of the first administration;
- iii ensure that where a patient has consented to medication beyond the 3 month rule that Form 38 is in place and correctly completed;
- iv ensure that where a second opinion has been obtained that Form 39 is in place and correctly completed;
- v ensure that the administration of medication is consistent with the guidance contained in the documents "Scope of Professional Practice" (UKCC, 1992) and "Standards for the Administration of Medicines" (UKCC, 1993)

Reference should be made to Chapters 15 and 16 of the Revised Mental Health Act Code of Practice published in August 1993 and in particular paragraphs 16.11 to 16.14 for consent to treatment details.

### **Authorisation of "As Required" or P.R.N. Medication**

After the three month period, regularly administered "as required" medication should be included either on the Consent to Treatment certificate (Form 38) or, in the absence of consent, incorporated in the treatment plan considered by the SOAD and if authorised, included on Form 39.

### **Urgent Treatment**

The RMO may authorise urgent treatment under the provisions of Section 62 (See Code of Practice, Para. 16:18-16:19). Section 62 applies

only to patients who would otherwise be treated under the provisions of Section 58. "Urgent treatment" is defined as treatment:

- i which is immediately necessary to save the patient's life; or
- ii which (not being irreversible) is immediately necessary to prevent a serious deterioration of the patient's condition; or
- iii which (not being irreversible or hazardous) is immediately necessary to alleviate serious suffering by the patient; or
- iv which (not being irreversible or hazardous) is immediately necessary and represents the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or others.

**Section 62 allows for the treatment to be continued pending compliance with Section 58, if discontinuation of the treatment would cause serious suffering to the patient.**

The Code of Practice (Para. 16:19) requires managers to devise a form to be completed by the RMO every time urgent treatment is given under the provision of Section 62. Nurses should ensure that they have access to a supply of appropriate forms for treatment under Section 62 and also be sure that the appropriate administrative record is fully completed. Nurses should also document the administration of the medicine and the reasons for its use.

#### **Patients not subject to Section 58 of the 1983 Mental Health Act**

Patients detained under Section 4, 5(2) or 5(4), 35, 135, 136 and 37(4); also patients conditionally discharged under Sections 42(2) and 73 and 74 cannot be administered medication for mental disorder under the authority of the Mental Health Act. In the absence of consent these patients can only be treated under common law. (See Chapter 15 of the Code of Practice).

#### **Summary and Conclusions**

- 1 Medication for mental disorder can be prescribed and administered to certain categories of patients detained under the Mental Health Act without their consent for a period of three months commencing from the day on which such medication was first administered.**
- 2 Once the three month period referred to above has expired then such medication for mental disorder can only be administered to detained patients provided the safeguards referred to in Section 58 have been observed.**
- 3 Any nurse administering medication for mental disorder to a patient detained under the Mental Health Act must be satisfied that there is legal authority for them to do so.**
- 4 Regularly administered "as required" or PRN medication should not be administered under Section 62 but, depending on whether the patient consents or not it should be included either on a Form 38**

**completed by the patient's RMO or on a Form 39 completed by the SOAD.**

Both UKCC publications mentioned in this Practice Note are available from the following address:

United Kingdom Central Council for Nursing, Midwifery and Health  
Visiting  
23 Portland Place  
London  
W1N 3AF