Policy for the Administration of Covert Medication to Adults

Covert Medicines Policy

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Accountable Executive:	Medical Director	
Approved By:	Area Prescribing Group	
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Disclaimer

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Version Control

Version	Summary of Changes/Amendments	Issue Date
1	Initial Issue	2017
2	Review of policy	2022 - 2023
3	Guidance ref reduction of Polypharmacy	May 2023
4	Full review of policy	Nov 2023
5	Links and narrative added relating to the Mental Capacity Act and Deprivation of Liberty Safeguards Policy & Procedure	April 2024

ENGAGEMENT & CONSULTATION

Key Individuals/Groups Involved in Developing this Document

Role / Designation
Jayne Price / Head of Community Services Medicines Management / Pharmacy
Susan Newport / Medicines Nurse / NMP Lead

Circulated to the following for Consultation.

Date	Role / Designation
April 2024	PTHB Safeguarding Team
Aug 2023	Area Prescribing Group Members
July 2023	Chief Pharmacist
	Director of Nursing + Midwifery
	Assistant Director of Nursing and Midwifery
	Medical Director
	Director of Mental Health
	Assistant Director of Mental Health
	Head of Community Services Medicines Management / Pharmacy
April 2023	Senior Pharmacist Mental Health Services
Aug 2022	Senior Pharmacist Governance and Education
	MIU Lead Nurse
	MH Consultant Nurse
	MH Charge Nurse

Evidence Base
Please list any National Guidelines, Legislation or Health and Care Standards relating to this subject area Mental Capacity Act 2005 Human Rights Act 1998 Reducing Restrictive Practices Framework. Reducing restrictive practices framework | GOV.WALES **ESR training Modules**: 000 The Mental Capacity Act Level 1 000 The Mental Capacity Act Level 2 000 NHS Treat Me Fairly BMA https://www.bma.org.uk/advice-and-support/ethics/seeking- consent/seekingpatient-consent-toolkit

IMPACT ASSESSMENTS

Equality Impact Assessment Summary					
	No impact	Adverse	Differential	Positive	**Statement** Please remember policy documents are published to both the **intranet** and **internet.** The version on the internet must be translated to Welsh.
Age	x				
Disability	x				
Gender	x				
Race	x				
Religion/ Belief	x				
Sexual Orientation	x				
Welsh Language	x				
Human Rights	x				

Risk Assessment Summary
Have you identified any risks arising from the implementation of this policy / procedure / written control document? **NO, Policy detail MUST be followed.**
Have you identified any Information Governance issues arising from the implementation of this policy / procedure / written control document? **No**

Have you identified any training and / or resource implications because of implementing this?

Yes, staff must undertake:
000 The Mental Capacity Act L1 000The Mental Capacity Act L2
000 NHS Treat me Fairly

Authorisation

Name	Job title and organisation	Signature	Date
Senior doctor **Dr Kate Wright**	Lead doctor for PTHB	DocuSigned by: Kate Wright 1F267952823F473...	5/1/2024
Chief Pharmacist **Jacqui Seaton**	Chief Pharmacist for PTHB	DocuSigned by: Jacqui Seaton 71E8089DE3634C4...	4/24/2024
David Farnsworth **Interim Executive Director**	Interim Executive Director of Operations / Director of Community and Mental Health for PTHB	DocuSigned by: David Farnsworth 5791C4D5E0C740D...	4/24/2024
Senior representative of professional group using the PGD **Claire Roche**	Executive Director of Nursing and Midwifery for PTHB	DocuSigned by: Claire Roche F07413E114E04B1...	5/8/2024

1. Introduction / Definition

Covert administration is when medicines are given in a disguised form without the knowledge or consent of the person receiving them.

It is a complex issue. It involves a formal decision made between healthcare professionals and carers and **should only take place in people who do not have capacity to consent to treatment** (as defined in the Mental Capacity Act 2005)

All adults are presumed to have sufficient capacity to decide on their own treatment unless a lack of capacity is determined by the prescribed legal test that is decision and time specific (Mental Capacity Act 2005).

Where adult patients are capable of giving or withholding consent, no medication should be given without their agreement since failure to do so may amount to criminal battery, civil trespass, or a breach of their human rights. The exception to this principle applies to treatment authorised under Part IV of the Mental Health Act (1983).

Covert administration should not be confused with disguising a medicine to give it against a competent patient wishes. Individuals capable of making decisions have the right to refuse medicines, even if that refusal leads to a detrimental outcome. (Human Rights Act 1998)

Covert administration usually involves hiding oral medicines (tablets, capsules or liquids). However, it can also apply to medicines administered via other routes e.g. transdermal patches, injections, medicines given by a feeding tube, if the person lacks capacity to consent and they do not know they are taking that medicine.

Covert administration is only likely to be necessary when:
- An individual is actively refusing to take their medicines AND
- The medicine is deemed necessary for their health and wellbeing.

This clinical policy has been developed to support Powys Teaching Health Board staff to make decisions around the appropriateness of covert administration.

This policy must be read in conjunction with PTHB Mental Capacity Act 2005 Policy SGP 049 Mental Capacity Act and Deprivation of Liberty Safeguards Policy & Procedure SGP 042 Deprivation of Liberty Safeguards Policy & Procedure. Consideration must be given to whether covert medication would amount to a person being deprived of their liberty. If this is identified, appropriate steps to

authorise this would need to be taken. District Judge Bellamy (AG v Agnor [2016] EWCOP37) argued that patients need proper safeguards to protect them against arbitrary decisions to use covert medication: 'Covert medication is a serious interference with a person's autonomy and right to self-determination under Article 8 (right to a private and family life) [European Convention on Human Rights 1950]'. Bellamy went on to endorse guidelines and that medication should only be administered covertly in exceptional circumstances.

2. Objectives

- Improve understanding and ensure compliance with governance and legislation covering covert medicines administration.
- Offer guidance and support to clinical staff when covert administration is being considered.

3. Responsibilities

Before considering covert administration, lack of capacity for this decision must be formally established by an appropriately trained and experienced healthcare professional. (MCA Form 1 to be used and is located within PTHB Intranet – Safeguarding Mental Capacity Act – MCA Form 1 Recording a Capacity Assessment.docx)

Once lack of capacity has been formally established a multidisciplinary team will have overall responsibility for discussing the need for covert administration of medication, based on a clinical risk-benefit analysis in each individual case. The multidisciplinary team must consider the patient's views, establishing whether they have any wishes, feelings, beliefs, or values in relation to taking medication.

A formal best interest meeting should take place to discuss and record the decisions around covert administration. The aim of the best interest meeting is to reach a consensus on whether the covert administration of medication is in the service user's best interest. This must be based on the medicines being considered essential for the service users health and wellbeing. A best interest decision must ensure it complies with the best interest checklist and recorded on MCA Form 2. (This is located within PTHB Intranet – Safeguarding Mental Capacity Act – MCA Form 2 Record of Best Interest Decision.docx). The Mental Capacity Act (2005) Policy identifies the process for establishing what is in the patient's best interest and has a sample 'Best Interests Meeting Agenda'. The decision-maker (prescriber) would follow the best interest process, considering all relevant information from others, including the service user. However, if there is a Lasting Power of Attorney or Deputy for Health and Welfare they would be

the decision-maker. In addition, any valid and applicable Advance Decision to refuse treatment must be followed. If there is no agreement within the best interest decision-making process, legal advice should be sought with view to making an application to the court of protection.

Where the multidisciplinary team concludes that covert administration is appropriate, members must complete and sign the Covert Administration of Medication Authorisation Form (Appendix B).

The clinician responsible for the service user's care:

- Assessing the service user capacity to make decisions about their medication and establishing the reason the person does not wish to take the medication, recording on MCA Form 1.
- Exploring why a person is refusing their medications.
- Establishing whether there are alternative forms or types of medication that may be more acceptable to the service user.
- Discussing the need for covert administration with a multidisciplinary team, including the service user's carers, through a best interest meeting.
- Agreeing an acceptable plan for covert administration
- Completing the Covert Administration of Medication Authorisation Form (Appendix B)
- Prescribing medication in an appropriate form to facilitate covert administration as agreed.
- Reviewing the need to covert administration on a regular basis. (Appendix C)

Nursing staff are responsible for:

- Checking that due process has been followed prior to administering any medication covertly (i.e. decision made through a documented best interest meeting)
- Developing and following a care plan for the covert administration of medication.
- Obtaining information from a pharmacist regarding how individual medicines can be given covertly.
- Administering the medication that has been approved for covert administration in a safe way.

PTHB Medicines Management Pharmacists are responsible for:

- Providing professional advice regarding whether a medicine is suitable for covert administration with different foods or drinks.
- Undertaking medication reviews and providing professional advice regarding the reduction of poly pharmacy, advising when certain medications could be temporarily withheld to reduce the numbers of medicines administered covertly.

The Chief Pharmacist and PTHB Area Prescribing Group committee:

- Approval, dissemination and audit of compliance with this policy.

4. Guiding Principles

Where covert medication is used the following principles should be seen as good practice.

- Covert administration of medicines must only be used when all other options have been considered/tried. It should be seen as a last resort.
- The necessity for covert administration must be regularly reviewed. (Appendix C)
- Covert administration must be used for as short a time as possible.
- The decision-making process must be transparent i.e. easy to follow and clearly documented. (Appendix B and C)
- The decision to use covert administration must be made by an appropriate multidisciplinary team, it must not be made by one person in isolation. People closest to the person (e.g. carers) should also be involved in the decision.
- The decision to covertly administer any medicine must be made in the person's best interest.
- Professionals involved in making the decision to administer medication covertly must have undertaken the 070 Mental Capacity assessment training L1+2.

5. Procedure

The use of covert medication should be the last resort. There are circumstances in which covert medication could be both legally and ethically justified, providing certain requirements have been met.

Where an individual is actively refusing to take one or more medicines that are deemed essential for their health and wellbeing, the following procedure should be followed by all health-care professionals within Powys Teaching Health Board, before covert medication is commenced.

1. Record details of the medicines that the service user is refusing to take and the rational for the medicines being deemed essential for their health and wellbeing in the clinical records.

2. Establish the reason why the service user does not wish to take the medication and record the reasons in the clinical records.

3. In line with the requirements of the Mental Capacity Act (2005) make all reasonable efforts to help the person understand the importance of the medicines. It should be recognised that many people's capacity can fluctuate during the day and so an optimal time of the day should be chosen. In some cases, several attempts may be required. A record should be made of methods used to help overcome any communication issues, including the use of an interpreter.

4. Explore potential alternative options that may be acceptable to the patient (e.g. consider alternative formulations, consider potential flexibility to dosing). Document the alternative options that are considered and / or tried.

5. If after taking the above steps, medication is still being refused and concerns remain about the service user's capacity to make an informed decision / consent to treatment, an appropriately trained and experienced healthcare professional must formally establish and document that the service user does not have capacity to make an informed decision or to consent to treatment in line with Mental Capacity Act 2005 (MCA Form 1 Recording a Capacity Assessment.docx (sharepoint.com)).

   There are three elements to the assessment of capacity that must be completed to determine if a person is able to make a decision:
   a. Functional assessment (Understand, Retain, Weigh and Use and Communicate the relevant information),
   b. Identify if the person has an impairment or disturbance in the functioning of the mind, and thirdly.
   c. The assessor must determine that the inability to make a decision is because of the identified impairment or disturbance.

6. If the Mental Capacity Assessment confirms that the patient does not have capacity to consent to treatment / make an informed decision, before progressing with covert administration, it should be established whether there is a relevant legally binding advance decision (also known as a living will) or a formal lasting power of attorney (LPA) or court appointed deputy (CAD) for health and welfare in place. NB: In the absence of a legally binding document, not even a family member can consent on behalf of someone else when the person concerned is an adult.

7. In the absence of capacity to consent to treatment and where a legally binding advance decision or LPA/CAD does not exist, the medicines for covert administration should be written on the patient's drug chart. N.B.

Covert administration usually involves altering medicines, for example crushing tablets or opening capsules and or adding medicines to food or drink. Altering medicines is usually an unlicensed (off-label) activity. Where necessary, advice from a pharmacist should be sought.

8. As a person's capacity to consent can change, arrangements should be put in place to ensure that the service user's capacity to consent is appropriately reviewed.

6 Monitoring Compliance, Audit & Review

This policy will be reviewed every three years or earlier should audit results or changes to legislation / practice within PTHB indicate otherwise.

Conformance with this procedure will be monitored on a regular basis by pharmacy staff. Non-conformance may be subject to an investigation.

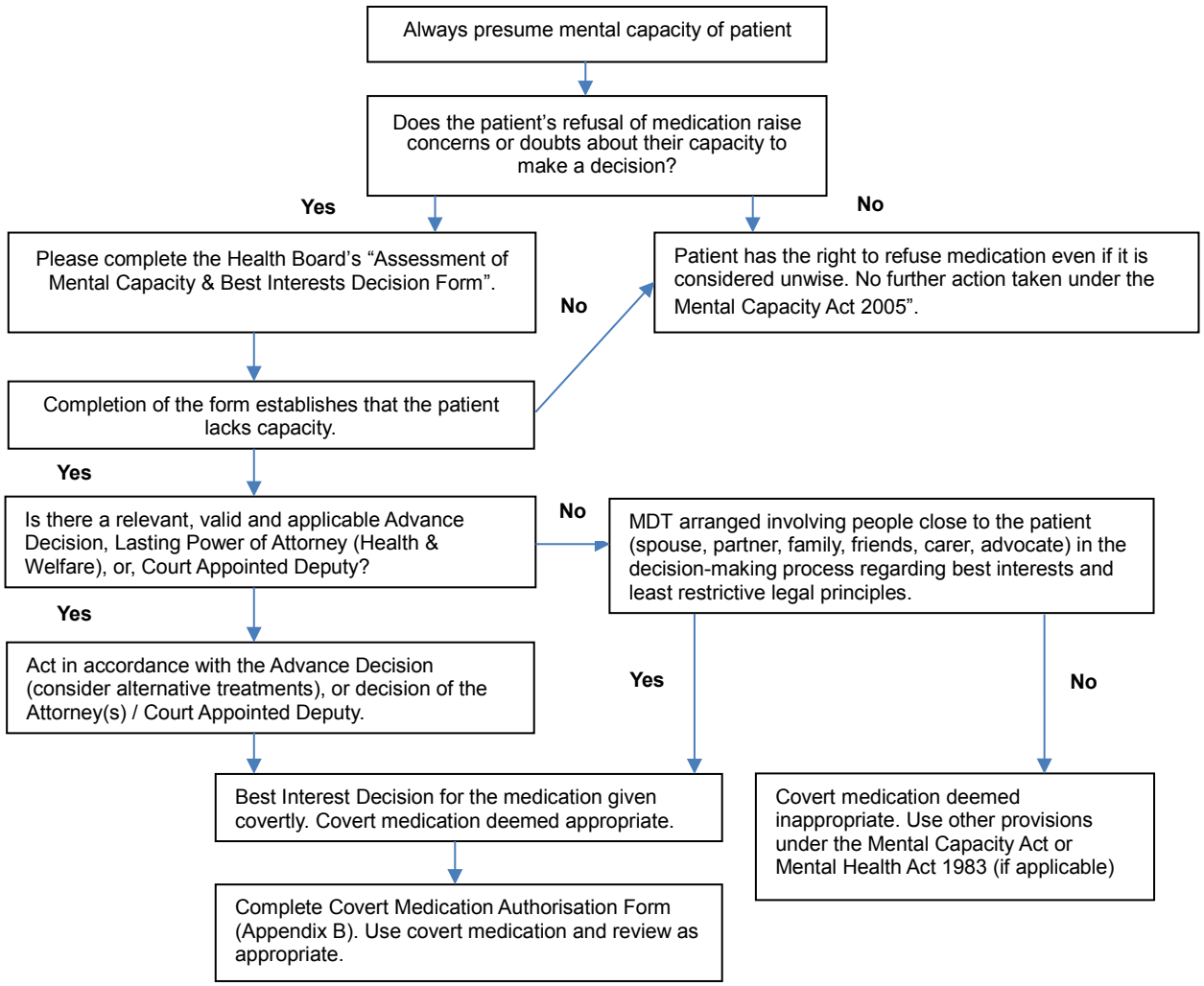
References / Bibliography

- Specialist Pharmacy Service (SPS) Covert Administration of Medicines in adults : legal issues (Jan 22)
- Covert administration of medicines-Care Quality Commission (Nov 2022)
- BMA guidance : Seeking patient consent toolkit (2020)
- Position statement: Covert administration of medicines – disguising medicine in food and drink, NMC 2007 / 2017
- The Mental Capacity Act 2005
- The Nursing and Midwifery Council guidance (2013)
- www.nmc-uk.org/nurses-and-midwives/advicebytopic/A/advice/covert-administration-of-medicines
- Human Rights Act 1986
- Royal College of Psychiatrist: Statement on Covert Administration of Medicines 2004
- National Service Framework for Mental Health: DOH 1999
- NICE Quality Standard 85 (QS85) Medicines Management in care homes : Quality statement 6: Covert medicines administration (March 2015)

Appendix A
Covert Administration of Medication – Decision Tree

Remember to:

- Abide by the requirements of the Mental Capacity Act and the clinician's professional Code of Practice.
- Encourage service users to participate in decisions about their care and provide information to help them to make an informed decision.
- Take account of all relevant circumstances



Powys Teaching Local Health Board
Directorate: Nursing
Authors: Jayne Price Head of Community services Medicines Management / Pharmacy
Susan Newport Medicines Management Nurse

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Appendix B

Surname	
First name	
Hospital / Ward	
NHS/Hospital no.	
Date of birth	
	_____ / /

Covert Administration of Medication Authorisation Form

STATEMENT OF HEALTH CARE PROFESSIONAL

On behalf of the Multi-Disciplinary Team treating the patient; I confirm that:-

- ☐ I have completed the Powys LHB 'Assessment of Mental Capacity and Best Interests Decision Form' on behalf of the patient named above and I am of an opinion that the patient lacks the mental capacity to consent to the administration of medication. Following discussion with the multidisciplinary team a decision has been made to administer medication covertly. **OR**

- ☐ An extreme situation has occurred (putting self and/or others at risk due to their behaviour), and it is believed the patient lacks mental capacity to comply to the specifically prescribed medication (This decision and name of all parties involved must be must be documented clearly in the patient's healthcare record).

  This circumstance has prevented the privilege of an MDT meeting with care input. After discussions with the immediate team, the initial dose of medication will be administered under the Mental Capacity Act 2005 and a review of the situation will take place within 24 hours with a view to seek compliance.

  The Health Board's "Assessment of Mental Capacity and Best Interest's Decision Form will also be completed at the earliest opportunity and a review date set.

Signature……*Consultant***……..Name(PRINT)… ..... Date___ _/____/_____Job title……Contact Details ..... GMC**

No. ……..……

Signature……*Nurse***……..……..Name(PRINT)……..Date _____ /__/_ ____ Job title……Contact Details ..... NMC**

Pin No. ……..……

Signature……*Pharmacist***……..Name (PRINT)……Date _____ /_/__Job title……Contact Details ..... GPHC**

No……..……..……

Please attach a copy of this form to the patient medication record

Powys Teaching Local Health Board
Directorate: Nursing
Authors: Jayne Price Head of Community services Medicines Management / Pharmacy
Susan Newport Medicines Management Nurse

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Surname	
First name	
Hospital / Ward	
NHS/Hospital no.	
Date of birth	
	_____ / /

Appendix C

Covert Administration of Medication Review of Authorisation Form

REVIEW OF ADMINISTRATION OF COVERT MEDICATION (weekly initially, no longer than a month if required as a longer term measure)
Details of covert medication administration initially agreed
……..……..

……..……

Please comment on the success or otherwise of covert medication over the preceding period
……

……..
Proposed changes to course of treatment agreed following MDT review, including Consultant or nominated deputy, Name Nurse and Pharmacist
……..……

……

□ The MDT has reviewed the patient's "Assessment of Mental Capacity and Best Interests Decision Form" dated _____ / / to administer medicines covertly and confirm that the form is still valid and applicable to the initial situation.

Signature……*Consultant* **…….Name (PRINT)…….……Date / /**

Job title……Contact Details…….……..…GMC No……..…..

Signature……*Nurse***…….Name (PRINT)……Date ____/____/____**

Job title……Contact Details..……NMC Pin No. ……

Signature……*Pharmacist…..***…….Name (PRINT)…….……Date / /**

Job title……Contact Details……GPHC No…….. Date of first assessment _____ / /

Date of next review _____ / / (Complete a new form for each review)

To be retained in patient's healthcare record