

	<b>GEORGIA DIVISION OF AGING SERVICES PUBLIC GUARDIANSHIP FOR ADULTS MANUAL</b>			
	<b>Chapter:</b>	<b>6000 Mental and Behavioral Health</b>	<b>Effective Date:</b>	3/01/2022
	<b>Section Title:</b>	<b>Refusal of Psychotropic Medications</b>	<b>Previous Update:</b>	MT 2019-02
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## PURPOSE

This policy defines the responsibilities of Public Guardianship Office (PGO) staff when a person under guardianship refuses to take psychotropic medication prescribed to treat a mental illness.

## LEGAL BASIS AND REQUIREMENTS

Unless a guardianship has been established, an adult must give consent for medical care and may refuse medical care, even if the care refused may save the person's life. [O.C.G.A. § 31-9-7](#). In Georgia, even if a person has been diagnosed with a mental illness, the person retains the right to refuse medical care. [O.C.G.A. § 31-9-4](#). A person with a mental illness also has the right to refuse to take psychotropic medications. [O.C.G.A. § 37-3-163](#) (a)-(b).

Unless specified otherwise by the court, when a guardian is appointed for a person, the person loses the right to consent to medical treatment [O.C.G.A. § 29-4-21](#). A guardian may give any consents or approvals that may be necessary for medical or other professional care, counsel, treatment, or service for the person under guardianship. [O.C.G.A. § 29-4-23](#). However, a guardian does not have the legal authority to override the person's refusal to take psychotropic medications and thus may not consent to the involuntary administration of psychotropic medication to a person with a mental illness. [O.C.G.A. § 37-3-163](#)(b).

Only physicians are granted legal authority to administer medication against the will of a person with a mental illness. [O.C.G.A. § 37-3-163](#).

## PROCEDURES

When a person under guardianship is prescribed medication to treat a mental illness, PGO staff must:

- Explain or have medical staff explain the potential side effects to the person as well as the potential benefits of the medication to the person
- Ensure that the communication used to discuss the proposed medication is targeted and adapted to meet the language skills and capacities of the person
- Determine whether the person will willingly take the medication
- Document the conversation with the person in the case record

If the person consents to taking the medication, PGO staff must:

- Ask the person to report any undesirable or side effects of the medication

- Observe the person to see if there are any undesirable or side effects of the medication
- Report any undesirable or side effects to the prescribing the psychiatrist
- Monitor the person's compliance with taking the medication as prescribed by, for example, talking with the person or caregivers about taking the medication or counting pills during monthly in- person visits
- Raise concerns about the effectiveness or ineffectiveness of the medication with the person's psychiatrist
- Ensure that the person has prescriptions or refills as necessary and is able to get the medication from the pharmacy

If the person does not consent to taking the medication, PGO staff must:

- Refrain from authorizing or giving consent for the person to have medication injected or otherwise administered against the person's will
- Talk to the person about her or his objections to the medication
- Investigate alternatives to the medication the person is refusing, such as finding a medicine that has a less drowsing effect if the person's dislike for the medication is based on feeling sluggish after taking it
- Arrange for and encourage the person to submit to other therapeutic care, such as therapy, peer supports, or group counseling sessions
- If the person's mental health poses a risk to the person or others, arrange for a higher level of mental health care, including consulting with the PGO Section Manager or designee to consider whether a petition under [O.C.G.A. § 37-3-41](#) or [37-3-61](#) for involuntary treatment is needed
- Communicate with any mental health care providers promptly if there is a change in the person's condition or symptoms
- Educate the person on what to do in the event of a mental health crisis, such as calling 911, going to the closest emergency room, or calling the Georgia Crisis & Access Line at 1-800-715-4225
- Monitor the person closely, increasing phone or in-person contact as necessary
- If appropriate, engage the support of the person's loved ones to encourage treatment

The Georgia Department of Behavioral Health and Developmental Disabilities' (DBHDD) policy specifies the manner and circumstances under which medication may be administered over a person's refusal to take the medication. The policy applies to an initial/emergency involuntary administration of the medication and on-going administration of the medication.

If the physician determines that the person would be unsafe without medication, initially, the physician can involuntarily administer the medication for a period not to exceed 72 hours.

If the physician believes that the person would be unsafe without on-going involuntary administration of medication, with the concurring medical opinion of a second physician, the physician can involuntarily administer the medication for up to 30 days. However, the physician must:

- Complete a form or otherwise document in the person's chart the concurring physician's opinion

- Add the involuntary administration of the medication as a new “problem” (need) to the person’s Individualized Recovery Plan
- Review the need for involuntary administration of medication every seven days

If the original physician and the concurring physician determine that the person still would be unsafe with medication, the two physicians can continue administering medication involuntarily for up to 30 more days.

If after 60 days the physician determines the person would be unsafe without the medication and believes that medication should be administered against the will of the person, the physician must convene a Clinical Review Panel to hold review the need for continued involuntary administration of medication. The panel is made of three clinicians.

The guardian should be notified of the review and has the right to attend the panel review. A guardian must be given at least 72 hours of notice of the review.

At the panel review, the physician presents the reasons for continued involuntary administration of the medication. If PGO staff have concerns about the involuntary administration of medications, PGO staff must present those concerns at the panel review.

The panel has two business days from the date of the review to reach a decision. If two out of the three panel members decide that on-going involuntary administration of medication is necessary, an order is placed in the person’s chart. The Clinical Review Panel must review the need for involuntary administration of medication every 30 days.

The person under guardianship being administered medication involuntarily has the right to object to the administration of the medication involuntarily. The person, without the requirement of the guardian’s permission, may request a review of the Clinical Review Panel’s decision. Also, the person by him- or herself or the guardian on behalf of the person, may file a petition in court to have the medication discontinued. The person under guardianship being administered medication involuntarily has the right to object to the administration of the medication involuntarily. The person, without the requirement of the guardian’s permission, may request a review of the Clinical Review Panel’s decision. Also, the person by him- or herself or the guardian on behalf of the person, may file a petition in court to have the medication discontinued. [O.C.G.A. § 37-3-148](#). If PGO staff believes that involuntary administration of medication is unwarranted and is not able to stop the administration of the medication through communication with the mental health care team, PGO staff must inform the PGO Section Manager or designee so that the Section Manager or designee may refer the matter to the Department of Human Services (DHS) Associate General Counsel (AGC) assigned to the Division of Aging Services (DAS) following the procedure outlined in DAS Administration Manual Section 1010.

If a physician involuntarily administers medication to a person under guardianship, PGO staff must:

- Ask the person to report any undesirable or side effects of the medication
- Observe the person to see if there are any undesirable or side effects of the medication

- Report any undesirable or side effects to the prescribing the psychiatrist
- Raise concerns about the effectiveness or ineffectiveness of the medication with the person's psychiatrist
- Obtain from the person's chart a copy of documentation or forms showing the decision of the physician that involuntary administration of the medication was necessary
- Ensure that the physician is following the policy of DBHDD for involuntary medication administration

## **REFERENCES**

DBHDD Policy 03-534, "Informed Consent and Involuntary Administration of Psychotropic Medication in DBHDD Hospitals" (applicable to all psychiatric hospitals in Georgia, including private hospitals).