

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNIFIED FAMILY COURT

STANDING ORDER No. 105
(REPLACES STANDING ORDER NO. 219)

ORDER RE: AUTHORIZATION TO ADMINISTER PSYCHOTROPIC MEDICATION TO MINORS WHO ARE DEPENDENTS OR WARDS OF THE COURT

IT IS THE ORDER OF the Superior Court, Unified Family Court, City and County of San Francisco, that:

The attached PROTOCOL FOR AUTHORIZATION TO ADMINISTER PSYCHOTROPIC MEDICATION TO DEPENDENT AND DELINQUENT CHILDREN, updated as of December 1, 2008 shall be followed by all mental health treatment facilities, including, but not limited to, all hospitals, clinics treatment facilities, and individual treatment providers seeking to prescribe or administer psychotropic medication to a minor child who is a dependent or ward of this court.

DATED: December 3, 2008

DONNA HITCHENS
UDGE OF THE SUPERIOR COURT

San Francisco Unified Family Court
Protocol for Authorization to Administer Psychotropic Medication
to Dependent and Delinquent Children
[Revised 10/28/08; issued 11/3/08; effective 12/1/08]

The purpose of this protocol is to define the appropriate procedures to be used by treating physicians seeking to administer psychotropic medication to children who are wards or dependents of the San Francisco Superior Court, Unified Family Court. This protocol provides for the implementation of Welfare and Institutions Code section 369.5 (dependent children) and Welfare and Institutions Code section 739.5 (wards), as well as Rule 5.640 of the California Rules of Court. This protocol applies only to wards and dependents who have been removed from parental custody or in situations where a parent refuses to consent and the physician believes the medication is medically necessary. It also applies when a parent fails to respond to the physician's request for consent.

Any physician considering the prescription of any medication prescribed to affect the central nervous system to treat psychiatric disorders or illness shall comply with this protocol. The medication classifications to which this protocol applies includes, but is not limited to: (1) anxiolytics; (2) antidepressants; (3) mood stabilizers; (4) antipsychotics; (5) psychostimulants; (6) anti-Parkinson agents; (7) hypnotics; (8) medications for dementia; or, (9) other medications used to alter mental status.

Only a judicial officer of the Unified Family Court has the authority to make orders regarding the administration of psychotropic medication to a child who is a ward or dependent of the court and removed from parental custody. Absent a specific court order in a particular case delegating this authority to a parent or legal guardian, consent from a dependent child's or ward's parent or legal guardian is not allowed by law. Only court authorization is required.

The appropriate procedure for submitting, reviewing, and authorizing a medication request depends upon the child's medical condition at the time the request is made. All requests to administer psychotropic medication to a dependent child shall be reviewed and approved by the SFHSA psychiatrist and all requests to administer psychotropic medication to a ward shall be reviewed and approved by the Special Programs for Youth ("SPY") Psychiatrist prior to submission of the request to the court for court authorization.¹

In emergent cases, court authorization is not required prior to the administration of psychotropic medication. In outpatient cases, court authorization is required prior to the administration of psychotropic medication.

Urgency of Medication Requests

There are two types of medication requests:

A) Emergent Care Request

1) Situations where emergent care requests will be allowed

Emergent care requests will be allowed when a child is hospitalized as an inpatient and the administration of medication is immediately necessary to preserve the child's life, or

¹ In this protocol, both the SFHSA psychiatrist and the SPY psychiatrist shall be referred to as the "reviewing psychiatrist." The SFHSA psychiatrist is responsible for reviewing applications for dependent children and the SPY psychiatrist is responsible for reviewing applications for wards.

prevent the child from inflicting serious harm upon himself/herself or others, and it is impracticable to gain court authorization prior to the administration of medication.

Emergent care requests will also be allowed when a child is evaluated by Comprehensive Child Crisis Services (or equivalent county emergency assessment unit) and determined to be at substantial risk for being hospitalized within 48 hours unless such medication is administered.

In addition, emergent care requests will be allowed whenever a child is confined in a locked facility. This includes cases where the confined child has an *existing* prescription for psychotropic medication and cases where new medication is prescribed.

2) Emergent Care Request Procedures

In the emergent situations described above, medication may be administered to the child without prior court authorization, but the physician who prescribed the medication shall, within 3 court days following administration of medication, initiate the court authorization procedures outlined below. The physician may continue to administer the medication for an additional 2 court days after initiating the authorization process. Weekends and court holidays will not be counted towards the 3 day or the 2 day period. In total, the physician may administer the medication for 5 court days before receiving court authorization. At the end of the 5 day period, the court will grant the request, grant the request with modifications, deny the request, or set the matter for a hearing.

B) Outpatient Requests

Whenever a physician has evaluated a child and determined that, in his or her best medical judgment, the child would benefit from treatment with psychotropic medication, that physician shall submit an outpatient request and obtain court authorization before administering psychotropic medication to the child. Medication cannot be prescribed or administered to the child before the child welfare worker or juvenile probation officer and prescribing physician have completed the "Application Regarding Psychotropic Medication" and "Prescribing Physician's Statement," respectively [Forms JV-220 and JV-220(A) revised 1-08]. The completed forms shall be submitted to the reviewing psychiatrist. Upon submission of the completed forms to the reviewing psychiatrist, the review and authorization process should not exceed seven days.

Procedure For Obtaining Court Authorization

The procedure outlined below shall be used in all cases in which psychotropic medications have been administered to a child on an emergent care basis and all cases in which the child's treating physician seeks treatment with medication.

A) Authority of Court

The San Francisco Superior Court, Unified Family Court has the sole authority to authorize or deny the administration of psychotropic medication to any child who is a dependent child or ward of the court and is in an out of home placement.

B) Completion by Prescribing Physician of Required Authorization Request Form

The child welfare worker or juvenile probation officer shall complete the "Application Regarding Psychotropic Medication" [JV-220, revised 1-08]. Attached to the Application shall be a "Prescribing Physician's Statement- Attachment" [Form JV-220(A), revised 1-08] completed by the prescribing physician. The Application and Statement shall be legible and complete. The prescribing physician shall submit the forms to the reviewing psychiatrist who, upon completion and review, will submit the form to the court so that noticing begins as soon as possible.

C) Review of Required Authorization Request Form
a. Dependent Children

- 1) The SFHSA psychiatrist shall review any "Prescribing Physician's Statement- Attachment" [Form JV-220(A), revised 1-08] regarding a dependent child.
- 2) The SPY psychiatrist shall review any "Prescribing Physician's Statement- Attachment" [Form JV-220(A), revised 1-08] regarding a child who is a ward of the court.
- 3) The reviewing psychiatrist shall indicate "recommend for approval," "recommend for approval as modified," or "do not recommend for approval" at the bottom of page 3 of the JV-220 form. The reviewing psychiatrist will provide a written explanation when the request is not recommended for approval.

D) Noticing Procedures

Upon completion of the "Application Regarding Psychotropic Medication" and "Prescribing Physician's Statement" [Forms JV-220 and JV-220(A), revised 1-08], the reviewing psychiatrist shall forward the completed form to the SFHSA Court Office (for dependents) or the Office of the Chief of Juvenile Probation (for wards).

1) Manner of Notice

For all dependent children, the SFHSA Court Office shall notice the child's parents, the child's attorney, the child's CASA and any attorney of record for a parent of the request to administer psychotropic medication by phone message or by facsimile and shall complete the JV-221. For all wards, the Office of the Chief of Juvenile Probation shall notice the parents and complete the JV-221. If the Office is unable to notice a party by phone or facsimile, and that party's attorney has been properly noticed, the Office shall send written notice to the party by first class mail. The Office shall immediately notice the attorneys of record and the Legal Guardian for the minor if there is one.

2) Contents of Notice

Notice shall include an advisement of the request to administer psychotropic medication to the dependent child. The notice shall also include an advisement that any objection shall be filed with the court within two court days of notice. The "Application Regarding Psychotropic Medication" and "Prescribing Physician's Statement" [Forms JV-220 and JV-220(A), revised 1-08] will be provided to counsel of record only upon their request.

E) Objection Procedures

The court will routinely hold Outpatient Requests for two court days prior to authorization to ensure sufficient time for any objection to be lodged (if notice is by mail, the court will hold the request for 5 court days). If a party objects to the request to administer psychotropic medication to a child, the party or their attorney of record shall first lodge a telephonic objection with the court clerk to the Supervising Judge of the Unified Family Court. This shall put the judge on notice that a written objection will be forthcoming. Within 24 hours of receiving notice, the objecting party shall complete an "Opposition to Application Regarding Psychotropic Medication" [Form JV-222, revised 1-08] and file it in the Office of the Court Clerk of the Unified Family Court, 400 McAllister Street, Room 402.

The court may either grant the application and authorize the administration of psychotropic medications without a hearing or may set the matter for a hearing.

The attorney of record for an objecting party shall notice all parties and attorneys of record of the opposition and the date, if any, set for hearing. The notice requirements in section (D)(1) above shall be followed. If the party filing the statement of opposition is not represented by counsel, the Clerk of the Court shall notify the SFHSA Court Office (for dependents) or Office of the Chief of Juvenile Probation (for wards) of the opposition and the date, if any, set for hearing. The SFHSA Court Office or Office of the Chief of Juvenile Probation shall then notify the parties and counsel of the opposition and hearing date, if any, pursuant to the noticing requirements set forth in section (D)(1) above.

F) The Hearing

If the court grants a hearing, the procedures described in California Rules of Court, Rule 5.570 shall be followed. The court may deny, grant or modify the application for authorization and may set a date for review of the child's progress and condition.

G) Duration of Court Authorization

If the court authorizes the administration of psychotropic medication, the authorization is effective immediately. Unless otherwise specified by the court, the authorization shall remain in effect until terminated or modified by further order of the court, or for 180 days, whichever is earlier.

H) Changes in Medication or Dosage Range

There shall be no changes made in the category or dosage range of medications previously authorized by the court unless a new "Application Regarding Psychotropic Medication" form and a new treatment plan are submitted to the reviewing psychiatrist. The SFHSA psychiatrist shall review applications for dependent children and the SPY psychiatrist shall review applications for children who are wards of the court.

I) Communication between the Court, Reviewing Psychiatrist and Prescribing Physician

The reviewing psychiatrist may contact the prescribing physician to obtain additional information regarding a request to administer psychotropic medication. The court may

contact either the reviewing psychiatrist or the prescribing physician to obtain additional information about the child's history, current status or proposed treatment plan.

J) Resolution of Disagreement between Reviewing Psychiatrist and Prescribing Physician

If, at any time, after consultation with the reviewing psychiatrist, the prescribing physician disagrees with the reviewing psychiatrist's decision not to seek the requested court authorization, the prescribing physician may appeal the decision to the court. The court may consult the Medical Director of Family and Children's Services for Community Behavioral Health Services in making its decision. The court may also hold an *in camera* hearing to determine the appropriateness of the proposed treatment plan.

K) Termination of Medication

If, within the 180-day authorization period, the prescribing physician determines that medication is no longer necessary or beneficial to the child, the prescribing physician shall have the right to discontinue the use of previously authorized medication without further notice to the reviewing psychiatrist or the court.

L) Notice to Prescribing Physician

If court authorization for administration of psychotropic medication is granted, the SFHSA Court Office or Office of the Chief of Juvenile Probation shall transmit to the prescribing physician and to the reviewing psychiatrist an endorsed copy of the "Application Regarding Psychotropic Medication" and "Prescribing Physician's Statement" forms for inclusion in the child's medical record.

M) Delegation of Authority

After consideration of the application and attachments and a review of the case file, the court may order that the parent be authorized to approve or deny the administration of psychotropic medication. The order shall be based on the following findings, which shall be included in the court's order: (1) the parent poses no danger to the child, and (2) the parent has the capacity to understand the request and the information provided and to authorize the administration of psychotropic medication to the child, consistent with the best interest of the child.

Dated: _____

Donna J. Hitchens
Supervising Judge
San Francisco Unified Family Court

**SUPERIOR COURT OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO**

UNIFIED FAMILY COURT, JUVENILE DIVISION

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