NHS Lanarkshire Covert Administration of Medication Guidance

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Contents **Page**

Consultation and Distribution Record	
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Change Form			
Date	Change	Change Made By	Version No.
Sep19	New guidance and review of NHSL Covert Administration Pathway 2016 version	G. Laughlan L. Dewar L. Bradley A. Donaldson	1.0
April 23	Reconfiguration of layout Additional sections on 'Capacity', 'Consulting others' and 'Summary of required documentation' Links to clinical guidelines website	C. McLean L. Bradley A. Donaldson N. Rhodes	2.0

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Introduction

Covert medication is when medicines are administered in disguised form so that the person is not aware they are taking medication, usually in food or drink.

This can only happen when the individual is refusing to accept medication which is essential for physical or mental health and they do not have the capacity to understand the implications of their refusal. It does not refer to a situation where a patient knowingly accepts medication in food and drink to make it more palatable or easier to swallow. The Mental Welfare Commission's (MWC) 'Good Practice Guide for Covert Medication' must be followed when considering covert administration in an individual.[1]

A list of required documentation is detailed at the end of this guideline.

Legislation

Covert medication must never be given to someone who is capable of making decisions about their medical treatment.

In Scotland, there are two legal frameworks available for giving medical treatment to individuals who lack decision-making capacity:

- The Adults with Incapacity (Scotland) Act 2000 [AWIA]
- Mental Health (Care and Treatment) (Scotland) Act 2003 [MHA]

The AWIA allows treatment for both mental and physical disorders, but covert administration should only be considered for essential treatment that is necessary for the patient's health and wellbeing.

The MHA only covers treatment for mental disorder under Part 16 of the Act.

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Capacity

It is unlawful to give medication covertly to someone who is capable of making decision about their medical treatment.

Under AWIA, decision-making capacity is presumed, unless assessed to be lacking. Good practice would be to support individuals to promote decision-making capacity as far as possible to make decisions about their welfare. Decision-making capacity is not 'all or nothing' and assessment should be for individual decisions. For example, a patient with a moderate learning disability may be able to consent to analgesia for a headache, but could not provide fully informed consent to antihypertensives. Capacity may change or fluctuate over time. For example, due to delirium, dementia or other mental disorder, a patient who had decision-making capacity in the past could lack decision-making capacity for a period of time. The patient's decision-making capacity may require to be reassessed accordingly. Adults who can make reasoned decisions about their welfare including the risks of refusing treatment must not be given medication covertly.

The MHA only covers treatment for mental disorder under Part 16 of the Act. Where an individual has a T3 certificate, this is the legal framework for administration of psychotropic medication covertly. This does not cover medication for physical health, which would require an AWIA certificate.

In children, decision-making capacity develops according to age and stage of development. Any child capable of expressing a view about their treatment should have that taken into account. For children who have not yet gained decision-making capacity for medical treatment, the parents will usually be responsible for considering necessity, providing consent and administering medication.

The practice of administering medication covertly is controversial. In mentally capable patients it is a breach of autonomy and likely to constitute assault. For people who lack capacity (either permanently or temporarily), the question is whether the best interest of the individual is justification enough for covert practices.

MWC; Consent to treatment; a guide for mental health practitioners (2017)[2]

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Assessing Capacity under Adults with Incapacity (Scotland) Act 2000 [AWIA]

The 2000 AWIA covers a variety of interventions for adults who lack capacity. It is based on a firm set of principles that govern all interventions, including covert treatment, these are:

- The intervention must be of benefit to the adult.
- The intervention must be the least restrictive in relation to the person's freedom in order to achieve the desired benefit.
- Interventions will take account of the past & present wishes of the adult.
- Interventions will take account of the views of relevant other parties.
- Interventions will encourage the adult to use existing skills & develop new skills

Decision-making capacity will depend on the individual. Under AWIA legislation, incapacity is defined as being incapable of acting, or making decisions, communicating decisions, understanding decisions, or retaining the memory of decisions.

Incapacity must be because of a mental disorder or inability to communicate due to a physical disorder, including communication deficits following stroke. Acute mental disorders such as delirium should also be considered. An individual can only be deemed to lack decision-making capacity due to inability to communicate if this cannot be overcome by methods such as translation, or communication aids e.g. sign language/Makaton, braille.

A medical practitioner must assess the patient's decision-making capacity about the proposed necessary treatment including risks of refusal of treatment. Within inpatient care, the responsibility would lie with the patient's clinical team led by the inpatient consultant. Within the community, this may be the patient's general practitioner in consultation with members of the multiagency team involved in the patient's care. It may be that certain medications/ treatments may be out with a practitioner's area of expertise to assess and advice from the appropriate specialty should be sought accordingly.

After assessment of decision-making capacity has been completed and the treatment deemed necessary for the patient's health and wellbeing, then a Certificate of Incapacity (Section 47 AWIA Part V) needs to be issued. It is good practice to include the plan for covert administration in the Section 47 treatment plan.

Consulting others

When the patient has a Welfare Guardian or Power of Attorney in place, they must be consulted (if practical and reasonable to do so) as part of the assessment process and their views considered and recorded within the patient's medical notes. Even if the Welfare Guardian or Power of Attorney have powers to make decisions about medical treatment and give consent, the Section 47 certificate must still be completed.

Anyone who has an interest in the individual's welfare should be consulted and their views recorded. Ideally, this should be facilitated through a multiagency meeting and a consensus agreed for treatment. If considered appropriate to the patient's needs, representation from advocacy should be considered. Should anyone disagree with the proposed treatment, their views should be recorded and they should be made aware of the procedure to appeal the decision.

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Covert Medication Pathway

The NHSL Covert Medication Pathway Document has been developed so that the necessity for treatment and the decision-making capacity of the patient are both fully considered, whilst applying the appropriate legal principles and procedures and is line with the MWC's advice on covert medication.[2] It should be completed with multidisciplinary team involvement.

The completed pathway provides a record of how the decision for covert treatment was considered. Following completion of the initial record for covert administration, there should be regular review using the Covert Medication Pathway Review Document. Practitioners must familiarise themselves with the full good practice guidance for covert medication from the Mental Welfare Commission.[1]

The AWIA excludes the use of force except in an emergency. Food and drink containing covert medication should never be given forcibly.

The practitioner primary responsibility for the individual's treatment has the ultimate responsibility to decide whether or not to authorise covert administration.

Medication Review

It is essential to consider the necessity of treatment, considering least restrictive options. Only medication that is considered essential should be given covertly. Medication reviews should be undertaken to ensure that non-essential medicines are not given covertly. This may involve consultation with other specialists and a medication review in line with the current NHS Scotland Polypharmacy Guidance.[3] Patients can be offered less essential medicines non-covertly and should be offered medicines they consent to taking, in the normal manner.

The benefits of administering medication covertly to an individual should be balanced by the risks of doing so e.g.

- Patient stops eating and drinking because they are put off by the taste of the medication in the food or drink (unpalatable)
- Patient stops eating and drinking because they become suspicious or paranoid of their food or drink, which can lead to an increased loss of trust
- Fluctuating dosing – medication isn't always consistently consumed
- Harm to staff e.g. crushing tablets and exposure to active ingredients
- Inadvertent administration to wrong patient
- Off-label/ unlicensed use of medications

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Covert Administration of Medication – Template for Administration Advice
Part A: Pharmacy Advice
and Part B: Covert Administration Care Plan

A pharmacist must always be consulted on appropriateness and method of covert administration of medication.

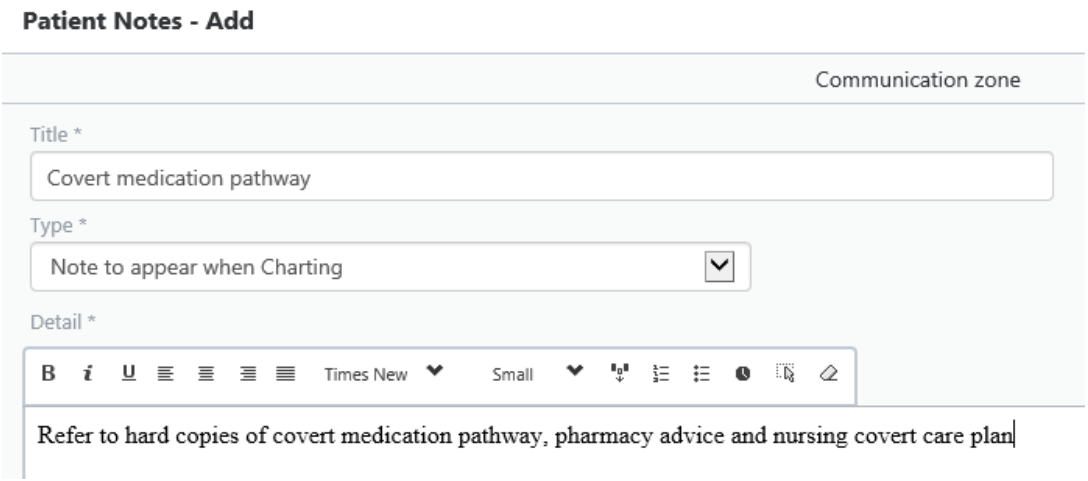
In hospital, advice should be sought from the clinical pharmacist working within the ward/ hospital. In community, advice should be accessed via the Locality Prescribing Support Team firstport2/staff-support/prescribing-support/prescribing-team-contacts

This advice should be given in a format that can be appended to the individual's covert medication pathway. A template for the provision of this advice is available on Firstport; Covert Administration of Medication - Template for Administration Advice

- Part A: Pharmacy advice - should be completed by **the pharmacist/accredited medicines information pharmacy technician.**.
- Part B: Covert Administration Care Plan - should be completed by **nursing staff or care provider.**

The Covert Administration Care Plan (part B) should be used to provide a clear plan for those administering medication covertly and should be based on the documented advice (part A) and tailored to the individual patient, detailing the precise food or drink each medicine is to be mixed with, to optimise patient acceptance e.g. flavour of yoghurt etc. and provide a uniformity to the way the medicine is given. The care plan will also be subject to review every time a new medication or formulation is commenced.

For inpatient wards using HEPMA, a note should be added to the patient's HEPMA record. This should be added as a 'Note to appear when charting', and will act as a prompt to refer to the hard copy of the pathway and care plan. This note will be visible to both prescribers when prescribing medication and to nursing staff on administration.



The hard copy of the covert pathway and administration care plan must be kept within a folder and readily accessible when prescribing or administering medication.

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Covert Medication Pathway Review

The individual's Covert Medication Pathway should be reviewed regularly to ensure it is still appropriate and in the best interests of the patient to continue to administer medicines covertly. The Mental Welfare Commission recommends that the initial review should be soon after covert administration is implemented to assess if it is having the intended benefits. The pathway includes a decision on the initial intended review date. This date should aim to give sufficient and appropriate time based on the individual patient's circumstances. The Covert Medication Pathway Review should be followed for initial and subsequent reviews. At the end of each review, the date for the next planned review should be decided and recorded.

If new medications are started, this should initiate a review.

Supporting documentation

Prior to initiation of covert medication, all paperwork should be fully completed and accessible to the team providing care to the patient.

- AWIA and/or MHA documentation
- Covert Medication Pathway Document
- Covert Medication Pathway Review Document
- Covert Administration of Medication - Template for Administration Advice
- For HEPMA inpatient wards – In addition to paperwork, add HEPMA note as detailed

References

1. Mental Welfare Commission for Scotland. Good Practice Guide: Covert Medication (2022) https://www.mwcscot.org.uk/sites/default/files/2022-05/CovertMedication-GoodPracticeGuide_2022.pdf

2. Mental Welfare Commission for Scotland. Good Practice guide: Consent to Treatment: A Guide for Mental Health Practitioners (2017) https://www.mwcscot.org.uk/sites/default/files/2019-06/consent_to_treatment_2018.pdf

3. NHS Scotland Polypharmacy: Manage Medicines https://www.polypharmacy.scot.nhs.uk/for-healthcare-professionals/

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