



**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD AND FAMILY SERVICES**

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**Manual Transmission Letter (MTL)
Family Programs Office: Statewide Child Welfare Policy Manual**

MTL # 0209-12282011
12/28/2011

TO: Lisa Ruiz-Lee, Acting Director - Clark County Department of Family Services
Paula Hammack, Acting Director-Clark County Department of Family Services
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FROM: Amber Howell, Deputy Administrator, Division of Child and Family Services

POLICY DISTRIBUTION:

Enclosed find the following policy for distribution to all applicable staff within your organization:
0209 Psychiatric Care and Treatment

This policy is/was effective: 03/01/2012

- This policy is new. Please review the policy in its entirety
- This policy replaces the following policy(s): MTL # 0209-012811 Policy Name: Use of Psychotropic Medication in Child Welfare Custody Children
- This policy has been revised. Please see below for the type of revision:
 - This is a significant policy revision. Please review this policy in its entirety.
 - This is a minor policy revision: (List page number & summary of change):
 - _____
 - A policy form has been revised: (List form, page number and summary of change):
 - _____

NOTE:

- Please read the policy in its entirety and note any areas that are additionally required by your agency to be in compliance with the policy enclosed.
- This is an **All STAFF MEMO** and it is the responsibility of the person listed above to disseminate the policy enclosed to appropriate staff within his/her organization and to ensure compliance.
- The most current version of this policy is posted on the DCFS Website at the following address: http://www.dcf.state.nv.us/DCFS_Policies_CW.htm. Please check the table of contents on this page for the link to the chapter you are interested in.

0209.0 Psychiatric Care & Treatment

0209.1 Policy Approval Clearance Record

<input checked="" type="checkbox"/> Collaborative Policy	This policy supersedes:	Number of pages in Policy: 11
Date Effective: 03/01/2012	0209 Use of Psychotropic Medication in Child Welfare Custody Children (1/28/11)	
PART Review & Approval	12/07/2011	Policy Lead: Dorothy Pomin, SSPS III
DMG Approval	12/16/2011	Policy Lead: Dorothy Pomin, SSPS III
DMG Approved Revisions		Policy Lead: _____
DMG Approved Revisions		Policy Lead: _____
DMG Approved Revisions		Policy Lead: _____
DCFS Administrator Approval:		Signature: _____
Review by Representative from the Office of the Attorney General:	08/2011	Signature: _____

0209.2 Statement of Purpose

0209.2.1 Policy Statement: The child welfare agency will nominate a *“person legally responsible for the psychiatric care of a child,”* for appointment by the Court, for any child entering custody or currently in custody with a prescription for psychotropic medication or who the child welfare agency determines may be in need of psychiatric care.

0209.2.2 Purpose: To ensure that a foster child has timely access to psychiatric services and clinically appropriate psychotropic medications. The *“person legally responsible for the psychiatric care of a child”* shall make the decisions to approve or deny the provision of psychiatric services, treatment, and psychotropic medications to a child.

0209.3 Authority

PL 112-34 Child and Family Services Improvement and Innovation Act
NRS 432B.197
2011 Senate Bill 371

0209.4 Definitions

0209.4.1 Emergency: A situation where the behavior or condition of a child requires immediate intervention to prevent harm to self or others as determined by a physician.

0209.4.2 Consent: Specific to this policy, any consent given by the person legally responsible for the psychiatric care of the child for psychiatric care, treatment or services and/or for psychotropic medication for the child must be in writing and on an approved form. Copies of written consent can be provided through the use of a facsimile, scanned and emailed as an attachment, sent through standard mail or provided in person. Verbal consent is not permissible per this policy.

0209.4.3 Informed Consent: Authorization for the administration of a psychotropic medication obtained through the person legally responsible for the psychiatric care of the child. The person giving consent understands the risks, benefits, alternatives of the treatment, side effects and has had the opportunity to ask questions.

(Informed consent may include specific information such as the diagnosis and target symptoms for the medication being prescribed; the benefits/intended outcome of treatment, and the risks and side effects of each medication; proposed course and length of treatment; alternatives to the

proposed medication treatment; the risks of not proceeding with the proposed treatment; the possibility that medication dosages may need to be adjusted over time in consultation with the medical practitioner; the right to actively participate in treatment by discussing medication concerns or questions with the medical practitioner; possible clinical indications to suspend or terminate treatment; the right to withdraw informed consent for medications at any time; the potential consequences of revoking the informed consent, etc.)

0209.4.4 **Off label:** A drug prescribed by a physician for conditions other than those indicated and approved by the United States Food and Drug Administration (FDA).

0209.4.5 **Psychotropic Medication:** Medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

0209.4.6 **State:** The Family Programs Office (FPO) at the Division of Child and Family Services (DCFS).

0209.5 Policy Requirements

0209.5.1 **Nomination and Appointment of Person Legally Responsible for the Psychiatric Care of a Child**

- A. If a child is under psychiatric care or has a prescription for a psychotropic medication upon entering the custody of the agency, or if the agency determines that a child may be in need of psychiatric care, the child welfare agency will nominate, pending appointment by a court, a person who is legally responsible for the psychiatric care of the child. A person nominated will be deemed to be the person who is legally responsible for the psychiatric care of the child pending approval by the court.
 1. The appointment of the person who is legally responsible for the psychiatric care of a child shall be the parent or legal guardian of the child unless the parent or legal guardian of the child is not able or willing to act as the person who is legally responsible for the psychiatric care of the child, otherwise the person may be:
 - a. The attorney for the child;
 - b. The guardian ad litem of the child;
 - c. The foster parent or other provider of substitute care for the child;
 - d. A relative to the child;
 - e. A fictive kin to the child;
 - f. An employee of the child welfare agency; or
 - g. Any other person who a court determines is qualified to carry out the duties and responsibilities of a person legally responsible for the psychiatric care of the child.
- B. During the period of time between the person being nominated by the child welfare agency as the person legally responsible for the psychiatric care of the child and actually being appointed by the court to this responsibility, this person can make decisions regarding the psychiatric care of the child with the following exception:
 1. If the child's parent(s) disputes a decision by the person nominated to be the person legally responsible for the psychiatric care of the child, no action can be taken on the decision regarding the psychiatric treatment until the parent(s)

2. rights are addressed through a court hearing. To ensure timely psychiatric treatment to the child, the child welfare agency must directly petition the court for appointment of the person legally responsible for the psychiatric care of the child. At such hearing, the parent(s) will have the right to address the court.
- C. The parent or legal guardian must be the person nominated unless their rights have been terminated or they are not able or willing to act as the person legally responsible for the psychiatric care of the child.
1. A parent would be considered able to act as the person legally responsible for the psychiatric care of a child, when the parent is:
 - a. Able to make appropriate decisions regarding the care of their child;
 - b. Able to attend the child's psychiatric appointments in person most of the time; able to be available by phone for the remainder of the child's psychiatric appointments;
 - c. Able to provide written consent for psychiatric care and treatment for the child and informed consent for the administration of psychotropic medications to the child;
 - d. Able to work in collaboration with the caseworker and substitute care provider for the child;
 - e. Demonstrate that they understand the best interests of their child.
 2. A parent would be considered willing to act as the person legally responsible for the psychiatric care of a child, when the parent is:
 - a. Actively working their case plan;
 - b. Demonstrating their willingness to engage in their child's daily life;
 - c. Willing to learn about their child's mental and behavioral health needs;
 - d. Willing to attend the child's psychiatric appointments in person most of the time; willing to be available by phone for the remainder of the child's psychiatric appointments;
 - e. Willing to educate themselves about the risks and benefits of psychotropic medication through asking questions about these medications to the child's prescribing physician.
 - f. Willing to procure psychiatric appointments that work for both the parent's and substitute care provider's schedule.
 - g. Willing to find transportation to attend the child's appointments.
 - h. Willing to fulfill all duties and responsibilities of the person legally responsible for the psychiatric care of the child as outline in *FPO 0209B: Duties and Responsibilities of the Person Legally Responsible for the Psychiatric Care of the Child*.
 3. If the child's parent or legal guardian is not able or willing to act as the person legally responsible for the psychiatric care of the child and the case plan's permanency goal is reunification, the child welfare agency will work toward assisting the parent or legal guardian to build their parental capacity to act as the person legally responsible for the psychiatric care of the child. When the child's parent or legal guardian demonstrates they are able and willing to act as the person legally responsible, the child welfare agency will nominate the parent and submit a new petition to the court for the appointment of the parent or legal guardian.

- D. In certain cases, it may be beneficial to nominate two persons. Whenever possible, the child's parent is to be nominated and appointed as the primary person legally responsible for the psychiatric care of the child. However, a secondary person could be nominated and appointed as a backup/secondary person legally responsible for the psychiatric care of the child and step in, if necessary, should the child's parent becomes unable or unwilling to act as the person legally responsible for the psychiatric care of the child.
 - 1. The child welfare agency must use caution if nominating more than one person, as the law creating "the person legally responsible for the psychiatric care of the child" is intended to reduce confusion regarding who is responsible for making such decisions and providing informed consent for the child. Nominating a secondary person who has a conflicting opinion with the child's parents may undermine the process that the law is meant to remedy.
- E. After nominating a person who is legally responsible for the psychiatric care of a child, the child welfare agency shall petition the court for the appointment of this person.
- F. The responsibilities of the person legally responsible for the psychiatric care of a child terminate upon entry of an order establishing a guardianship of the child pursuant to NRS 432B.4665 or upon the child's discharge from child welfare custody.

0209.5.2

Duties of the Person Legally Responsible for the Psychiatric Care of a Child. The person nominated needs to be able to serve the best interests of the child and must be willing and able to:

- 1. Procure and provide oversight for all psychiatric care of the child:
 - a. Notify the child welfare agency, the parent/legal guardian and the foster parent at least one (1) week in advance of any psychiatric appointments or psychotropic medication reviews for the child. In the event an appointment is scheduled that occurs in less than one week, notice must be given the same day the appointment is scheduled. Unless a court order prohibits a parent or legal guardian from attending an appointment, they may attend each appointment of the child. Notification to include:
 - The date, time and location of any appointments;
 - b. Make all decisions relating to the approval or denial of psychiatric care and treatment;
 - c. Approve or deny the administration of psychotropic medications to the child.
- 2. To the extent that such information is available, maintain current information concerning the medical history of the child, including, without limitation:
 - a. All known allergies
 - b. Past and current illnesses and treatments;
 - c. Past and current psychiatric history and treatments;
 - d. Past and current psychiatric history of the family of the child;
 - e. Any other information which is necessary to make decisions relating to the psychiatric care of the child.
- 3. Maintain current information concerning the emotional, behavioral, educational and related needs of the child.

4. Attend each appointment of the child to receive psychiatric care or be available by telephone to discuss the appointment with the medical professional qualified in psychiatric mental health.
5. If the person legally responsible for the psychiatric care of the child is not the child's parent, the person legally responsible for the psychiatric care of the child must make reasonable efforts to consult with the child's parent regarding any psychiatric care and treatment for the child and have the parent also sign the required consent forms, whenever possible.

0209.5.3 Psychiatric Services & Treatment

- A. The person who is legally responsible for the psychiatric care of a child is the only person who can provide written consent or denial for each psychiatric service and/or course of routine treatment for the child. Routine treatment can be approved for a specific time period or for a certain number of sessions through a single written consent that identifies the length of such routine psychiatric treatment. This consent is required prior to a child seeing a psychiatrist, even when such a visit is specific only to medication assessment/initiation and/or medication management.
 1. Requirement of written consent for psychiatric care, treatment or routine care to include:
 - a. The name and address of the person with whom the child currently resides or the name and address of the institution where the child currently resides;
 - b. The name of the person legally responsible for the psychiatric care of the child;
 - c. The name of the medical professional qualified in psychiatric mental health treating the child;
 - d. The date, time and location of the appointment and, if the consent is for routine care, the frequency and duration of the appointments;
 - e. If the person legally responsible for the psychiatric care of the child does not attend an appointment, a written statement that the person is aware of and is available to discuss the appointment and the treatment recommended for the child with the medical professional.

0209.5.4 Psychotropic Medication

The "person legally responsible for the psychiatric care of a child" responsibilities regarding psychotropic medication are:

- A. Attendance at or availability by telephone for all appointments of psychiatric care, to include psychiatric medication review appointments.
- B. Prior to providing informed consent for the use of psychotropic medications within the below circumstance, the person legally responsible for the psychiatric care of a child shall ensure that the use of these medications best meets the treatment needs of the child.
 1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that

- has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved (“off label” use);
2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;
 3. The concurrent use by a child of three or more classes of psychotropic medication; and
 4. The concurrent use by a child of two psychotropic medications of the same class.
- C. Approval or denial to administer a psychotropic medication to the child must be based upon the fundamentals of informed consent. Fundamental information to include:
1. The diagnosis and target symptoms for the medication(s) being prescribed.
 2. The medication(s) risks, side effects, benefits and treatment alternatives.
 3. The proposed course and length of treatment.
 4. The possibility that medication dosages may need to be adjusted over time in consultation with the medical practitioner.
 5. The intended outcome of treatment.
 6. Possible clinical indications to suspend or terminate treatment.
 7. The right to withdraw informed consent at any time and the potential consequences of such action.
- D. Upon approving a psychotropic medication for the child, provide written informed consent to the physician. Also provide copies of the informed consent to the child welfare agency and the child’s foster parent or substitute care provider for the administration of the psychotropic medication. The written consent must include:
1. The name of the child;
 2. The name, address and telephone number of the person legally responsible for the psychiatric care of the child;
 3. The medication name, purpose, effect of the medication on the child, and the expected time frame for improvement;
 4. The dosage and times the medication may be administered to the child;
 5. The expected duration of the course of treatment for the medication;
 6. A description of the possible risks, side effects, interactions with other medications or foods, and potential complications of the medication.
- E. If denying the use of the psychotropic medication, provide documentation of the denial to the child welfare agency.

- F. Withdrawal of prior consents at any time for a psychotropic medication, after consideration of the clinical implications and potential consequences of such action.
- G. Exceptions: Circumstances that may permit an exception to this consent policy would include:
 - 1. A foster parent or other provider of substitute care for a child may administer a psychotropic medication to a child without obtaining consent from a person who is legally responsible for the psychiatric care of the child if:
 - a. The child has a prescription for a psychotropic medication upon entering the custody of the child welfare agency and the agency allows the continuation of administering the psychotropic medication in accordance with that prescription; or
 - b. A physician determines that an emergency exists which requires the immediate administration of a psychotropic medication before consent may be obtained from the person who is legally responsible for the psychiatric care of the child. The agency which provides child welfare services shall obtain documentation, which may include an incident report or other documentation which demonstrates that an emergency existed, regarding the circumstances surrounding the emergency administration of the psychotropic medication.
 - The child welfare agency must make reasonable efforts to promptly notify the parent(s) or legal guardian and the person legally responsible for the psychiatric care of the child regarding the emergency administration of psychotropic medication.

0209.5.5 Child Welfare Agency Responsibilities

- A. **Identification of children:** To identify all children in child welfare custody prescribed psychotropic medication, ensure they have been appointed a person legally responsible for the psychiatric care of the child and track their use of psychotropic medications and overall wellbeing.
 - 1. If a child is currently taking psychotropic medication and written consent has not yet been obtained from the person legally responsible for the psychiatric care of the child, the agency must ensure the written consent is obtained in an expeditious manner from the person legally responsible for the psychiatric care of the child. In addition, a copy of the written consent must be provided to the substitute caregiver to ensure the child's psychotropic medication regime is not disrupted.
 - a. Psychotropic medication must not be discontinued abruptly unless it has been determined safe to do so by a physician.
- B. **Foster Parent / Substitute Care Provider Notification:** The foster parent or other provider of substitute care for a child is to be notified not to administer a psychotropic medication to the child unless:
 - 1. The person who is legally responsible for the psychiatric care of the child has consented to the administration of the medication and has provided them written consent; and
 - 2. The psychotropic medication is administered in accordance with the consent of the person who is legally responsible for the psychiatric care of the child.
- C. **Psychiatric Assessment/Evaluation and Psychiatric Services:** Through collaboration with the person legally responsible for the psychiatric care of the child,

ensure each child receives the necessary psychiatric assessment and/or evaluation and psychiatric services to meet their individual needs.

- D. The child welfare agency must provide the person nominated and appointed as the person legally responsible for the psychiatric care of the child a copy of the *0209 Psychiatric Care & Treatment Policy, 0209D Duties and Responsibilities of Person Legally Responsible for the Psychiatric Care of the Child* and any internal policies of the child welfare agency regarding psychiatric care of the child.

0209.5.6 Oversight & Review Process:

To ensure a child's health, safety and well being, each child welfare agency shall establish a process for review and oversight of psychotropic medications used by children in child welfare custody; to include, but not limited to:

- A. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved ("off label" use);
- B. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;
- C. The concurrent use by a child of three or more classes of psychotropic medication; and
- D. The concurrent use by a child of two psychotropic medications of the same class.

The child welfare agency will track and monitor children being administered psychotropic medications within the above circumstance to ensure that the use of these medications best meet the treatment needs of the child.

- E. A child welfare agency will not allow the administration of a psychotropic medication to a child in the custody of the agency unless:
 - 1. The person who is legally responsible for the psychiatric care of the child has consented to the administration of the medication; and
 - 2. The psychotropic medication is administered in accordance with the consent of the person who is legally responsible for the psychiatric care of the child, or
 - 3. It meets the exceptions of section 0209.5.4.G of this policy.
- F. **Ongoing Monitoring of Child:** The child welfare agency must establish a process to adequately monitor the child's ongoing physical and mental progress in response to psychotropic medications to assure their health, safety and physical and mental well being.
- G. **Quarterly Review:** At least quarterly, the child welfare agency will review internal records and/or documentation for each child administered a psychotropic medication to determine whether the medication is being administered in accordance with NRS 432B.197, NRS 432B.4675 and this policy.

0209.5.7 Prohibition:

Psychotropic medication use is prohibited for discipline, coercion, retaliation, convenience of staff or as a substitute for appropriate clinical or therapeutic treatment services.

0209.5.8 Timelines:

Table 0209.1: Timelines for Psychotropic Medication Policy Requirements

Requirement	Deadline	Starting Date	Responsible Party	Actions to be Taken
Consent for administering psychotropic medication	Within 5 working days of the doctor visit; or if there are extenuating circumstances, it must be documented.	Same	Same	Documented consent must be received prior to administering psychotropic medications to the child (except as noted in 0209.5.1.F).
Review of psychotropic medications.	Quarterly review	Same	Same	All medication used for psychotropic purposes must be identified by brand/ generic name and reviewed in compliance with this policy.
Monitoring child	Upon identification of child being prescribed psychotropic medication.	Same	Same	

0209.6 Child Welfare Agency Action

0209.6.1 Development of Internal Policies: Each child welfare agency must establish and implement policy regarding psychotropic medication that meets the requirements of this policy. The policy must determine the process for timely access, review and monitoring of psychotropic medication use in child welfare custody children.

0209.6.2 Timelines:

Table 0209.2: Timelines for Child Welfare Agency Policy Development

Requirement	Deadline	Starting Date	Responsible Party	Actions to be Taken
Comply with requirement of 0209 Psychiatric Care & Treatment	60 days	Upon DCFS notification (MTL) to child welfare agencies of policy implementation.	Child welfare agencies' director or designee.	Establish and implement policy in compliance with all requirements of this policy

0209.6.3 Tools & Forms:

A. Child welfare agencies may use:

1. FPO 0209A Psychotropic Medication Consent; or may create a form that meets the requirements of this policy. and
2. FPO 0209B Psychiatric Services Consent

3. FPO 0209C Psychotropic Medication Worksheet

0209.6.4 Documentation:

A. Case File Documentation (paper):

Table 0209.2: Case File Documentation for Psychotropic Medication Policy

File Location	Data Required
Case File	Consents Psychiatric and/or Psychological Assessments

B. UNITY Documentation (electronic):

Table 0209.3: UNITY Documentation for Psychotropic Medication Policy

Applicable UNITY Screen	Data Required
CFS-070 Health Information	List of Psychotropic Medications Medication start & end dates Adverse reactions or side effects of specific medication

0209.6.5 Supervisory Responsibility:

Supervisors are responsible to ensure:

- A. Consent is secured prior to a child being treated with psychotropic medications;
- B. The required review process is followed regarding psychotropic medication(s) based upon the requirements of this policy;
- C. Psychotropic medications are documented in UNITY and tracked for compliance with this policy.

0209.7 State Responsibilities

0209.7.1 Participants in Policy Development

- A. **DCFS Staff:** **FPO** - Dorothy Pomin, Jill Marano; **DCFS Rural** – Ted Tusso; **DCFS MH** – Kelly Wooldridge, Ann Polakowski; Katherine Mayhew
- B. **Jurisdictional Representatives:** **CCDFS** - Joy Ifill, Jolie Courtney, Amanda Spletter; Carol Martin **WCDSS** – Jeanne Marsh, Chris Empey, Jesse Brown; Joe Haas
- C. **External Stakeholders:** **Mohave (L.V.)** – Anne Marie Abruscato, Kitty Olson, Dr. Kalinowski; Cindy Dietrick **Maple Star** – Barbara de Castro, **SAFY** - Valerie Tines-Braggs

0209.7.2 Technical Assistance

N/A

0209.7.3 State Oversight

- A. The state shall have the responsibility to ensure that all child welfare agencies are provided a copy of, and understand the requirements of policy 0209.0 Use of Psychotropic Medication in Child Welfare Custody Children.

0209.8 Policy Cross Reference

0209.8.1 Policies: 0207 Health Services Policy

0209.9 Attachments

0209.9.1 Forms

FPO 0209A: Medication Administration Informed Consent

FPO 0209B: Psychiatric Services Consent

FPO 0209C: Psychotropic Medication Worksheet

FPO 0209D: Duties and Responsibilities of Person Legally Responsible for the Psychiatric Care of the Child