



INFOGUIDE

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COVERT MEDICATION (Medication Hidden in Food or Drink)

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What does the term "covert medication" mean?

- Covert medication refers to medication that is hidden in food or beverages. The covert administration of medication is the practice of hiding medication in food or beverages so that it will be undetected by the person receiving the medication. Pills may be crushed or medication in liquid form may be used.
- This practice exclusively applies to individuals who are not capable of consenting to treatment. It is intended to ensure that individuals refusing treatment as a result of their illness will have access to effective medical treatment. Those who are in favor of this approach argue that it is far less intrusive than administering injectable medication by physically restraining a person who does not want to be medicated.

Does someone have to consent to the use of covert medication?

- Yes. All treatment in the province of Ontario requires informed consent. A capable individual has the right to decline treatment, even if this decision may negatively affect his or her health or otherwise reduce his or her life span.
- If you have been found to be incapable of consenting to treatment, your substitute decision-maker (SDM) will make a treatment decision on your behalf. When making a decision on your behalf your SDM must take into account your wishes before you were found incapable. If you did not express any wishes regarding treatment your SDM must make a decision based on what is in your best interest.

- To make an informed decision regarding your treatment, your SDM must consider:
 1. The nature of the treatment: what it is and what it involves.
 2. The expected benefits of the treatment.
 3. The potential or likely risks of the treatment.
 4. The potential or likely side effects of the treatment.
 5. Other treatments or therapies that may be available to you.
 6. What could happen to you if the treatment is not given.

On what legal authority can they administer covert medication?

- When someone is found incapable, a substitute decision-maker is legally empowered to make treatment decisions on that person's behalf. It could be argued that as long as the legislated guidelines for substitute decision-making are adhered to, the physician proposing treatment could be authorized by the SDM to administer medication in this way.

Does the treatment team have to tell me if they treating me with covert medication?

- No. While the SDM and members of the clinical team will know that medication is being administered covertly, you will not be informed. It may be that physicians and nurses are bound by their professional ethics to disclose this practice if you ask them directly whether you are being treated in this way. However, there do not appear to be specific practice guidelines dealing with covert medication for either the College of Nurses of Ontario or the College of Physicians and Surgeons of Ontario. The PPAO has raised this issue with both colleges in the hope that practice guidelines will be considered.

Does a mental health facility have to have a policy regarding the use of covert medication?

- No, not necessarily. It is good practice for a facility using this practice to develop a policy that addresses this special situation. However, there is nothing that compels a hospital to develop such a policy. Any policy that is developed must be consistent with existing, relevant legislation (the *Health Care Consent Act*, the *Substitute Decisions Act*).

Do I have to be informed of the policy prior to the use of covert medication?

- It is reasonable to expect that patients would be advised of the existence of any policy guiding the covert use of medication, as well as any guidelines governing this practice. However, this information may only be provided if

requested and there is no requirement that facilities notify patients of the possibility of medication being administered covertly.

Must staff document in my record of personal health information that they have administered the medication in this manner?

- Given the exceptional nature of this practice, it is reasonable to assume that clinical staff would document its use. Ideally, in this circumstance your record should include:
 1. Evidence of discussion with the clinical team.
 2. A statement of the reasons for the use of covert medication in the plan of care.
 3. A list of those who participated in the decision to administer medication in this way.

Different facilities have different guidelines for the development and documentation of care plans.

If I find that covert medication has been used can I make a complaint to the College of Nurses or the College of Physicians and Surgeons?

- Yes, there is nothing to stop you from lodging a complaint if you become aware that you are being treated in this way. However, it is not clear how either college will respond to complaints of this nature. There are currently no specific policies or directives guiding this process for either college. Likely, other policies related to treatment and the therapeutic relationship will be taken into consideration.

Are there any ethical issues around the use of "covert medication"?

- Yes. As a rule incapable individuals are informed when their SDM has consented to treatment on their behalf. When medication is hidden to prevent its detection this is not the case. This practice may challenge professional and individual moral principles since it may be seen as involving deception.
- The doctor-patient relationship is built on mutual trust and respect. Physicians and other healthcare providers are guided by the principle of protecting patients from harm and promoting well being. They are also guided by the principle of doing no harm. A physician (and other healthcare providers) would need to reconcile the potential risks of this approach with the expected benefits. This practice could damage the trust between a patient and clinical team members who may have supported or participated in this process.

Are there any treatment issues relating to the use of covert medication?

- Yes. A patient's experience in taking a particular medication is important in deciding whether a treatment is effective and should be continued or whether

it should be stopped. An individual receiving covert medication will not be able to report on side effects that may be experienced. Your physician and clinical team will have to rely on other sources of information to answer questions regarding the effectiveness and potential side effects of medication administered covertly. Your physician may also need to consult with the pharmacist to determine if there are any potential interactions between foods or beverages and the proposed medication.

- The clinical team should consider how information will be shared with you if and when you become capable again of consenting to your treatment, and the long-term effects of this approach on your care and treatment.

Can I challenge this practice?

- The very nature of this practice makes it difficult to challenge because medication is being administered without your knowledge. If you suspect you are being medicated in this way, you could ask your clinical team directly. This might compel them to disclose whether they are using covert medication due to ethical and practice guidelines discussed earlier. Alternatively, requesting access to your clinical record could provide information on whether medication is being administered covertly. However, there are circumstances that could limit your access to your clinical record and you may not be able to view your personal health information in a timely manner.
- Should you become aware of this practice, it will likely be important to review your concerns with your physician and clinical team, especially if you feel your treatment relationship has been compromised, and your rights potentially violated.

Questions?

If you have questions contact your local Patient Advocate or call the central office of the Psychiatric Patient Advocate Office at 1-800-578-2343.