Morecambe Bay NHS
Primary Care Trust

Final Draft

Covert Administration of Medicines Policy and Procedure

1. Policy

1.1 Why?

The Nursing and Midwifery Council has recognised there will be instances where it is appropriate to administer medication covertly to clients or patients.

"As a general principle, by disguising medication in food or drink, the patient or client is being led to believe that they are not receiving medication, when in fact they are. The registered nurse, midwife or health visitor will need to be sure that what they are doing is in the best interest of the patient or client, and be accountable for this decision".

The need for covert administration of medication is a practice which needs careful consideration, and should not become common practice.

There are occasions when a person, for whatever disability, cannot give consent. This may be a short-term situation, or indeed may last many years.

Conventional methods of administration of medicines include the form of medication and bodily routes of administration.

In some cases the patient or client may have indicated consent or refusal at an earlier stage, while still competent. Where the patients or clients wishes are known, practitioners should respect them. Such a view may have been expressed orally or in writing as 'advance directives' as living wills *(see appendix 2 – definition 1)*.

1.2 Who?

All staff who administer medication

1.3 When? (Criteria)

The policy applies to patients/clients who require some form of medication where:

I. All attempts at conventional methods of administration have been unsuccessful
II. Person to receive medication cannot, or will not give consent
III. Covert administration of medication is believed to be in the best interests of the patient or client

In the 'situation' above, if all criteria apply, then the following procedure should be initiated.

2. Procedure

2.1 How?

I. Complete 'consent form 4 – when treatment can be given to a patient who is unable to consent' – refer to 'guidance' *(see appendix 1)*

II. To complete consent form 4, a minimum of 2 appropriate professionals must be signatories to the document. Wherever possible, both signatures will be of a different health professional group from the following:

- Nurses
- GPs
- Consultants
- Allied Health Professionals *(including pharmacists)*

- ***A relative, or recognised advocate should be invited to sign the consent form in addition to the professional signatories. If this invitation is refused, then a note should be recorded to reflect this.***

III. To ensure Best Practice and promote compliance, professionals should involve user, family, friends and / or advocate wherever possible and it is reasonably practicable.

IV. The method of administration must be agreed with the pharmacist.

V. The care team will clarify the position, if necessary with the Trust's legal representatives, where possible, before treatment is commenced.

VI. Make a record in the Care Plan of the following:

- The decision to pursue this procedure
- Reason for procedure
- The initial review, *(within one week of the decision to pursue the procedure, including who will co-ordinate this)*
- Review dates *(arranged at the initial review –see appendix 2, definitions 2)*
- Place a copy of the 'Consent Form 4' in the client's notes *(see appendix 4)*
- Method / dose of administration

****If at any time, any of the criteria set out above in Consent Form 4 Sections B or C change, then a review must be set up immediately and the process re-initiated.***

Policy statement agreed by: ..... ***e.g. Clinical Governance Group***

Signed on behalf of Primary Care Trust by: ..... **e.g. Clinical Lead**

Date: ..... **Review Date** .....

How policy will be communicated to staff .....

.....

Appendix 1

Guidance on completion of 'Consent Form 4' for adults who are unable to consent to investigation or treatment in relation to 'Covert Administration of Medicines'

PAGE	HEADING	ITEM	ACTION
1	**PATIENT DETAILS**	**Responsible Health Professional**	*Name minimum of 2 persons*
2	**SECTION A**	**Details of procedure or course of treatment proposed**	*Include the following*: 1-Medication Prescribed Frequency Routes Dose Form 2-Covert Administration Method Crushed Method of disguise Diluted Other (specify)
	SECTION B	**Assessment of patient's capacity**	*Tick appropriate box*
	SECTION C	**Assessment of Patient's best interests**	*Needs to include consideration of the following:* Treatment must be necessary to save life or Prevent deterioration or Ensure an improvement in the patient's physical health or Ensure an improvement in the patient's mental health Or Ensure the safety of others
3	**SECTION D**	**Involvement of the patient's family and others close to the patient**	*Seek signature if they wish*

Appendix 2
References

- UKCC Position Statement on the Covert Administration of Medicines – Disguising Medicine in Food and Drink – September 2001
- UKCC Register 33, Autumn 2000 – page 7
- Nursing & Midwifery Council, Guidelines for the Administration of Medicines – April 2002
- Primary Health Care Vol.II, No 8, October 2001 – p24.25 – Hiding medicines
- HSC 2001/2003, 22 November 2 01– Good Practice in Consent

Appendix 3

Definitions

1. Advance statement – a statement concerning his/her treatment wishes by a person over 18 years of age and of full capacity made in advance of his/her incapacity or detention

   - a statement made by a person who understands the implications of their requests and sets out how they wish to be treated in the event that they become mentally incapacitated.

2. Reviews should be:
   - made by the multi-disciplinary care team
   - an initial review should take place 1 week after the decision
   - the decision will then be reviewed monthly

   However, there may be exceptional circumstance, which dictate otherwise. In such instances, decision and justification must be fully documented.

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Form for adults who are unable to consent to investigation or treatment

consent form 4

Patient details (or pre-printed label)

Patient's surname/family name……

Patient's first name……..

Date of birth……..

Responsible health professional……

Job title……..

NHS number (or other identifier)……...

Male ☐ Female ☐

Special requirements……
(eg other language/other communication method)

To be retained in patient's notes

Patient identifier/label

All sections to be completed by health professional proposing the procedure

A. Details of procedure or course of treatment proposed

……
……
……
……
……
……
……

(NB see guidance to health professionals overleaf for details of situations where court approval must first be sought)

B. Assessment of patient's capacity

I confirm that the patient lacks capacity to give or withhold consent to this procedure or course of treatment because:

☐ the patient is unable to comprehend and retain information material to the decision;

and/or

☐ the patient is unable to use and weigh this information in the decision-making process; or

☐ the patient is unconscious

Further details (excluding where patient unconscious): for example how above judgements reached; which colleagues consulted; what attempts made to assist the patient make his or her own decision and why these were not successful.

C. Assessment of patient's best interests

To the best of my knowledge, the patient has not refused this procedure in a valid advance directive. Where possible and appropriate, I have consulted with colleagues and those close to the patient, and I believe the procedure to be in the patient's best interests because:

……
……
……
……
……
……
……

(Where incapacity is likely to be temporary, for example if patient unconscious, or where patient has fluctuating capacity)

The treatment cannot wait until the patient recovers capacity because:

……
……
……
……
……

D Involvement of the patient's family and others close to the patient
The final responsibility for determining whether a procedure is in an incapacitated patient's best interests lies with the health professional performing the procedure. However, it is good practice to consult with those close to the patient (e.g. spouse/partner, family and friends, carer, supporter or advocate) unless you have good reason to believe that the patient would not have wished particular individuals to be consulted, or unless the urgency of their situation prevents this. "Best interests" go far wider than "best medical interests", and include factors such as the patient's wishes and beliefs when competent, their current wishes, their general well being and their spiritual and religious welfare.

(to be signed by a person or persons close to the patient, if they wish)

I/We have been involved in a discussion with the relevant health professionals over the treatment of…….**(patient's name). I/We understand that he/she is unable to give his/her own consent, based on the criteria set out in this form. I/We also understand that treatment can lawfully be provided if it is in his/her best interests to receive it.**

Any other comments (including any concerns about decision)
Name…….. Relationship to patient……..
Address (if not the same as patient)……
……
……
Signature……..Date……

If a person close to the patient was not available in person, has this matter been discussed in any
other way (eg over the telephone?)

Yes . ☐ No ☐

Details:……
……
……
……
……

Signature of health professional proposing treatment

The above procedure is, in my clinical judgement, in the best interests of the patient, who lacks capacity to consent for himself or herself. Where possible and appropriate I have discussed the patient's condition with those close to him or her, and taken their knowledge of the patient's views and beliefs into account in determining his or her best interests.
I have/have not sought a second opinion.
Signature…….Date……
…….
Name
(PRINT)……..
Job
title……..

Where second opinion sought, s/he should sign below to confirm agreement:
Signature…….Date……
Name (PRINT)……..
Job title……..

Consent form 4

Guidance to health professionals (to be read in conjunction with consent policy)

This form should only be used where it would be usual to seek written consent but an adult patient (18 or over) lacks capacity to give or withhold consent to treatment. If an adult **has** capacity to accept or refuse treatment, you should use the standard consent form and respect any refusal. Where treatment is very urgent (for example if the patient is critically ill), it may not be feasible to fill in a form at the time, but you should document your clinical decisions appropriately afterwards. If treatment is being provided under the authority of Part IV of the *Mental Health Act 1983,* different legal provisions apply and you are required to fill in more specialised forms (although in some circumstances you may find it helpful to use this form as well). If the adult now lacks capacity, but has clearly refused particular treatment in advance of their loss of capacity (for example in an advance directive or 'living will'), then you must abide by that refusal if it was validly made and is applicable to the circumstances. For further information on the law on consent, see the Department of Health's *Reference guide to consent for examination or treatment* (www.doh.gov.uk/consent).

When treatment can be given to a patient who is unable to consent
For treatment to be given to a patient who is unable to consent, the following **must** apply:
• the patient must lack the capacity ('competence') to give or withhold consent to this procedure AND
• the procedure must be in the patient's best interests.

Capacity
A patient will lack capacity to consent to a particular intervention if he or she is:

- unable to comprehend and retain information material to the decision, especially as to the consequences of having, or not having, the intervention in question; and/or
- unable to use and weigh this information in the decision-making process.

Before making a judgement that a patient lacks capacity you must take all steps reasonable in the circumstances to assist the patient in taking their own decisions (this will clearly not apply if the patient is unconscious). This may involve explaining what is involved in very simple language, using pictures and communication and decision-aids as appropriate. People close to the patient (spouse/partner, family, friends and carers) may often be able to help, as may specialist colleagues such as speech and language therapists or learning disability teams, and independent advocates or supporters. Capacity is 'decision-specific': a patient may lack capacity to take a particular complex decision, but be quite able to take other more straight-forward decisions or parts of decisions.

Best interests
A patient's best interests are not limited to their best medical interests. Other factors which form part of the best interests decision include:

- the wishes and beliefs of the patient when competent
- their current wishes
- their general well-being
- their spiritual and religious welfare

Two incapacitated patients, whose *physical* condition is identical, may therefore have different best interests. Unless the patient has clearly indicated that particular individuals should not be involved in their care, or unless the urgency of their situation prevents it, you should attempt to involve people close to the patient (spouse/partner, family and friends, carer, supporter or advocate) in the decision-making process. Those close to the patient cannot require you to provide particular treatment which you do not believe to be clinically appropriate. However they will know the patient much better than you do, and therefore are likely to be able to provide valuable information about the patient's wishes and values.

Second opinions and court involvement
Where treatment is complex and/or people close to the patient express doubts about the proposed treatment, a second opinion should be sought, unless the urgency of the patient's condition prevents this. Donation of regenerative tissue such as bone marrow, sterilisation for contraceptive purposes and withdrawal of artificial nutrition or hydration from a patient in PVS must never be undertaken without prior High Court approval. High Court approval can also be sought where there are doubts about the patient's capacity or best interests.

Covert Administration of Medication Policy