**Section 299.340 Medical Care**

a) Emergency medical care shall be available to residents 24 hours per day, seven days per week.

b) Residents shall be informed of the facility procedures for obtaining medical or dental services.

c) Persons housed at a secure residential facility shall be provided all necessary medical and dental treatment, with the consent of the parent or guardian where applicable, as prescribed by a facility physician or dentist.

d) A resident who has, or is suspected of having, a communicable disease may be isolated from other residents. This determination shall be made by a physician or medical professional on the basis of medical necessity.

e) In case of critical illness or major surgery, the Program Director shall attempt to notify the person designated by the resident to be contacted in case of an emergency and, when applicable, the parent or guardian.

f) A record of all medical and dental examinations, findings and treatment shall be maintained in the resident's medical file.

g) Administration of Psychotropic Medication

1) Psychotropic medication shall not be administered to any resident without the informed consent of the resident or guardian unless:

A) A psychiatrist or, in the absence of a psychiatrist, a physician has determined that:

i) the resident suffers from a serious mental illness or mental disorder;

ii) the administration of psychotropic medication is in the immediate medical interest of the resident; and

iii) the resident is either gravely disabled or poses an immediate threat of harm to self or others; or

B) The administration of psychotropic medication has been approved by the Treatment Review Committee after a hearing (see subsection (h)). However, no such approval or hearing shall be required when the medication is administered in an emergency situation. An emergency situation exists when the required determinations listed in subsection (g)(1)(A) have been made.

2) Whenever a physician orders the administration of psychotropic medication to a resident in an emergency, the physician shall document in the resident's medical file the facts and underlying reasons supporting the determination that the standards in subsection (g)(1)(A) of this Section have been met.

A) The Program Director shall be notified as soon as practicable.

B) The Chairperson of the Treatment Review Committee shall be notified in writing within three working days.

h) Treatment Review Committee Hearing Procedures

1) The Treatment Review Committee shall be comprised of three members appointed by the Program Director, two of whom shall be mental health professionals and one of whom shall be a physician. One member shall serve as Chairperson of the Committee. None of the Committee members may be involved in the current decision to order the medication. The members of the Committee shall have reviewed this Part and shall be familiar with the procedures created in this Part.

2) The Program Director shall designate a medical professional not involved in the current decision to order psychotropic medication to assist the resident. The assigned medical professional shall have reviewed this Part.

3) The resident and assigned medical professional shall receive written notification of the time and place of the hearing at least 24 hours in advance. The notification shall include the tentative diagnosis and the reasons why the medical staff believes the administration of psychotropic medication is in the best interests of the resident, absent the resident's informed consent to administration of the medication. The assigned medical professional shall meet with the resident prior to the hearing to discuss the procedural and mental health issues involved.

4) The resident shall have the right to attend the hearing unless the Committee determines that it is likely that the person's attendance would subject him/her to substantial risk of serious physical or emotional harm, pose a threat to the health or safety of others, or threaten the overall security of the facility. If such a determination is made, the facts and underlying reasons supporting the determination shall be documented in the resident's medical file. The assigned medical professional shall appear at the hearing regardless of whether the resident appears.

5) The documentation in the medical file referred to in subsection (g)(2) shall be reviewed by the Committee and the Committee may request the psychiatrist's/physician's personal appearance at the hearing.

6) Prior to the hearing, witnesses identified by the resident and the assigned medical professional may be interviewed by the assigned medical professional after consultation with the resident as to appropriate questions to ask. Any such questions shall be asked by the assigned medical professional unless the question is cumulative or irrelevant, or would pose a threat to the safety of others or the security of the facility.

7) Prior to the hearing, the resident and the assigned medical professional may request in writing that witnesses. be interviewed by the Committee and may submit to the Chairperson of the Committee written questions for witnesses. These questions shall be asked by the Committee unless the question is cumulative or irrelevant, or would pose a threat to the health or safety of others or the overall security of the facility. If any witness is not interviewed, a written reason shall be provided.

8) Prior to the hearing, the resident and the assigned medical professional may request in writing that witnesses appear at the hearing. Any such request shall include an explanation of what the witnesses are expected to state. Reasonable efforts shall be made to have the witnesses present at the hearing, unless their testimony or presence would be cumulative or irrelevant, or would pose a threat to the health or safety of others or the overall security of the facility, or for other reasons including, but not limited to, unavailability of the witness or matters relating to facility order. In the event requested witnesses are unavailable to appear at the hearing but are otherwise available, they shall be interviewed by the Committee as provided for in subsections (h)(7) and (9) through (10).

9) At the hearing, the resident and the assigned medical professional may make statements and present documents that are relevant to the proceedings. The assigned medical professional or resident may direct relevant questions to any witnesses appearing at the hearing. The resident may request that the assigned medical professional direct relevant questions to any witnesses appearing at the hearing. The assigned medical professional shall ask those questions unless the question is cumulative or irrelevant, or would pose a threat to the health or safety of others or the overall security of the facility.

10) The Committee shall make such inquiry as it deems necessary. The assigned medical professional and resident shall be informed of any inquiry conducted by the Committee and shall be permitted to direct relevant questions to any witnesses interviewed by the Committee. The assigned medical professional shall consult with the resident regarding any statements made by witnesses interviewed by the Committee and shall comply with requests by the resident to direct relevant questions to those witnesses unless the question is cumulative or irrelevant, or would pose a threat to the health or safety of others or to the overall security of the facility.

11) The Committee shall consider all relevant information and material that has been presented in deciding whether to approve administration of the medication in the absence of the informed consent of the resident.

12) A written decision shall be prepared and signed by all members of the Committee that contains a summary of the hearing and the reasons for approving or disapproving the administration of the medication. Copies of the decision shall be given to the resident, assigned medical professional and Program Director and shall be placed in the resident's medical file. Any decision by the Committee to approve administration of psychotropic medication without the informed consent of the resident shall be based upon a preponderance of the evidence and must be unanimous. The Program Director shall direct the appropriate medical staff to comply with the decision of the Committee.

13) If the Committee approves administration of the medication, the resident shall be placed on an appropriate mental health status (if not already so assigned) and shall also be advised of the opportunity to appeal the decision to the Medical Director by filing a written appeal with the Chairperson within five days after the resident's receipt of the Committee's written decision.

i) Review by Medical Director

1) If the resident appeals the Treatment Review Committee's decision, medical staff shall continue to administer the medication as ordered by the physician and approved by the Committee while awaiting the Medical Director's decision on the appeal.

2) The Chairperson of the Committee shall promptly forward the written notice of appeal to the Medical Director or his/her designee.

3) Within 10 working days after receipt of the written notice of appeal, the Medical Director shall:

A) Review the Committee's decision, make further investigation deemed necessary, and submit a written decision to the Program Director; and

B) Provide a copy of the written decision to the resident, the assigned medical professional and the Chairperson of the Committee and shall place a copy in the resident's medical file.

4) The Program Director shall direct medical staff to comply with the decision of the Medical Director.

j) Periodic Review of Medication

1) Whenever any resident has been receiving psychotropic medication continuously or on a regular basis for a period of six months in the absence of informed consent, the administration of the medication shall be reviewed by the Treatment Review Committee in accordance with subsections (h) and (i). Every six months thereafter, for as long as the medication continues on a regular or continuous basis, the Treatment Review Committee shall review the continued need for the administration of psychotropic medication in the absence of informed consent.

2) Every resident who is receiving psychotropic medication in the absence of informed consent shall be evaluated by a psychiatrist or physician at least every 30 days, and the psychiatrist/physician shall document in the resident's medical file the basis for the decision to continue the medication.

k) Emergency Procedures

Subsequent to the administration of psychotropic medication in an emergency situation pursuant to subsection (g)(1)(A):

1) The basis for the decision to administer the medication on an emergency basis shall be provided to the resident and to the Medical Director for review.

2) A medical professional shall meet with the resident to discuss the reasons why the medication was administered on an emergency basis and to give the resident an opportunity to express any concerns he/she may have regarding the medication.

l) Documentation

Copies of all notifications and written decisions concerning involuntary administration of psychotropic medication shall be placed in the resident's medical file.

m) Parents and Guardians

In the case of a resident who is a minor (under 18) or has a guardian, the parent or guardian shall be sent the documentation and written decisions that are provided to the resident pursuant to this Section and shall be permitted to attend and participate in any proceedings required by this Section. Notice of any Treatment Review Committee hearing shall be promptly sent to the parent or guardian and reasonable attempts shall be made to provide that notice at least 72 hours prior to the hearing.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)