



Oversight of Psychotropic Medications PRESCRIBED TO CHILDREN IN FOSTER CARE

Psychotropic medications, commonly referred to as psychotropics, are drugs designed to alter psychological processes, such as mood or emotion.

- American Psychological Association

Many studies have highlighted the disproportionality of psychotropic medication use for children in foster care compared with children not in care. In addition, and of particular concern because of the little research on the safety and efficacy of psychotropic use by children, are the rates of polypharmacy – the concurrent use of three or more medications. Research has described the prescribing of psychotropics to children in foster care as “too many, too much, and too young.” There have been guidelines, recommendations, and resolutions created and shared since the early 2000s, but progress needs to be made and questions remain regarding the court’s role in the oversight of psychotropic medications for children in foster care.

CONSIDERATIONS FOR PSYCHOTROPIC MEDICATION USE IN FOSTER CHILDREN



For foster children struggling with mental health disorders, psychotropics may serve as a valuable tool. However, misdiagnosis, overmedicating, or lack of proper coordination of care may further damage or impair children. The use of psychotropic medications by children in foster care is complicated by numerous factors. The emotional and psychological stress from parental separation, history of abuse or neglect, and chaotic or multiple caretaking environments can cause children to present with symptoms which mimic psychiatric disorders.

An example of this is misdiagnosis of ADHD in a child who is responding to trauma. Family history and medical records may be incomplete or unavailable to a child’s current practitioner, making it paramount that a child receives a comprehensive and culturally competent physical, mental health, and psychiatric evaluation and diagnosis prior to beginning psychotropic treatment for a psychiatric disorder. The American Academy of Child and Adolescent Psychiatry advises that trauma-informed, evidence-based psychotherapy to address the complex needs of children in care should accompany any psychotropic regimen. The prescribing of psychotropics should never be a substitute for comprehensive psychosocial therapies due to limited resources. Family involvement, education, and training on diagnosis and symptom management are important considerations. When families and caregivers aren’t adequately trained or equipped to manage a child’s needs, it can result in increased symptoms leading to overmedicating.

Medical services, including mental health and psychiatric services, cannot begin without obtaining the appropriate consent for treatment. Entry into the foster care system does not remove a parent’s right to consent to their child’s health care. With exception of emergencies, informed consent should be obtained from the appropriate parties, which entails discussion of diagnosis, expected benefits, and risks of treatment, including common side effects and any potentially severe adverse effects. Alternative treatments and the overall potential benefit-to-risk ratio of treatment should be explained and any questions adequately answered.

COLLABORATION

The [American Academy of Child and Adolescent Psychiatry](#) (AACAP) recommends that states and communities have clearly delineated processes for oversight of psychotropic medications prescribed to children. Safe and effective healthcare requires collaborative relationships among medical and behavioral health professionals, child welfare agencies, and any persons involved in a child’s life in a caretaking capacity. Child and family involvement are essential to every step in the treatment process and should inform decision making at the policy and systems level. Because judges are responsible for overseeing the safety and well-being of children under their jurisdiction in child welfare and juvenile justice cases, the courts have a vested interest in ensuring collaboration in policy and practice.



LEGISLATION, POLICY, AND PRACTICE

Federal law (Title IV-B, Subpart 1 of the Social Security Act) requires states to report on their oversight of psychotropic medications prescribed to children in foster care. The Department of Health and Human Services (HHS) has issued numerous publications providing guidance on this oversight.

National organizations with interest in the safety and well-being of youth in foster care have put forth policies. The American Bar Association (ABA) issued a Practice & Policy Brief and adapted an article that includes [Tips for Advocates and Judges](#). The National Council for Juvenile and Family Court Judges (NCJFCJ) adopted the following Resolution in 2013:

RESOLUTION REGARDING JUDICIAL OVERSIGHT OF PSYCHOTROPIC MEDICATIONS FOR CHILDREN UNDER COURT JURISDICTION

NCJFCJ believes that judicial oversight means, at a minimum, that each court:

- Is aware of every child who is being prescribed psychotropic medications, and has the following information:
 - the names and dosages of all psychotropic medications being prescribed as well as all other medications being prescribed and taken;
 - the reason for the prescription(s);
 - the alternatives to medications that have been considered;
 - the other interventions that should accompany or are accompanying the use of the medications;
 - the actual effects of the medications, both beneficial and adverse; the name of the medical professionals prescribing the medications and their qualifications; and the individual responsible for administering the medication to the child.

- Ensures a qualified medical professional is timely and thoroughly monitoring the medications.
- Ensures there are protocols in place to maintain the medication regimen without interruption when any placement changes occur.
- Ensures parents are fully involved and informed about the use of the medications and the reason for their use and have the ability to maintain the regimen or meaningfully decide, in consultation with medical professionals, whether and how to discontinue medications during reunification or upon return to their custody.

The document in its entirety may be accessed at [NCJFCJ](#).

STATE EXAMPLES



Texas has developed and improved an oversight process that has dramatically reduced the prescription of psychotropic medications to children in Texas foster care. Since their implementation of the [Psychotropic Medication Utilization Parameters](#) issued by the Texas Department of Health and Human Services, children prescribed psychotropic medications decreased approximately 42% between 2004 and 2019. The Parameters provide evidence-informed guidance on the use of psychotropic medication with children and youth and suggest parameters for utilization review.



Ohio created the website [Ohio Minds Matter](#), Ohio Youth Behavioral Health Resource. It provides resources and education for youth and families, and screening tools and psychotropic medication prescribing aids for health professionals.

CONSIDERATIONS FOR COURTS

Using NCJFCJ's Resolution as a guide, courts may consider the development or adaptation of a bench book to assist judges and attorneys in the fulfillment of their duties of advocacy and oversight. Courts may consider more immediate implementation of practices, such as listed below, toward assuring the safety of children prescribed psychotropics in foster care:

- **Professionals and stakeholders** involved in dependency cases can advocate for a family centered approach to treatment – including assessment of parent functioning and mental health needs, and parent training on evidence-based behavior management.
- **Court-appointed counsel for children** often have the most enduring relationship with the child throughout the duration of a case, as caseworkers, practitioners, and placements change. Therefore, child's counsel is in the best position to ensure that the child's medical records and information are complete and up to date. Through attendance at Child and Family Team Meetings or the behavioral health system's equivalent, child's counsel should ensure the continuity of medical and mental/behavioral health records and make the court aware of barriers to doing so.
- **Judges** can ensure that children and families have an opportunity to be heard regarding medical concerns, including psychotropic medication issues, at hearings, and can provide directives to the appropriate parties for follow up.

RESOURCES

[AACAP Position Statement on Oversight of Psychotropic Medication Use for Children in State Custody: A Best Principles Guideline](#)

[Psychotropic Medication and Children in Foster Care: Tips for Advocates and Judges](#)

REFERENCES

AACAP, [Recommendations about the Use of Psychotropic Medications for Children and Adolescents Involved in Child-Serving Systems](#) (2015).

Center for Health Care Strategies, [Improving the Appropriate Use of Psychotropic Medication for Children in Foster Care: A Resource Center](#) (Mar 2018).

Congressional Research Service, [Child Welfare: Oversight of Psychotropic Medication for Children in Foster Care](#) (Updated Feb 17, 2017).

GAO, [FOSTER CARE: HHS Has Taken Steps to Support States' Oversight of Psychotropic Mediations, but Additional Assistance Could Further Collaboration](#) (Jan 2017).

The Mercury News, [California is using fewer antipsychotic drugs on its abused and neglected children. What's behind the dramatic decline?](#) (Sep 11, 2022).

The Parameters Workgroup of the Psychiatric Executive Formulary Committee, Health and Specialty Care Division, Texas Health and Human Services Commission. [Psychotropic Medication Parameters for Children and Youth in Texas Public Behavioral Health \(6th Edition\)](#) (Jun 2019).



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