



Villamanta Disability
Rights Legal Service Inc.

Villamanta Disability Rights Legal Service Inc. Information Sheet

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MEDICATION

Who has the right to make decisions about what medication I get?

The laws prescribing medication are the same for everyone. This will mean that most medication will need to be prescribed by a qualified medical practitioner. However, medication such as aspirin or antacids may be bought over the counter without a prescription. As a general rule no one can be forced to take medication against their will. This means that even when a doctor has prescribed medication for someone, that person must consent to taking it. The only exceptions to this are when:

- it is an emergency and the medication is given by a registered medical practitioner, such as a doctor, trained nurse or ambulance officer; or
- the person has a guardian who has authority to make medical decisions on their behalf; or
- the person has been diagnosed as having a mental illness and is subject to an involuntary treatment order under the Mental Health Act; or
- the person has an intellectual disability and is receiving compulsory treatment under the Disability Act.

What is the difference between medication and chemical restraint?

Medication is something that is prescribed to you for your own therapeutic benefit.

Chemical restraint is the intentional use of medication to prevent you from engaging in behaviour which others believe is dangerous to yourself, other people, or to other people's property. Usually the drugs that are used in chemical restraint are the same drugs that are used to sedate people who have a diagnosed mental illness.

If you are given this sort of drug - also known as psychotropic medication - but you do not have a mental illness, then you may be chemically restrained. Chemical restraint is against the law unless it is being carried out strictly according to the Disability Act. The provisions are quite strict, and chemical restraint - referred to as restrictive intervention - is unlawful where the relevant procedures are not followed.

It is important to remember that the provisions of the Disability Act apply only to persons with a disability.

What does consenting to medication really mean?

Consenting means making a decision based on information. You should understand what the medication is for, what the wanted and unwanted effects are likely to be, and what alternatives there are. It is the responsibility of the person prescribing the medication to ensure that you get this information in a form that

IMPORTANT NOTE!

Remember - this Information Sheet has been produced only for use in Victoria, Australia. Some of the laws mentioned in this Information Sheet will be different in other places.

you are able to understand. It also means that the choice to take the medication is yours, and that you are not being forced into this by someone else. We refer to our Information Sheet on Capacity and Consent for a more general discussion about informed consent.

What role are support staff and carers allowed to play in relation to my medication?

Staff and carers are allowed to assist you to take your medication if, through disability or illness, you are unable to do so independently. Staff and carers are not able to consent to medication on your behalf, even if the reason you are unable to give consent yourself is because you have a disability. If you need assistance to take your medication, then staff have a responsibility to provide you with this assistance, and to use all reasonable care in doing so. This means that staff may assist you by doing things such as:

- handing you your medication;
- putting the medication in your mouth for you;
- measuring out prescribed doses of medication for you.

These are some examples of tasks that may, because of having an illness or a disability, be difficult or impossible for you to do independently.

Are staff allowed to fill my dosette box for me?

The law is not so clear on this issue, and it is generally something that will depend on the circumstances. If you are in a setting where a number of people all need medication to be put into dosette boxes, then it could be very easy for an untrained person to make a mistake. In these circumstances, it is reasonable that you expect the person filling the dosette box to be taking considerably more care than what the "average person on the street" would take in administering simple doses of medication for themselves. This is likely to mean in practice that, in these sorts of settings, the dosette boxes should be filled by a pharmacist, or by someone with nursing or medical qualifications. If you are the only person using a dosette box, and the doses of medication that you require are straightforward and simple, then it may be reasonable for any trustworthy person who is able to follow the instructions of the prescription, to be careful to correctly fill the dosette box for you. If you are unsure about whether or not your dosette box can be filled by someone who does not have specialist skills in dispensing medication, then it is generally best to err on the side of caution and have the dosette box filled out under a pharmacist's supervision.

What are some of the things that staff are not allowed to do in relation to my medication?

Unqualified or untrained staff are not allowed to do things which would normally only be done by people with qualifications or training. Some procedures that administer medication, such as injections, can only be carried out by doctors, nurses or some ambulance officers. Injections should not be given by staff who do not have these qualifications. As a general rule, where a medical or nursing procedure involves an invasive procedure, a person will need to have specialist qualifications or training to carry out that task. An invasive procedure involves putting medication into someone else's body in a way other than swallowing the medication. Staff should never assist someone to take medication other than in direct compliance with the doctor's prescription, under direction from a medical practitioner, or in accordance with instructions supplied with the medication. Crushing tablets in order to make them easier to swallow can have serious consequences, as can varying the recommended times when medication should be dispensed, and so on. You, or a member of staff, should always check with the prescribing doctor if you are having difficulty taking the medication in the form that it has been prescribed. If you are unsure about whether or not the sort of assistance you require can be provided by a person without medical or nursing qualifications, it is generally best to err on the side of caution until you are able to get proper medical advice.

Helpful Hint:

This Information Sheet should be read together with the Villamanta Disability Rights Legal Service Inc. Information Sheets on Guardianship, Appointing an Enduring Guardian and Capacity and Consent.

Looking for More Information?

If you want more information about having an administrator, you can phone:
*The Guardianship List of the Victorian
Civil and Administrative
Tribunal.*