Baker Act and Long Term Care Introduction

OBJECTIVES

- What are the criteria for voluntary admissions and involuntary examinations?
- When are transfers appropriate and not appropriate?
- How are psychotropic medications regulated in nursing homes?
- What are the recommendations of the Florida Health Care Association for Behavioral Management?
- When might the Agency for Health Care Administration (AHCA) sanction long term care facilities?
- What is Federal OBRA?

This course will explore the questions above by using four scenarios involving long term care residents.

MAIN MENU

- Introduction
- Hot Topics
- Voluntary Admission
- Involuntary Examination
- Federal OBRA & Transport
- Best Practice Tool: Behavior Management
- Psychotropic Medication

Voluntary Admission Criteria

A person may go to a Baker Act receiving facility for voluntary psychiatric examination from a facility licensed under Chapter 400/429, F.S. only if the person:

- is over the age of 18,
- has a mental illness, as defined in the statute,
- is competent to provide express and informed consent to his or her own treatment
• is suitable for treatment AND
• has had an assessment for competency

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Mental Illness Defined in the Baker Act

• An impairment of the mental or emotional processes that exercises conscious control of one’s actions or of the ability to perceive or understand reality. Clinical Component

• Substantially interferes with a person’s ability to meet the ordinary demands of living, regardless of etiology (cause). Functional Component

It does not include retardation or developmental disability as defined in chapter 393, intoxication or substance abuse impairment governed by chapter 397, or antisocial behavior. Exclusions

Layperson Definition - A serious thought or mood disorder which substantially interferes with a person’s ability to meet the ordinary demands of living - excluding Development Disability, substance abuse or antisocial behavior.

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Express and Informed Consent

Express and informed consent requires that a person be competent to make well-reasoned, willful, and knowing decisions concerning his or her medical or mental health treatment. Consent must be voluntarily given in writing after sufficient explanation of the need for admission so that the person can make a knowing and willful decision without any element of force or deceit.

If residents cannot meet these criteria, they cannot be on voluntary status in a Baker Act receiving facility, and instead, must be handled under the involuntary provisions of the law.

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Voluntary Admissions and Initial Assessment

The Baker Act provides an elevated level of protection of persons sent on voluntary status to a receiving facility from a long term care facility licensed under chapter 400. The law specifically states that the following persons cannot be sent on a voluntary basis to a receiving facility until after an initial assessment of the resident’s ability to give express and informed consent is conducted at the sending facility by an authorized independent professional.

These residents include:
1. A person 60 years of age or older for whom an emergency transfer is being sought from a nursing home pursuant to s. 400.0255, F.S.
2. A person 60 years of age or older with a diagnosis of dementia for whom transfer is being sought from a nursing home, assisted-living facility, adult day care center, or adult family care home.
3. A person for whom all decisions concerning medical treatment are currently being lawfully made by the health care surrogate or proxy designated under Chapter 765, F.S.

Performance of Initial Assessment

The initial assessment, documented on recommended form CF-MH 3099, can only be performed by one of the following assessment programs listed on the left.

Mental Health Overlay Program
A Mental Health Overlay Program is a mobile service that provides an independent examination for voluntary admissions. They also provide other services to persons with a mental illness in a nursing home, assisted living facility, adult family-care home, or nonresidential setting such as an adult day care center.
Note: This type of examination must be provided under contract with DCF or be attached to a public receiving facility that is also a community mental health center.

Mobile Crisis Response Service
A Mobile Crisis Response Service is a nonresidential crisis service attached to a public receiving facility. It is available 24 hours a day, 7 days a week. Assessments and interventions, including screen for admission into a receiving facility are provided to identify an appropriate treatment service.
An authorized licensed professional employed by a publicly funded community mental health center
A Community Mental Health Center is a publicly funded center that provides day treatment or emergency services.

When none of the above are available within 2 hours
The requesting facility may arrange independent assessment by an authorized professional who is not employed by, under contract with, and does not have a financial interest in sending or destination facility.

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**Hot Topics - Current Behavioral Management Issues**

Emergencies or unaddressed problems
Regulators and advocates find that transfers of long term care residents occur when behavioral problems are either initially ignored or ineffective interventions are employed.
1. Document behavioral problems as soon as they occur.
2. Employ appropriate interventions every time the behaviors re-occur.

Admission of persons with behavioral issues
1. Clinical staff of the facility should first ensure that the facility is equipped to meet the resident’s specialized needs.
2. Transfer of a person who is already experiencing confusion and disorientation is likely to result in risk to the resident.

In-place assessment of residents with aggressive or self-neglectful behavior
Psychiatric and behavioral disorders require highly specialized professionals who have specialized training to diagnose and treat such disorders.

Rule out non-psychiatric causes of behavioral problems
Rule out medical conditions prior to considering the Baker Act. Many residents are sent to Baker Act receiving facilities for behaviors that result from urinary tract infections, new medications, medication interactions, or pain.

Appropriate initiation of involuntary examination
Rarely will a long term care facility resident with the capacity to make well-reasoned, willful, and knowing decisions about his/her medical or mental health treatment require transfer to a Baker Act receiving facility for examination and treatment.

An independent professional must evaluate the resident’s capacity to provide express and informed consent prior to transfer to a receiving facility.
The only other alternative is to have an involuntary examination initiated by the physician or other authorized mental health professional associated with the long term care facility.

Reevaluate for readmission after the psychiatric exam
Transferring a person to a Baker Act receiving facility is for the purpose of obtaining a psychiatric examination and short-term treatment that can't be performed on-site at the long term care facility.

It is not a discharge destination or a method of avoiding appropriate discharge planning. Refusing to accept a resident back for a different reason than the reason given for transferring the resident out may be considered a violation of the federal OBRA law.

Refusal of Readmission due to “Dangerousness”
Refusing to accept a resident back after a transfer to a Baker Act receiving facility generally results in the resident being placed in another nursing home that is licensed and staffed the same as the nursing home that now claims it cannot manage the person’s behavior.

This could be considered de facto evidence that the nursing home should be able to manage the person’s behavior, but chooses not to.

Notice Requirements
Residents have the right to be transferred or discharged only for medical reasons or for the welfare of other residents, and have the right to be given reasonable advance notice of no less than 30 days of any involuntary transfer or discharge, except in the case of an emergency as determined by a licensed professional on the staff of the nursing home.

Any notice indicating a medical reason for transfer or discharge must either be signed by the resident's attending physician or the medical director of the facility, or include an attached written order for the discharge or transfer.

Required AHCA reporting
Baker Act receiving facilities are required by law to report each incident of non-compliance by a long term care facility to the Agency for Health Care Administration by certified mail within one working day of the violation.(see Baker Act form CF-MH 3119).

In addition, chapters 400 and 429 state that failure to comply with Baker Act regarding the transportation, voluntary admission, and involuntary examination are grounds for action against facilities licensed under Chapter 400/429, F.S.

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Voluntary Admission and Long Term Care

- What are the criteria for voluntary admission for long term care residents under the Baker Act?

- Can you determine the correct course of action for several scenarios involving Voluntary Admission under the Baker Act?

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These are fictional scenarios for training purposes only.

Mr. Carey
Ms. Smith
Ms. Li
Mr. Hallin

Review his/her profile and then select the best course of action for the situation encountered.

This scenario begins with Ms. Li.

Ms. Li is 86 years old. Her arthritis causes her severe pain. She is not able to bath, sit, or walk without assistance. Ms. Li's native language is Chinese. She understands some English.

Ms. Li is in severe pain due to arthritis. Because of the language barrier she rarely complains. Her roommate stated she heard Ms. Li crying at night and that Ms. Li told her that she wants to die soon.

Assume Ms. Li's roommate has requested help on Ms. Li's behalf via a Voluntary Admission under the Baker Act. Who may perform the initial assessment?

Choices
- Dr. Lyons from the receiving facility where Ms. Li would be transferred.
- A licensed mental health professional not affiliated with the nursing home or receiving facility.
- The medical director of the nursing home.

The answer is the licensed mental health professional not affiliated with the nursing home or receiving facility.
The Outcome
The licensed professional listened to the concerns of Ms. Li’s roommate and staff, then met with Ms. Li. She determined that Ms. Li was not making well-reasoned, willful and knowing decisions about her treatment needs and thus was incapable of being on voluntary status. The psychiatric nurse checked Ms. Li’s prescriptions and suggested the medical staff adjust her current pain medication. Nursing staff is monitoring the medication adjustment. Because Ms. Li is receiving adequate treatment, a Baker Act transfer was not required.

The nursing home may contact a licensed professional authorized to perform the initial assessment required by law before an involuntary examination is initiated. This professional cannot be employed by, be under contract with, or have a financial interest in either the facility initiating the transfer or the potential Baker Act receiving facility.

The medical director of the nursing home.
The medical director is employed by the nursing home. The law specifically states that the assessment for voluntary admission cannot be performed by a person employed by, under contract with or has a financial interest in the nursing home where Ms. Li resides or the receiving facility to which she would be transferred.

Dr. Lyons is employed by the receiving facility. The law specifically states that the assessment for voluntary admission cannot be performed by a person employed by, under contract with or that has a financial interest in the nursing home where Ms. Li resides or the receiving facility to which Ms. Li would be transferred.

Because Ms. Li is 86 years old and resides in a nursing home, by law she is provided this extra cushion of protection under the Baker Act for a Voluntary Admission under the Baker Act.

HOT TOPIC
A long term care facility resident must have the capacity to make well-reasoned, willful, and knowing decisions about his/her medical or mental health treatment when sent on a voluntary basis to a Baker Act receiving facility for examination and treatment.

An evaluation of the resident’s capacity to provide express and informed consent must be conducted prior to transfer by an independent professional.

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This scenario begins with Ms. Smith.

Ms. Smith is 88 years old. Last month her husband passed away. They were married for 70 years. She was moved to an assisted living facility because she can no longer care for herself. She is also diagnosed with the early stages of Dementia.

She usually is sweet and quiet, however, lately she has been screaming and throwing items at other residents and staff. She'll apologize immediately after an outburst and becomes very upset with herself.

Ms. Smith misses her husband and family. She knows that her outbursts are affecting staff and residents. However, she feels out of control. She is afraid that she is going to hurt someone if it continues. She asks a visiting nurse to send her to a hospital so she will not be able to hurt anyone.

Should a Voluntary Admission be necessary, what is the next course of action for the assisted living facility?

- Perform an initial assessment prior to initiating a voluntary admission
- Initiate a Voluntary Admission
- Ask Ms. Smith's guardian to initiate a voluntary admission

The correct answer is perform an initial assessment prior to initiating a voluntary admission.

The Outcome
The staff recognized that Ms. Smith's agitation was partly due to an inability to fall asleep. The independent assessment found she had the capacity to provide express and informed consent for voluntary admission to a Baker Act receiving facility. However, the assessment recommended against such a transfer. Instead, the ALF is using several interventions, including short walks, noise reduction, soft music, and prescription sleeping medication.

Ms. Smith's guardian cannot initiate a Voluntary Admission under the Baker Act. In fact, a person with a guardian cannot be on voluntary status in a Baker Act facility. Also, she is 88 years old, has been diagnosed with Dementia, and resides in an assisted living facility. Because of her age, condition, and residence, there is an important step prior to a Voluntary Admission which is required by law. This

Ms. Smith is 88 years old and has been diagnosed with the early stages of Dementia and lives in an assisted living facility. Because of her age, condition, and where she resides, there is an important step prior to a Voluntary Admission which is required by law. This provides an extra cushion of protection under the Baker Act.
HOT TOPIC
A long term care facility resident must have the capacity to make well-reasoned, willful, and knowing decisions about his/her medical or mental health treatment when sent on a voluntary basis to a Baker Act receiving facility for examination and treatment. An evaluation of the resident’s capacity to provide express and informed consent must be conducted prior to transfer by an independent professional.

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This scenario begins with Mr. Halin.

Mr. Hallin is 57 years old. He is a Vietnam Veteran. He suffers from Post Traumatic Stress Disorder (PTSD) and chronic pain due to injuries sustained during combat. He resides at an assisted living facility (ALF) because he cannot care for himself. His family lives out-of-state and does not keep in contact with him.

Lately, Mr. Hallin has been displaying symptoms of PTSD. His ALF has tried several interventions for him, but none have provided any significant relief for his symptoms. He has asked to be voluntarily admitted to a hospital under the Baker Act.

The ALF cannot find a mental health overlay program or mobile crisis response team that can perform the initial assessment within two hours of Mr. Hallin's request. What is the next course of action for the ALF?

- Contact a mental health professional not affiliated with the ALF or the Baker Act receiving facility to perform the initial assessment
- No assessment is required - arrange transportation for Mr. Hallin
- Call law enforcement to initiate a Voluntary Admission under the Baker Act

The correct answer is no assessment is required - arrange transportation for Mr. Hallin.

The law specifically states that a person 60 years of age or older in a nursing home cannot be transferred on a voluntary basis to a Baker Act receiving facility until after an initial assessment of the resident’s ability to give express and informed consent is conducted at the nursing home by an authorized independent professional.

The Outcome
Because Mr. Hallin is 57 and does not reside in a nursing home, this assessment is not required. In this situation, the ALF tried several treatment interventions for
him that were not successful. Had one of those interventions eased his symptoms of PTSD, Mr. Hallin may have been able to stay where he resides.

Law enforcement officers do not perform the initial assessment. Also, officers have no legal duty to transport any person for Voluntary Admission to a psychiatric facility.

Because Mr. Hallin is 57 years old and does not reside in a nursing home, the initial assessment prior to transfer is not required.

HOT TOPIC
Regulators and advocates often find that transfers of long term care residents occur when behavioral problems are either initially ignored or ineffective interventions are employed. Such behavioral problems should be documented as soon as they occur and appropriate interventions employed each and every time the behaviors re-occur.

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This scenario begins with Mr. Carey.

Mr. Carey is 84 years old. A stroke has paralyzed most of his left side. He resides at a nursing home because his family can no longer care for him. He is oriented but his speech is impaired. He is generally quiet and has never displayed behavioral problems.

Yesterday Mr. Carey told his roommate that he is going to kill himself rather than live with his physical limitations and spend the rest of his life in a nursing home.

Assume that Mr. Carey requests help through a Voluntary Admission under the Baker Act. What is the next course of action for the nursing home?

- Perform an initial assessment prior to initiating a voluntary admission
- Initiate a Voluntary Admission
- Ask Mr. Carey’s guardian to initiate a voluntary admission

The correct answer is perform an initial assessment prior to initiating a voluntary admission
The Outcome
The licensed mental health professional determined that Mr. Carey was competent to provide express and informed consent to voluntary admission under the Baker Act. However, upon further consultation it was determined that Mr. Carey could receive adequate treatment in the nursing home provided he agreed to take his antidepressant medication. Additionally, the nursing home will put him on suicide watch until he is stabilized.

The law specifically states that a person 60 years of age or older for whom an emergency transfer is being sought from a nursing home cannot be sent on a voluntary basis to a receiving facility until after an initial assessment of the resident’s ability to give express and informed consent is conducted at the sending facility by an authorized independent professional.

Because he resides in a long term care facility and because of his age, there is an important step prior to a Voluntary Admission which is required by law. This provides an extra cushion of protection under the Baker Act.

Mr. Carey's guardian cannot initiate a Voluntary Admission under the Baker Act. In fact, a person with a guardian cannot be on voluntary status in a Baker Act facility. Because of his age, there is an important step prior to a Voluntary Admission which is required by law. This provides an extra cushion of protection under the Baker Act.

HOT TOPIC
Medical conditions that may mimic or cause behavioral problems should be ruled out by the resident's physician or by the long term care facility staff prior to transfer under the Baker Act. Simply sending a resident with behavioral problems to a hospital for "altered mental status" is not appropriate.

Baker Act Involuntary Examination and Long Term Care

- What is the criteria for Involuntary Examination for long term care residents under the Baker Act?

- Can you determine the correct course of action for several scenarios involving Involuntary Examination under the Baker Act?
Criteria for Involuntary Examination Under the Baker Act

1. A person may be taken to a Baker Act receiving facility for involuntary examination if there is reason to believe that he or she has a mental illness as defined in the law and because of his or her mental illness: The person has refused examination or is unable to determine whether examination is necessary; and

2. Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial harm to his or her well-being, and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or

3. There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or others in the near future, as evidenced by recent behavior.

Mental Illness Defined in the Baker Act

- An impairment of the mental or emotional processes that exercises conscious control of one’s actions or of the ability to perceive or understand reality. Clinical Component

- Substantially interferes with a person’s ability to meet the ordinary demands of living, regardless of etiology (cause). Functional Component.

It does not include retardation or developmental disability as defined in chapter 393, intoxication or substance abuse impairment governed by chapter 397, or antisocial behavior. Exclusions

Layperson Definition - A serious thought or mood disorder which substantially interferes with a person’s ability to meet the ordinary demands of living - excluding development disability, substance abuse or antisocial behavior.

The Three Avenues to Initiate an Involuntary Examination

1. Circuit Courts
2. Law Enforcement Officer
3. Mental Health Professional
Circuit Courts
If no legally authorized mental health professional is available to conduct an examination of the resident, a court may issue an Ex Parte Order for Involuntary Examination.
One or more persons, including facility staff, personal guardian or family members, who have personally observed the resident’s behavior must go the courthouse office of the Clerk of the Circuit Court to file a petition.

The petitioner(s) must make a sworn statement of the facts and circumstances they believe justifies an involuntary examination. The petition must be signed under oath by those with a personal knowledge of the resident’s behavior.

Law Enforcement Officer
In an emergency, an officer shall complete the “Report of a Law Enforcement Officer Initiating an Involuntary Examination,”

Mental Health Professional
This is the preferred method of assessment. A physician, clinical psychologist, psychiatric nurse, clinical social worker, licensed mental health counselor or licensed marriage and family therapist may execute a certificate stating that he or she has examined a resident within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination. The professional is required to state the observations upon which that conclusion is based. These observations must be those of the professional signing the certificate.

The professional should complete the form entitled “Certificate of Professional Initiating Involuntary Examination”. The assessment must focus on the overt behavior supporting the findings rather than the resident’s diagnosis and should specifically relate the behavior to the criteria for involuntary examination.

Important Note
A long term care facility must have a professional’s certificate for involuntary examination, a report from a law enforcement officer, or a judge’s Ex Parte Order for involuntary examination completed prior to the transfer of a resident to a Baker Act receiving facility.

Involuntary Criteria

- The independent assessment required under the Baker Act is limited to voluntary admissions.

No independent assessment is required prior to an Involuntary Examination!
• An authorized mental health professional that is associated with or independent of the facility who has personally examined the person within 48 hours of signing the certificate and whose observations are consistent with the Baker Act criteria is authorized to initiate an involuntary examination.

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Did you know...

The Baker Act Reporting Center at the Louis de la Parte Florida Mental Health Institute at the University of South Florida received forms for 125,420 involuntary examinations initiated in calendar year 2006.

Baker Act Initiations
Law enforcement officials initiated almost half of involuntary exams (49%), followed by mental health professionals (48%) and judges (3%). The most common evidence type indicated was “harm only” (66%), followed by “neglect only” (15%) and “both neglect and harm” (15%). Four (4%) percent was unknown.

Male versus Female
Exams were slightly more common for males (52% of all exams) than for females (46%). Two percent of examination forms did not specify gender on the cover sheet.

Average age of a person
The average age of an individual experiencing an involuntary examination was 37 years. Almost 16% of initiations were for individuals 17 years and younger; slightly over 7% were for individuals 65 years and older. The vast majority of exams (76%) were for people 18 to 64 years of age.

Long term care facilities such as nursing homes and assisted living facilities must follow the criteria and procedures provided under the Baker Act relating to the transportation, voluntary admission, and involuntary examination of a resident. These facilities are licensed by the Agency for Health Care Administration (AHCA) under the legislative authority found in Chapter 400/429, F.S. Violations are subject to sanctions from AHCA.

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Scenarios

This scenario begins with Ms. Li.

Ms. Li is 86 years old. Her arthritis causes her severe pain. She is not able to bath, sit or walk without assistance. Ms. Li's native language is Chinese. She understands some English.

Ms. Li refuses to eat and has been screaming in Chinese when anyone comes near her. Today she slapped a staff member trying to move her to a wheelchair. Assume that an Involuntary Examination is necessary.

The nursing home called 911 and Ms. Li was transported to a hospital emergency room for the involuntary examination.

The nursing home was cited by AHCA for this action, was this justified?

- The citation was justified - the facility did not follow the Baker Act or the federal OBRA
- The nursing home's action was not in violation of the law - they should not have been cited
- Who/What is AHCA?

The answer is the citation was justified - the facility did not follow the Baker Act or the federal OBRA. The nursing home should have initiated the involuntary examination. Federal OBRA law requires that the specialized needs of nursing home residents must be met in place whenever possible. While certain situations may require a transfer to a Baker Act receiving facility, other alternatives should be explored first.

The Outcome
If Ms. Li was transferred to the emergency room (ER) for medical reasons, the ER physician would likely diagnose and treat the medical condition, then return Ms. Li to the nursing home. At that point, nursing home staff can initiate the involuntary examination if they believe her behavior results from mental illness.

Who/What is AHCA?
The Agency for Health Care Administration (AHCA)

AHCA is the chief health policy and planning entity for the state responsible for:
health facility licensure, inspection, and regulatory enforcement;
investigation of consumer complaints related to health care facilities and managed care plans;
HOT TOPIC

Baker Act receiving facilities are required by law to report each incident of non-compliance by a long-term care facility to the Agency for Health Care Administration by certified mail within one working day of the violation. In addition, chapters 400 and 429 state that failure to comply with Baker Act regarding the transportation, voluntary admission, and involuntary examination are grounds for action against facilities licensed under Chapters 400/429, F.S.

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This scenario begins with Ms. Smith.

Ms. Smith is 88 years old. Last month her husband passed away. They were married for 70 years. She was moved to an assisted living facility because she can no longer care for herself. She is also diagnosed with the early stages of Dementia.

She usually is sweet and quiet, however, lately she has been screaming and throwing items at other residents and staff. She'll apologize immediately after an outburst and becomes very upset with her herself.

Her outbursts are affecting staff and other residents. Ms. Smith threw her fork at another resident today. The charge nurse is afraid that she is going to hurt someone if the behavior continues.

Should an Involuntary Examination become necessary, what is the next course of action for the nursing home?

- Arrange for an initial assessment prior to initiating a Baker Act
- Initiate the Involuntary Examination by an authorized mental health professional from the nursing home
- Ask Ms. Smith's guardian to take her to a receiving facility immediately.

If an Involuntary Examination becomes necessary, an authorized mental health professional employed or under contract with the assisted living facility can initiate the examination.

The Outcome

Staff recognized that Ms. Smith's aggression in the dining room was due to another resident taking her food, so she was moved to another table. Additionally, the staff used behavioral management interventions and comfort measures, such as playing soft music in the dining room.
The initial assessment is only required under a Voluntary Admission.

Since an involuntary examination is warranted, the guardian is not authorized to initiate it. Ms. Smith’s guardian can transport her to a receiving facility. However, a receiving facility performs psychiatric examinations and short-term treatment. Ms. Smith is 88 years old and has been diagnosed with the beginning stages of Dementia. She would likely not benefit from this transfer.

Alternative measures
Nursing and social staff can work with a skilled consultant on interventions such as comfort measures, medications, or even a room change to lessen behavioral problems and avoid a Baker Act.

HOT TOPIC
Psychiatric and behavioral disorders require highly specialized professionals who have specialized training to diagnose and treat such disorders. While the facility’s contract physician may be very effective in addressing the resident’s basic medical care, psychiatric disorders require psychiatrists, clinical psychologists, and other mental health professionals.

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This scenario begins with Mr. Hallin.

Mr. Hallin is a 57 years. He is a Vietnam Veteran. He suffers from Post Traumatic Stress Disorder (PTSD) and chronic pain due to injuries sustained during combat. He resides at an assisted living facility (ALF) because he cannot care for himself. His family lives out of state and does not keep in contact with him.

Lately, Mr. Hallin has been displaying symptoms of PTSD. A turn over in staff seems to have triggered aggressive acts.

The ALF cannot identify a mental health overlay program or mobile crisis response team that can perform the initial assessment within two hours of Mr. Hallin's request.

- Ex Parte Order from the Circuit Court
- Law enforcement officer
- An authorized mental health professional from the ALF

Law enforcement officer is NOT the preferred for long term care residents. A law enforcement officer may take a person into custody that meets criteria This is a method to initiate an Involuntary Examination. The officer executes a written report and transports the person to the nearest receiving facility for examination. The receiving facility must accept this person even if at capacity.
However this is not the preferred method for individuals residing in a long term care facility such as the ALF where Mr. Hallin resides unless the person is so imminently dangerous that other alternatives would leave staff and residents in danger.

An ex parte order is a method to initiate an Involuntary Examination. The court issues an Ex Parte Order based on sworn testimony (written or oral). Mr. Hallin is taken into custody by law enforcement or another designated agent of the court and delivered to the nearest receiving facility. The order is valid for 7 days after the date it was signed unless otherwise noted. This is not the preferred method for individuals residing in a long term care facility such as the ALF where Mr. Hallin resides.

An authorized mental health professional from the ALF is preferred for long term care residents. Whenever possible, an authorized mental health professional should initiate an Involuntary Examination. They have the training and experience to evaluate a client's condition and determine if a transfer to a Baker Act receiving facility is necessary.

The professional must execute a certificate stating that he/she examined the client within 48 hours and found that the client meets criteria for involuntary examination based on the professional's observations.

The Outcome
The professional arranged short-term crisis counseling for Mr. Hallin. Additionally, the professional is working on a treatment plan to manage Mr. Hallin's aggression and chronic pain. In this case, a Baker Act transfer was avoided by providing needed services in the ALF.

HOT TOPIC
Psychiatric and behavioral disorders require highly specialized professionals who have specialized training to diagnose and treat such disorders. While the facility's contract physician may be very effective in addressing the resident’s basic medical care, psychiatric disorders require psychiatrists, clinical psychologists, and other mental health professionals.

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This scenario begins with Mr. Carey.

Mr. Carey is 84 years old. A stroke has paralyzed most of his left side. He resides at a nursing home because his family can no longer care for him. He is oriented but his speech is impaired. He is generally quiet and has not displayed behavioral problems in the past. He is not oriented to time and place.
Mr. Carey called his son, Jake, who lives in Georgia and told him that he is going to kill himself today. Mr. Carey doesn't want to take any of the pills that the nursing home "keeps pushing" and he's tired of living this way.

Jake is upset with the nursing home. He doesn't feel that they are doing enough for his father. He is driving down south to take his father to a psychiatric facility.

What does the law require if Jake decides to take his father to a psychiatric facility?

- Involuntary examination initiated by court, law enforcement officer or authorized mental health professional.
- Jake may take his father to a receiving facility on a voluntary basis.
- Facility transports Mr. Carey to a hospital for "altered mental status"

Jake may take his father to a receiving facility on a voluntary basis. Liability issue - allowing or encouraging a family member or guardian to transport a resident to a receiving facility may result in liability to a nursing home if harm occurs during the transport.

Persons requiring psychiatric examination or treatment must be handled in accordance with the voluntary, involuntary, and transportation provisions of the Baker Act. Failure by a facility to comply may result in grounds for action against the facility.

Even if requested by a family member or guardian, the law requires that an involuntary examination be initiated by an ex parte order by a circuit court, a written report from a law enforcement officer, or a certificate of a mental health professional.

The Outcome
Mr. Carey's doctor spoke with Jake about treatment options for his father. She explained the nursing home policies are intended to ensure his father's safety and provided information on Mr. Carey's antidepressant medication. Jake decided to give his father more time to respond to treatment. If the plan does not work, the doctor agreed to consider the initiation of an involuntary examination.

HOT TOPIC
Psychiatric and behavioral disorders require highly specialized professionals who have specialized training to diagnose and treat such disorders. While the facility's contract physician may be very effective in addressing the resident's basic medical care, psychiatric disorders require psychiatrists, clinical psychologists, and other mental health professionals.

NEXT
Federal OBRA, Transport and Long Term Care

What are the relationships between Baker Act, Long Term Care and

- Transportation
- Transfer
- "Refusal to accept back"?

Can you determine the correct course of action for several scenarios involving Transportation, Transfer and "Refusal to accept back"?

*Note* Federal OBRA applies only to nursing homes, not to assisted living facilities (ALF's).

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The federal Omnibus Budget Reconciliation Act (OBRA)

The federal Omnibus Budget Reconciliation Act (OBRA) was passed in 1987 to ensure that nursing home residents with special needs can have those needs met in place. This means not transferring residents for an examination or treatment if it can be performed at the nursing facility. Chapter 400, F.S. details when a person can be transferred or discharged by a nursing home without prior notice. Regardless of the circumstances, a resident always retains the right to appeal a decision.

*Note* Federal OBRA applies only to nursing homes, not to assisted living facilities (ALF's).

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Transport - Why Law Enforcement?

Law enforcement officers have a mandated duty to transport persons placed on involuntary status, regardless of who conducted the involuntary exam (court, law enforcement or MH professional). The exception is for transfers from a hospital.

Exceptions & Delegation of Responsibility

The Baker Act permits a law enforcement officer to request assistance from Emergency Medical Services (EMS) if needed for the safety of the officer or person in custody. It also permits the officer to have a person with an emergency medical condition transported to a hospital for treatment of the condition, regardless whether the hospital is designated as a Baker Act receiving facility. The law also permits the county to contract, at the county's expense, for medical
transport of persons once it is determined that law enforcement personnel is no longer necessary for the safety of anyone involved.

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**Federal OBRA and Long Term Care**

Ms. Li
Ms. Li is 86 years old. Her arthritis causes her severe pain. She is not able to bath, sit, or walk without assistance. Ms. Li's native language is Chinese. She understands some English.

Ms. Li fell and injured her hip. She was sent out for treatment. After treatment for her hip her current nursing home, Windy Willows, claims that she cannot be accepted back because they cannot meet her rehabilitative needs, even though Windy Willows has a rehabilitation clinic, with equivalent services as, Sandy Shores, the one she is being transferred to.

Is the refusal to accept back justified?

- NO.
- YES.
- What is "refusal to accept back"?

The transfer is not justified.
There is inadequate justification to transfer Ms. Li to Sandy Shores because Windy Willows provides the same level of services. Under federal OBRA regulations and Chapter 400, F.S., a resident in a long term care facility has the right to have these needs met in place if the appropriate services are available. The current facility has a rehab clinic, so Ms. Li can receive services there without transfer.

The Outcome
After a visit with an Ombudsman, it is determined that Ms. Li does not need to be transferred because Windy Willows has appropriate treatment available for Ms. Li’s rehabilitation.

What is "refusal to accept back"?

"Refusal to accept back" is when a long term care resident is sent out for treatment for one reason and then refused readmission for another.

HOT TOPIC MouseOver to find out why "Refusal to accept back"
When a nursing home refuses to accept a resident back resulting in the resident being placed in another nursing home that is licensed and staffed the same as the nursing home that now claims it cannot manage the person's behavior, this could be considered de facto evidence that it should be able to manage the person's behavior but chooses not to.

Since Windy Willows, the facility Ms. Li currently resides in, has the same level of care as Sandy Shores, the one she is being transferred to, the transfer is not justified and federal OBRA/state Chapter 400, F.S. has been violated.

This scenario begins with Ms. Smith.

Ms. Smith is 88 years old. Last month her husband passed away. They were married for 70 years. She was moved to an assisted living facility because she can no longer care for herself. She is also diagnosed with the early stages of Dementia. Her demeanor is generally sweet and quiet.

Ms. Smith has become especially irritable lately. She screams and throws items whenever anyone nears her bedside. She can’t explain why she is so upset. Staff at her assisted living facility order a physical exam. Her favorite doctor is called in and determines she has developed an acute infection that probably set in when she sustained a gash on the bottom of her foot recently. She has to be sent out for emergency treatment of the infection. After the infection is under control, the facility refuses her readmission saying that her aggression is too disruptive, making other residents uncomfortable.

Is the refusal to accept back justified?
- YES.
- NO.
- Call law enforcement to have Ms. Smith transported to a more secure facility.

NO. The refusal to accept back is not justified.
The Assisted Living Facility should not refuse readmission of Ms. Smith after she is sent out for emergency treatment of infection.

The Outcome
Now that Ms. Smith's infection has been treated she is back at the Assisted Living Facility and has returned to her usual demeanor.

HOT TOPIC MouseOver to find out why.
Refusal of readmission due to "Dangerousness"
When a nursing home refuses to accept a resident back resulting in the resident being placed in another nursing home that is licensed and staffed the same as the nursing home that now claims it cannot manage the person's behavior, this could be considered de facto evidence that it should be able to manage the person's behavior but chooses not to.

Law enforcement is only responsible for transporting persons who are on involuntary status. No involuntary exam has been initiated whether it be court order, professional certificate or law enforcement report.

HOT TOPIC MouseOver to find out why.
Refusal of readmission due to "Dangerousness"
When a nursing home refuses to accept a resident back resulting in the resident being placed in another nursing home that is licensed and staffed the same as the nursing home that now claims it cannot manage the person's behavior, this could be considered de facto evidence that it should be able to manage the person's behavior but chooses not to.

NEXT

This scenario involves Mr. Hallin and transfer and long term care, not Federal OBRA.
*Note* Federal OBRA applies only to nursing homes, not to assisted living facilities (ALF's).

Mr. Hallin is 57 years old. He is a Vietnam Veteran. He suffers from Post Traumatic Stress Disorder (PTSD) and chronic pain due to injuries sustained during combat. He resides at an assisted living facility (ALF) because he cannot care for himself. His family lives out-of-state and does not keep in contact with him.

Transfer and Long Term Care

Lately, Mr. Hallin seems obsessed with watching the news about war activities in the Middle East, staying up day and night ranting about how he needs to be returned to active duty. His ALF, Pine Castle, has recommended he be transferred to Hawk Creek because they offer more treatment options for veterans and a lower counselor to resident ratio.

Is Mr. Hallin's recommended transfer justified?

- YES.
- NO.
- Pine Castle should not recommend transfer and suspend Mr. Hallin's TV privileges.
Pine Castle should not recommend transfer and suspend Mr. Hallin's TV privileges.

Although removal of Mr. Hallin's TV privileges may calm him down a bit for the time being, this option does not get at the root of his behavior.

If he will receive more treatment options for veterans and a lower counselor to resident ratio, a transfer to Hawk Creek may be warranted.

Notice Requirements
Residents have the right to be transferred or discharged only for medical reasons or for the welfare of other residents, and have the right to be given reasonable advance notice of no less than 30 days of any involuntary transfer or discharge, except in the case of an emergency as determined by a licensed professional on the staff of the nursing home.

The Outcome
Mr. Hallin agrees to transfer to Hawk Creek when he finds out Hawk Creek has a support group for Veterans.

NEXT

This scenario involves Mr. Carey.
Mr. Carey is 84 years old. A stroke has paralyzed most of his left side. He resides at a nursing home because his family can no longer care for him. He is generally quiet and has not displayed behavioral problems in the past. At this time, he is not oriented to time and place.

Mr. Carey is in utter dismay over his current physical condition. Whenever he is in common areas, he solicits other residents to help him commit suicide. He has a plan to overdose on medication if he can just get someone to give him enough to end his life. Facility staff send him out for a psychiatric exam due to his suicidal ideation. He is treated i.e. his medications are adjusted and after three days of observation he has resumed his quiet demeanor and has found listening to music a soothing alternative to mulling over his physical condition. However, his nursing home refuses to accept him back, claiming he is an instigator, trying to involve other residents in his suicide plan.

Is the refusal to accept back legally justified?

• YES.
• NO.
• It's acceptable with behavioral problems such as Mr. Carey's
The refusal to accept back is not justified. Mr. Carey should not be sent out for examination or treatment that can be provided appropriately in place and then be refused readmission for instigation.

The Outcome
Now that Mr. Carey has found a soothing alternative to his suicidal thoughts he can return to his current residence. Staff arrange for him to be given headphones so he can listen to his favorite music. Other calming strategies are also used.

HOT TOPIC
Unaddressed Problems
Behavioral problems often occur because ineffective interventions are employed. Such behavioral problems should be documented as soon as they occur and appropriate interventions employed each and every time the behaviors re-occur to avoid Baker Act and transfer.

NEXT

Florida Health Care Association Recommendations

Can you determine the most appropriate course of action for redirecting a resident who exhibits behavior that may present a risk to self or others?

NEXT

Averting Involuntary Examination
What is the first thing to do when someone in a long term care facility is acting in a manner that appears to be related to mental illness and this behavior is escalating?

First, there should be an assessment done by the facility to determine if something in the person’s environment may be causing this behavior and steps taken to alleviate the circumstances.

The Florida Health Care Association’s Quality First Credentialing Program Best Practices Tool can help you make decisions about how to identify triggering events and implement calming strategies.

NEXT
According to Florida Health Care Association’s recommendations each of the following is either a triggering event or calming strategy.

**Warm Blanket**  
Calming Strategy

**Read a favorite story**  
Calming Strategy

**Thunder & Lightning**  
Triggering Event

**Soft Music**  
Calming Strategy

**Stuffed Animal or Comfort Article**  
Calming Strategy

**Fire Alarm**  
Triggering Event

**Flashing Lights**  
Triggering Event

**Contact with Unfamiliar Person**  
Triggering Event

Long term care facilities such as nursing homes and assisted living facilities must follow the criteria and procedures provided under the Baker Act relating to the transportation, voluntary admission, and involuntary examination of a resident. These facilities are licensed by the Agency for Health Care Administration (AHCA) under the legislative authority found in Chapter 400/429; F.S. Violations are subject to sanctions from AHCA.

**Scenarios**

Ms. Li is 86 years old. Her arthritis causes her severe pain. She is not able to bath, sit or walk without assistance. Ms. Li's native language is Chinese. She understands some English.

Anytime someone comes near Ms. Li, she flails her arms and screams for them to get away. No one can bring her medications, give her baths or change her sheets without her becoming extremely upset.
What is the most appropriate way to approach Ms. Li so that she can get the care she needs?

- Send Ms. Li to a hospital on a Baker Act or "altered mental status"
- Knock on Ms. Li’s door when she’s awake, and ask her if it’s ok to enter the room.
- Tell her there’s no reason for her to be upset, she has nothing to worry about.

Knock on Ms. Li’s door when she’s awake, and ask her if it’s ok to enter the room.
The most appropriate way to approach Ms. Li is to respect her feelings as a resident of her home. If she says, “no” when asked for permission to enter, ask when a good time would be. Return at that time with a warm blanket or other comfort item and gently ask her what she is upset about, validating her feelings.

The Outcome
Ms. Li’s recent hip injury has caused her to be very sensitive to touch from other people. She’s extremely afraid someone will nudge her the wrong way and cause her hip to be re-injured once again. Staff at the facility assures her that they are aware of her injury and want to make her as comfortable as possible. They are only touching her so as to keep her comfortable and clean.

HOT TOPIC
Rule out non-psychiatric causes of behavioral problems
Many residents are sent to Baker Act receiving facilities for behaviors that result from medical conditions. Rule out medical conditions in place, at the long term care facility, or at a medical facility prior to considering the Baker Act.

NEXT

Ms. Smith is 88 years old. Last month her husband passed away. They were married for 70 years. She was moved to an assisted living facility because she can no longer care for herself. She is also diagnosed with the early stages of Dementia. Her demeanor is generally sweet and quiet.

Ms. Smith appears to be having hallucinations. She becomes agitated periodically throughout the day, claiming she sees and hears elephants thundering down her hallway. She wails and paces which causes other residents to be uncomfortable. What is the most appropriate way to approach Ms. Smith so that she can get the care she needs?

- Send Ms. Smith to a hospital under a Baker Act on "altered mental status"
- Call in a trusted relative, friend or staff member.
• Tell Ms. Smith that she must be imagining the elephants, there’s no way any animals could be in the building.

The correct response is to ask a trusted friend, relative or staff member to visit with Ms. Smith and find out what has triggered her agitation. This is a calm and comforting way to approach the situation.

The Outcome
Ms. Smith’s daughter, Michelle, visits and sits with her all afternoon. While sitting with her, Michelle notes a far off rumbling noise. As the noise draws closer, her mother becomes agitated and starts to wail about the elephants again, pointing to the “elephant” as it passes by her room window. Ms. Smith is legally blind, it turns out that the “elephant” is an oversized laundry bin stacked high with linens and covered with a large gray sheet. The noise of the cart and its general appearance as large and gray made her think it was an elephant. The laundry attendant takes the cart down a different hallway that doesn’t pass by Ms. Smith’s room. She no longer becomes upset because the loud noise does not trigger her to act out anymore.

NEXT

Mr. Hallin is 57 years old. He is a Vietnam Veteran. He suffers from Post Traumatic Stress Disorder (PTSD) and chronic pain due to injuries sustained during combat. He resides at an assisted living facility (ALF) because he cannot care for himself. His family lives out-of-state and does not keep in contact with him.

Whenever someone comes to make up Mr. Hallin’s bed in his residential room at the ALF, he becomes aggressive to the point that housekeeping cannot go in the room any longer without making him angry. Administrative staff have received complaints from housekeeping because they are afraid he will become violent if they continue to make up his bed.

What is the most appropriate way to approach Mr. Hallin?

• Discontinue making Mr. Hallin’s bed.
• Tell Mr. Hallin that his bed will be made at 9am each morning and he should probably vacate the room.
• Have a trusted staff member approach Mr. Hallin.

Tell Mr. Hallin that his bed will be made at 9am each morning and he should probably vacate the room. While it may be a good idea on the surface to make
up Mr. Hallin’s bed when he is out of the room this doesn’t explain what is upsetting him.

Discontinue making Mr. Hallin’s bed. Discontinuing linen service does not get to the root of what is upsetting Mr. Hallin. Besides, the facility has an obligation to keep his residential area sanitary.

The most appropriate approach is to have a trusted staff member approach Mr. Hallin.
A trusted staff member approaches Mr. Hallin when he is calm and inquires about how and when he would prefer to have his bed made. Mr. Hallin declares that he doesn’t need anyone’s help to make his bed. He’d rather make it up himself to his liking.

Arrangements are made to leave him fresh linens on his bedside table while he’s at breakfast, leaving him to decide when to make his bed and how.

NEXT

Mr. Carey is 84 years old. A stroke has paralyzed most of his left side. He resides at a nursing home because his family can no longer care for him. He is generally quiet and has not displayed behavioral problems in the past. At this time, he is not oriented to time and place.

Whenever staff try to wake Mr. Carey up in the morning he refuses to get up, won’t come out for breakfast and locks his door. He sleeps all day. Dinner is his only meal. He stays up most of the night reading the newspaper and watching TV. Staff are concerned that he may be harming himself because he doesn’t appear to be taking care of himself very well.

What is the most appropriate way to approach Mr. Carey?

• Leave breakfast outside of Mr. Carey’s room?
• Call Mr. Carey’s son, Jake, to get more information about his habits?
• Send Mr. Carey to a hospital under a Baker Act on "altered mental status"?

Call Mr. Carey’s son, Jake, to get more information about his habits. Jake explains that his father worked the night shift for the past 54 years. He got up at 6:00 pm each evening, ate breakfast and read the newspaper. This was his way of life.

The Outcome
The overnight staff at the facility is notified of Mr. Carey's previous way of life as a night shift worker. The overnight staff now check on Mr. Carey, asking him if he wants to come out of his room, eat breakfast in the common area, play cards, or watch TV.

HOT TOPIC
Assess residents with self-neglectful behavior in place and provide therapeutic interventions to avoid Baker Act.

HOT TOPIC
Rule out non-psychiatric causes of behavioral problems.

NEXT

Psychotropic Medications

• Can you define clinically contraindicated?
• Can you determine the most appropriate approach for several scenarios involving Psychotropic Medication regulations and the Baker Act?

Disclaimer:
The following information has been provided by the Pharmacy Consultants with the Agency for Health Care Administration. It applies ONLY to nursing homes. Information on regulatory requirements and guidelines regarding the use of psychotropic medication are based on the State Operations Manual governing nursing home care. This information does not apply to hospitals or assisted living facilities, each of which has different federal and state regulations.

NEXT

Psychotropic Medications
Federal and State Regulations
The goal of federal and state regulations is to:

• ensure appropriate differential diagnosis of “behavioral symptoms” so the underlying cause of the symptoms is recognized and treated appropriately

• ensure the proper use of psychotropic drugs and to prevent their use when the “behavior symptom” is caused by conditions such as:

  • Environmental stressors (e.g., excessive heat, noise, overcrowding, etc.);
  • Psychosocial stressors; or
  • Treatable medical conditions, including pain, infection, and medication interactions and side effects
  • Pharmacy Services
The use of psychotropic medications in a nursing home setting is appropriate if the person has a diagnosis associated with the medication used.

Mental illnesses are highly treatable and persons of any age can benefit from psychotropic medications. (Their use must be fully documented by a physician.)

Each group of psychotropic medications -- anti-psychotic drugs, anti-anxiety drugs, anti-depressant drugs, and sedative/hypnotic drugs -- has different federal regulations regarding their use in the nursing home. Facilities and practitioners must be aware of current regulations governing the use of each medication group.

The nursing home regulations and guidelines governing the use of psychotropic medications are located in the State Operations Manual for Nursing Homes [CFR 483.25(1)] under regulation F-329.

Based on a nursing home's comprehensive health assessment of a resident, the facility must assure that anti-psychotic drugs are not given unless their need is documented in the clinical record. This documentation must include an approved clinical identification and indication of associated behaviors based on the federal guidelines. In addition, if any psychotropic drug is used outside federal and state guidelines, there must be written justification in the clinical record. This may include but is not limited to:

A physician note
A physician note indicating for example, that the dosage, duration, indication, and monitoring are clinically appropriate and should state why this medication is indicated and the risk/benefit of using the drug has been considered.

A medical or psychiatric consultation
A medical or psychiatric consultation of evaluation that confirms that in the physician’s judgment the use of this drug outside of the Guidelines is in the best interest of the resident.

Professional documentation
Physician, nursing, or other health professional documentation indicating that the resident is being monitored for possible adverse reaction and side effects.

Other documentation criteria
Other documentation showing:
- previous attempts at dosage reduction have been unsuccessful.
• resident’s improvement or maintenance of function while taking the medication.
• resident’s deterioration has been evaluated by the facility care team to determine if the drug, dose, or duration may have been the cause of the resident’s decline.
• why the resident’s age, weight, or other factors would require a unique dose, duration, indication, or monitoring.

Anti-Depressant Medications in Nursing Homes
The under-diagnosis and under-treatment of depression in nursing homes is well documented. Fortunately, clinical depression is a highly treatable medical illness, and its treatment can save lives. The Centers for Medicare and Medicaid Services and the Agency for Health Care Administration continue to support the accurate identification and treatment of depression in nursing homes.
Antidepressant drug therapy would be considered unnecessary only if a physician failed to adequately document the diagnosis, the need for the medication, or to monitor the resident’s response to the medication.

Identification of Clinical Depression
Many things contribute to clinical depression, including:
• genetic, cognitive or biological factors
• life losses
• medications AND
• certain medical conditions

Symptoms of Clinical Depression
• Clinical depression can be observed through symptoms of:
  • irritability
  • restlessness
  • changes in appetite or sleep
  • difficulty in concentrating, remembering or making decisions

Residents given any psychotropic drug are not required to receive gradual dose reduction when clinically contraindicated as such:

The resident has an appropriate psychiatric diagnosis and a history of psychotic symptoms which have been stabilized with a maintenance dose of a psychotropic drug without incurring significant side effects.
OR
A gradual dose reduction was previously attempted that resulted in the return of symptoms, requiring a stop in the dose reduction or returning to the original dosage.
It is essential that the resident’s physician(s) and health care professionals fully document in the clinical record of why the continued use of the drug and dose are clinically appropriate.

Current medication usage and dosage reduction guidelines for psychotropic drugs including anti-psychotic, anti-anxiety, and sedative/hypnotic drugs are included in the State Operation Manual for Nursing Homes under regulation, F-329.

Scenarios

Ms. Li is 86 years old. Her arthritis causes her severe pain. She is not able to bath, sit or walk without assistance. Ms. Li's native language is Chinese. She understands some English.

Ms. Li has been sitting slumped over in a chair for days. She sits quietly, staring at the floor, weeping most of the time. Staff think she may be depressed.

What can staff do to relieve Ms. Li?

- Give Ms. Li an anti-depressant medication with her next meal.
- Tell Ms. Li she shouldn’t be feeling sad because she is in a lovely setting.
- Validate Ms. Li’s feelings. Sit and listen to why she is sad.

Validate Ms. Li’s feelings. Sit and listen to why Ms. Li is sad. Sitting and listening to Ms. Li describe why she is so sad may reveal the root of her mood, preventing the need for an involuntary exam or antidepressant medication at this juncture.

The Outcome

Ms. Li reveals that she misses her mother; she hasn’t seen her for a long time and wishes she would come visit. Now that staff are aware of why she is so sad they divert her attention to more productive activities that honor her mother. Ms. Li is encouraged to keep a journal of favorite times with her mother or create artwork in admiration of her. Should an array of interventions fail to address Ms. Li’s depression, medications may be considered by her physician.

Ms. Li cannot receive any antidepressant drugs unless there is documentation of need in her clinical record and an order from her physician. While a “pep talk” seems like a good idea, it’s not helping to get at the root of Ms. Li’s sadness.
Ms. Smith is 88 years old. Last month her husband passed away. They were married for 70 years. She has recently been transferred to a nursing home because she requires an elevated level of care.

Ms. Smith has been wandering around, scantily clad. This behavior disturbs some of the other residents. Whenever staff approach her with a robe she pushes it away saying she’s “burning up”. Staff are worried because she’s legally blind and at an elevated risk of falling. Staff suspect her dementia has progressed and she may need to have her antipsychotic medications adjusted.

What can staff do to relieve Ms. Smith and prevent other residents from being disturbed?

- Increase Ms. Smith’s dose of antipsychotic medication.
- Assess for environmental stressors or treatable medical conditions.
- Tell Ms. Smith she’s a lady and her dress is inappropriate for wandering the hallways.

Assess for environmental stressors or treatable medical conditions.
Ms. Smith’s recent urinary tract infection has flared up again and she has a fever. She's trying to cool off by removing some of her clothing and getting some, “fresh air”.

The Outcome
Now that her medical condition has been diagnosed, Ms. Smith receives antibiotics to treat the urinary tract infection. She is no longer wandering around with little clothing because her body temperature has returned to normal.

Ms. Smith’s dosage of antipsychotic medication cannot be adjusted unless there is documentation in her clinical record of her need. Tell Ms. Smith she’s a lady and her dress is inappropriate for wandering the hallways.
Scolding Ms. Smith is not getting to the cause of her wandering and/or lack of clothing.

NEXT

Ms. Bee is Mr. Hallin's lady friend. They met when they were placed in the same ALF a few years ago, when Ms. Bee was first diagnosed with Alzheimer's disease and displayed symptoms of depression. Ms. Bee has a history of taking anti-depressant medication for her depression.

Unfortunately, Ms. Bee's Alzheimer's has progressed, requiring her to be transferred to a nursing home because she requires daily nursing care. The
maintenance dosage of her anti-depressant medication seems to have stabilized her condition.

Is it clinically contraindicated for Ms. Bee to receive a dosage reduction now that her condition is stabilized to the point that she is able to enjoy some of her early morning activities again?

- YES
- NO
- What is clinically contraindicated?

Clinically Contraindicated

1. The resident has an appropriate psychiatric diagnosis and has a history of recurrence of psychotic symptoms which have been stabilized with a maintenance dose of a psychotropic drug without incurring significant side effects.

OR

2. The resident has had a gradual dose reduction attempted and that attempt resulted in the return of symptoms for which the drug was prescribed to a degree that a cessation in the gradual dosage reduction or a return to the previous dose reduction was necessary.

Ms. Bee is not required to receive a dosage reduction just because her depressive condition has been stabilized. It would be clinically contraindicated to reduce her dosage now that she is stable as long as her physician and healthcare professionals fully document in the clinical record a justification of why Ms. Bee's continued use of the drug and dose are clinically appropriate.

NEXT

Mr. Carey is 84 years old. A stroke has paralyzed most of his left side. He resides at a nursing home because his family can no longer care for him. He is oriented but his speech is impaired. He is generally quiet and has never displayed behavioral problems.

Now that Mr. Carey's "night shift" routine has been reestablished, his physician and other healthcare staff document that he may receive a gradual dosage reduction of his antidepressant medication, however, attempts to reduce his dosage result in the return of symptoms.

Is Mr. Carey's dosage reduction clinically contraindicated?

- YES
- NO
- What is clinically contraindicated?
Mr. Carey’s dosage reduction is clinically contraindicated and not required. If Mr. Carey’s symptoms return, e.g. suicidal ideation, the dosage reduction is clinically contraindicated and not required.

**Legislative Authority**

Chapter 400 - Nursing Homes and Related Health Care Facilities
400.011 Purpose.--The purpose of this part is to provide for the development, establishment, and enforcement of basic standards for:
(1) The health, care, and treatment of persons in nursing homes and related health care facilities; and
(2) The maintenance and operation of such institutions that will ensure safe, adequate, and appropriate care, treatment, and health of persons in such facilities.

400.102 Action by agency against licensee; grounds.--In addition to the grounds listed in part II of chapter 408, any of the following conditions shall be grounds for action by the agency against a licensee:
(3) Failure to follow the criteria and procedures provided under part I of chapter 394 (Baker Act) relating to the transportation, voluntary admission, and involuntary examination of a nursing home resident.

Chapter 429 - Assisted Care Communities
This act promotes the availability of appropriate services for elderly persons and adults with disabilities in the least restrictive and most homelike environment possible in order to:
• encourage the development of facilities that promote the dignity, individuality, privacy, and decision-making ability of such persons,
• provide for the health, safety, and welfare of residents,
• promote continued improvement of such facilities,
• encourage the development of innovative and affordable facilities, particularly for persons with low to moderate incomes,
• ensure all state agencies cooperate in the protection of such residents, and ensure that needed economic, social, physical health, mental health, and leisure services are made available to residents of such facilities.

The Legislature recognizes:
• Assisted living facilities are an important part of the continuum of long term care.
• They should be operated and regulated as residential environments with supportive services and not as medical or nursing facilities.
• The services available in these facilities, either directly or through contract or agreement, are intended to help residents remain as independent as possible.
429.14 Administrative Penalties

(1) In addition to the requirements of part II of chapter 408, the agency may deny, revoke, and suspend any license issued under this part and impose an administrative fine in the manner provided in chapter 120 against a licensee of an assisted living facility for a violation of any provision of this part, part II of chapter 408, or applicable rules, or for any of the following actions by a licensee of an assisted living facility, for the actions of any person subject to level 2 background screening under s. 408.809, or for the actions of any facility employee:

(d) Failure to follow the criteria and procedures provided under part I of chapter 394 (Baker Act) relating to the transportation, voluntary admission, and involuntary examination of a facility resident.

NEXT

Quick Glossary

Agency for Health Care Administration (AHCA)
AHCA is the chief health policy and planning entity for the state responsible for:
- health facility licensure, inspection, and regulatory enforcement;
- investigation of consumer complaints related to health care facilities and managed care plans;
- the implementation of the certificate of need program;
- the operation of the Florida Center for Health Information and Policy Analysis;
- the administration of the Medicaid program;
- the administration of the contracts with the Florida Healthy Kids Corporation;
- the certification of health maintenance organizations and prepaid health clinics and any other duties prescribed by statute or agreement.

Assisted Living Facility (ALF)
Assisted Living Facility - any building(s), section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

Department of Elder Affairs
Constitutionally designated by Florida voters to serve as the primary state agency responsible for administering human services programs for the elderly. Its purpose is to serve elders in all possible ways to help them keep their self-sufficiency and self-determination.

Long term care facility
A nursing home facility, assisted living facility, adult family-care home, board and care facility, or any other similar residential adult care facility.
Nursing Home
A facility which provides nursing services as defined in part 1 of chapter 464 and is licensed according to this part.

Ombudsman
An individual appointed by the Secretary of Elder Affairs to head the Office of State Long term Care Ombudsman.

Omnibus Budget Reconciliation Act (OBRA)
Office of State Long term Care Ombudsman
Identifies, investigates, and resolves complaints made by or on behalf of residents of long term care facilities relating to actions or omissions by providers or representatives of providers of long term care services, other public or private agencies, guardians, or representative payees that may adversely affect the health, safety, welfare, or rights of the residents.

Omnibus Budget Reconciliation Act (OBRA).
The Federal Nursing Home Reform Act or OBRA ‘87 creates a set of national minimum set of standards of care and rights for people living in certified nursing facilities. These minimum federal health and care requirements for nursing homes are to be delivered through a variety of established protocols within nursing homes and regulatory agencies. And as minimum standards, Long term Care Ombudsmen should view OBRA as a baseline that should be built upon to reach not only resident “well-being” but also happiness and fulfillment.