



## Right to Refuse Medication in a Prison Setting

In general, all inmates have the right to refuse to take medication. You are considered to refuse a medication if you refuse to take it within 30 minutes of it first being offered to you.

In some situations, though, the prison can force you to take psychotropic medication against your will. This is sometimes called “forced medication.”

### **Forced medications in an emergency**

In an emergency situation, your doctor can order forced medication for up to 72 hours (3 days). Each of these conditions must exist for your doctor to order forced medication:

- you have a mental illness;
- you are receiving mental health treatment in the prison;
- either
  - not treating your illness would create an imminent substantial threat of injury or death to you or others; or
  - your records and medical history demonstrate that your illness has been deteriorating for a prolonged time, it is getting worse and, if not treated, it is likely to create a condition that would endanger the life or safety of you or others
- the medication is a generally accepted treatment for your illness;
- the treatment is substantially likely to effectively reduce the symptoms of your illness; and
- the medication is the least intrusive of the treatment options.

If the emergency continues to exist, and another doctor who is not involved in your treatment agrees, your doctor can renew the order for up to 144 more hours (6 days).

After 9 days of emergency forced medication, the doctor must follow the procedures for forced medication in a non-emergency situation.

*COPYRIGHT 2015 by Disability Rights NC. All rights reserved. This document contains general information for educational purposes and should not be construed as legal advice. It is not intended to be a comprehensive statement of the law and may not reflect recent legal developments. If you have specific questions concerning any matter contained in this document or need legal advice, we encourage you to consult with an attorney.*

## **Forced medications in a non-emergency**

In a non-emergency situation, you can also be forced to take psychotropic medication.

The doctor must consider your reasons for refusing the medication, and speak with you about the risks and benefits of the medication, as well as the risks and benefits of other treatment options. Your treatment team may also talk with you about this. If you still refuse the medication, your doctor must refer the matter to the Involuntary Medication Committee.

The Involuntary Medication Committee will meet to review your case. You have the right to participate in the meeting, either in person or through an interview with a Committee representative. You also have the right to be represented at the Committee meeting by a member of your treatment team. You may present evidence and call witnesses to support your position.

The Committee will first determine if each of these conditions exist:

- you have a mental illness;
- you are receiving mental health treatment in the prison; and
- either
  - not treating your illness would create an imminent substantial threat of injury or death to you or others; or
  - your records and medical history demonstrate that your illness has been deteriorating for a prolonged time, it is getting worse and, if not treated, it is likely to create a condition that would endanger the life or safety of you or others.

If one of these conditions does not exist, you cannot be forced to take the medication.

If all of these conditions exist, the Committee will then consider whether:

- the medication is a generally accepted treatment for your illness;
- the treatment is substantially likely to effectively reduce the symptoms of your illness; and
- the medication is the least intrusive of the treatment options.

If these conditions exist as well, the Committee can authorize forced medication for up to 30 days. A majority of the Committee must agree with the decision.

After 30 days of non-emergency forced medication, your doctor may ask the Committee to renew its decision. The Committee can authorize forced medication for up to 90 additional days. The Committee can authorize forced medication for additional periods of up to 90 days, as long as it reviews the situation first.

---

Disability Rights North Carolina is a 501(c)(3) nonprofit organization headquartered in Raleigh. It is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration.

Its team of attorneys, advocates, paralegals and support staff provide advocacy and legal services at no charge for people with disabilities across North Carolina to protect them from discrimination on the basis of their disability. All people with disabilities living in North Carolina are eligible to receive assistance from Disability Rights NC.

Contact us for assistance or to request this information in an alternate format.

**Disability Rights North Carolina**

3724 National Drive, Suite 100  
Raleigh, North Carolina 27612  
[www.disabilityrightsncc.org](http://www.disabilityrightsncc.org)

919-856-2195  
877-235-4210 (toll free)  
888-268-5535 (TTY)  
919-856-2244 (fax)

