

# A Guide to Accessing Medication

For inmates in Washington State jails

This guide provides information about the rights of inmates to access prescription medication while in Washington State jails. Please be aware that specific medication policies and practices differ from jail to jail.

The AVID Jail Project of Disability Rights Washington (DRW) provides information and assistance to jail inmates with disabilities. The AVID Jail Project hopes this guide will help inmates and their advocates better understand and exercise their rights.

This guide is not meant as an endorsement by DRW that medication is the best or only form of treatment for mental or physical disabilities. DRW intends this guide to give inmates information to help them make decisions about their own treatment.



**This is a publication by the AVID Jail Project:  
*Amplifying Voices of Inmates with Disabilities***

AVID is a project of Disability Rights Washington, an independent, private, non-profit organization designated as Washington's protection and advocacy agency, and mandated to protect the rights of people with disabilities statewide. DRW's mission is to advance the dignity, equality, and self-determination of people with disabilities.

**[www.disabilityrightswa.org](http://www.disabilityrightswa.org)**

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## Who is this guide for?

- Inmates with disabilities in Washington State jails. This could include municipal, tribal, county, or multijurisdictional jails.
- Family, friends, and advocates of jail inmates with disabilities in Washington State.
- Community service providers with clients incarcerated in Washington State jails.

## Terms

This guide uses the term **“jail healthcare provider”** to mean someone who is responsible for inmate health care in the jail. This includes but is not limited to a nurse, a doctor, or a mental health provider.

This guide refers to the use of **“kites”** to communicate with the jail and its staff. A kite is a written form provided by the jail to inmates so that they can submit questions or share information with the jail. Some jails provide **“medical kites”** for inmates to submit questions or concerns specifically about health issues.

This guide uses the term **“grievance.”** A grievance is a formal written complaint that provides inmates with a way of resolving complaints or concerns in the jail.

This guide uses the term **“sick call”** to refer to brief, in-person access to a jail healthcare provider, often occurring in the inmate housing units on a daily or semi-weekly basis.

## Issues addressed

This guide addresses the rights of inmates to access prescription medication in Washington State jails. This guide addresses inmate access to medication in three different parts:

1. Soon after booking
2. While incarcerated
3. At release

## Part One: Access to medication soon after booking

At booking, staff from the jail will usually meet with an inmate and fill out a health screening form in order to learn about an inmate's healthcare needs. Sometimes the screener is a jail healthcare provider, but sometimes the screener is a corrections officer or other non-medical jail staff member. The screener may ask about an inmate's:

- Physical and mental health history
- Current and past health care in the community
- Current and past health problems or symptoms
- Current and past prescription medication.

If the screener does not ask about medication, an inmate can still report this information and ask the screener to write it down.

Jails do not have a way of automatically checking for an inmate's current prescription medication. Jails generally rely on inmates to self-report their healthcare history and needs. An inmate should not assume that the jail will already know about their healthcare history or needs, even if the inmate has been at the jail before.

### Identifying current medication

The screener at booking should create a list of current medications that the inmate is taking. This list can be based on:

- What an inmate tells jail staff
- What family, friends, or other advocates tell jail staff
- Prescription bottles that are with the inmate at the time of arrest
- Information given to the jail by the arresting officer
- Information given to the jail by a hospital or other facility that is transferring the inmate to the jail
- Health records from previous times the inmate was at the jail.

### Verifying the medication

Once they have a list of medication that the inmate is taking, jail staff will likely try to verify the medication before giving it to the inmate. This means that the jail will make

sure that the prescription is real and is not too old.

If an inmate wants to keep taking their prescribed medication in jail, it is helpful to give information about the prescription to jail booking staff and healthcare providers. This information might include:

- The name of the medication
- The medication dosage that the inmate usually takes and how often
- The reason the medication is prescribed
- The date and time that the inmate last took the medication
- How long the inmate has been taking the medication
- The name or contact information for the doctor or pharmacy that most recently gave the medication to the inmate
- The name or contact information for a community healthcare provider that the inmate currently uses or recently used
- Any times in the past that the inmate has gotten the medication from the jail
- The name of a family member or other person who may be able to provide more specific medication information to the jail.

The jail can then verify this information in different ways, including:

- Contacting the pharmacy
- Calling the inmate's doctor or case manager
- Reaching out to other jails, prisons, or hospitals where the inmate has stayed
- Checking the inmate's jail health records from previous stays at the jail.

If the inmate's prescription was not filled at an outside pharmacy recently, the jail may consider it too old and will not continue it for the inmate. For example, King County Jail's policy is that an inmate must have filled their prescription within the last 45 days for it to be considered current and verified.

## **Medication that cannot be verified right away**

If the jail cannot verify medication during or soon after booking, the jail healthcare provider will often be notified to follow up with the inmate as soon as possible. Sometimes the jail will give an inmate certain medications right away even without verifying the medication. These are usually medications that are used to treat life-threatening health conditions or medications that cannot be suddenly stopped without serious health risks.

## Medication brought into jail by an inmate

If an inmate brings their own prescription medication into the jail at booking, there is no guarantee that the jail will allow the inmate to use those exact pills or medicines. Some jails (often the smaller jails) allow an inmate to use the medication they brought into jail with them. Other jails (often the larger jails) will instead use the medication bottles to help verify the prescription, but will give the inmate a fresh prescription from the jail's own medication supply. When this happens, the jail will usually store the inmate's own medication for them and return it to them at release.

Jails might allow an inmate to use their own medication if it is very expensive, unique, or related to experimental medical research.

## Issues with specific medications

### ***Anti-anxiety medications (benzodiazepines)***

These medications include Xanax, Klonopin, and Ativan, among others. Many jails have a general policy against giving these medications to inmates, even if the medication was prescribed to the inmate outside of jail and has been verified. If an inmate asks the jail to make an exception to this policy, the jail might consider the following factors:

- Who prescribed the benzodiazepine originally
- Whether the prescription is recent
- Whether the inmate has been taking the correct dosage as directed
- Whether the inmate has a history of alcohol or substance abuse.

**Examples of an inmate's own medication that the inmate might be allowed to bring into the jail and take during incarceration include:**

- Inhalers
- Oral contraceptives
- Experimental drugs used in research projects
- Unusually expensive drugs that are somehow unique.

If the jail decides not to give benzodiazepines to the inmate, the jail might taper the inmate off the medication. "Tapering" means to slowly reduce the amount of a medication because stopping it abruptly would cause unpleasant or dangerous withdrawal symptoms. A jail may choose to taper medication if the inmate's dosage was high or if the inmate is elderly or otherwise medically vulnerable.

### ***Stimulant medications***

These medications include Adderall, Dexedrine, and Ritalin, among others. Many

jails have a general policy against giving these medications to inmates, even if the medication was prescribed to the inmate outside of jail and has been verified. If an inmate asks the jail to make an exception to this policy, the jail might consider the following factors:

- Symptoms the jail observes (not just what the inmate reports)
- Confirmed childhood diagnosis of ADHD
- Evidence of successful past treatment with the medication
- Whether the inmate is doing an activity that requires concentration (for example, GED classes or representing themselves in a criminal case)
- Whether the inmate has a history of alcohol or substance abuse.

### ***Medication-Assisted Treatment (MAT)***

Medication-Assisted Treatment (MAT) is the use of medication in combination with counseling and behavioral therapies for the treatment of substance use disorders. For example, medications like methadone or buprenorphine are used to treat opioid addictions. There are some jails in Washington State that allow an inmate to continue on MAT while in jail if the inmate is enrolled with an MAT provider in the community. Jails also often have special policies and practices that apply to the use of MAT with pregnant women.

An inmate should consider asking as soon as possible after booking about the jail's specific MAT policies. If the inmate is currently enrolled with an MAT community provider, the inmate may want to immediately share that information with the jail, including the name of the provider and the last date and time the inmate received a dosage of the medication.

### ***Medication not on the jail's formulary***

Many jails use a formulary, an official list of medicines that it usually prescribes. If an inmate's medication is not included on the jail formulary, the jail will often offer the inmate a substitute medication from the formulary. If an inmate does not want to take a substitute medication from the jail's formulary, the inmate may ask the jail to make an exception and give non-formulary medication to the inmate. Many jails have a specific policy or procedure to handle requests for non-formulary medication.

The inmate may want to explain to the jail healthcare provider specifically why they want the non-formulary medication. It might be helpful to explain the inmate's prior experience with the formulary vs. non-formulary medication. If the inmate has a doctor outside of jail who understands why certain non-formulary medications work better for the inmate, then the inmate can ask the jail healthcare provider to speak to this doctor.

## **Medication dosage**

A jail may have a list of medication dosages that it considers to be within a normal, acceptable range. If the jail has verified an inmate's medication, but the prescribed dosage is outside of what the jail considers the normal range, the jail might lower or increase the dosage or not provide the medication at all.

The jail will not necessarily tell the inmate about its plans before making changes or stopping the medication. An inmate has the right to discuss this decision with the jail healthcare provider and to file a grievance about it if the inmate does not agree with the decision.

## **Medication and detoxification**

Sometimes the jail believes that an inmate was actively using alcohol or illegal drugs right before coming to jail. These inmates might experience withdrawal from the alcohol or illegal drugs when they first arrive at jail in a process commonly called detoxification ("detox").

The jail might not give an inmate all of their usual prescription medications during detox even if those medications are verified and current. The jail healthcare provider might believe that it is dangerous to take certain prescription medication during detox. The jail should provide an explanation to the inmate if it is refusing to provide prescription medication because of concerns about detox. An inmate has the right to discuss this decision with the jail healthcare provider and to file a grievance about it if the inmate does not agree with the decision.

## **Part Two: Access to medication while incarcerated**

### **Getting new medication**

Even if an inmate does not enter the jail with current prescription medication, they have the right to ask for medication as part of their health care at any point during their stay in jail. If an inmate reports physical or mental health symptoms to the jail or otherwise asks for treatment, the jail should respond to the inmate. The jail generally should not ignore an inmate's request for health care, whether it is made in person or through a kite.

The jail might schedule the inmate to be seen by a jail healthcare provider who can prescribe medication. Depending on the jail, an appointment with the jail healthcare provider could happen within a few days or there could be a much longer wait. Even

though jails will not generally tell an inmate the exact date of a healthcare appointment, an inmate may ask about the general wait times for an appointment. An inmate may also submit a grievance to the jail if they feel the wait time does not meet their medical needs.

## **Telling the jail what you need**

If an inmate has any questions about medication or treatment, the inmate does not need to wait for a scheduled appointment with a jail healthcare provider. An inmate may usually submit their question or issue in writing through a kite or bring it up with healthcare staff in person. Jails must evaluate and respond to an inmate's request for medication or other health care even if the jail does not ultimately agree that the inmate needs this treatment. An inmate may submit a grievance to the jail if they disagree with treatment decisions.

### **Some tips on communicating with the jail about medication:**

1. When an inmate is asking for medication through a kite or in person, the inmate should consider giving as much detail as possible, including:
  - Current physical or mental health symptoms that the inmate believes the medication will help
  - Any related diagnosis the inmate has and information about who made the diagnosis
  - Details about when the inmate got the medication in the past
  - What happens when the inmate does not take medication
  - Any medications taken in the past that have caused bad side effects or have not worked well to treat the current health condition.
2. If an inmate was getting health care before coming to jail, the inmate might also ask jail staff to call that outside healthcare provider to talk about the inmate's treatment history and needs, including past medications. It might be helpful for the inmate to sign a release-of-information form giving the jail permission to talk about the inmate's health care with the outside provider. The inmate can request this release form from the jail through a kite or in person.
3. The jail should always consider an inmate's request for medication, make a decision about whether the medication is "medically necessary," and communicate this decision to the inmate. The jail will sometimes tell the inmate about its treatment decision by sending a reverse kite (a written note sent to the inmate).

4. An inmate may wish to follow up with the jail about treatment questions or decisions by sending a kite or talking to jail healthcare staff during sick call. An inmate is entitled to raise any questions or concerns about the jail's treatment decisions.
5. If the jail healthcare provider does not give a clear reason for its treatment decisions, the inmate can ask to see their health records. Generally, the reason for medication decisions should have been recorded in the inmate's health record. Jails have different policies about how and when they let inmates review their own health record, but generally the jail must give access.
6. If the inmate does not ultimately agree with the jail's treatment decisions, the inmate may file a grievance.

**NOTE:** "Medically necessary" is a clinical determination made by health providers. Whether or not the jail's medical or mental health care falls below legally recognized health care standards is a complicated question that is not addressed fully in this guide.

## Ongoing medication management

Once the jail prescribes medication to an inmate, jail healthcare providers should generally schedule regular follow up appointments with the inmate to monitor the effects of the medication. If the inmate has questions or concerns about the medication before one of these scheduled appointments, the inmate should consider submitting a kite or speaking to staff at sick call.

For example, if the inmate is experiencing side effects from the medication, the inmate might want to describe these in detail through a kite or in-person to jail staff and ask to be seen by a jail healthcare provider as soon as possible. If an inmate does not tell the jail about the problems with the medication and instead just stops taking it, the jail might stop giving the medication to the inmate without first trying to fix the side effects.

## Fees for medication

Medicaid and private insurance will not generally pay for an inmate's health care while the inmate is in jail. Many jails charge a fee for certain types of health care services, including prescription medication. Some do not charge for mental health treatment or for any psychiatric medication.

Jails are generally allowed to charge medical fees, but the jail cannot deny health care to an inmate just because the inmate cannot pay for it. An inmate might find more information about healthcare fees in the jail's inmate manual or by submitting a kite with

specific questions about fees.

## Ways an inmate is given medication in jail

The jail can give prescription medications to an inmate to keep with them in their cell and take as prescribed without supervision. This is commonly known as “Keep On Person” (KOP). Or, the jail can give the medication to the inmate in single dosages to be taken under jail supervision.

### Keep on Person (KOP)

The jail gives these medications to the inmate to keep with them and take as prescribed without help from jail staff. They are managed by the inmate. The inmate may be able to take these medications with them at release or if they are transferred to another jail. Often, inmates held in general population who have normal jail privileges are given medication to keep on their person.

### Single Dosage

Single dosage medications are those that are given to the inmate by the jail one dose at a time under jail supervision. These medications are not kept with the inmate. Usually, single dosage medications are those that have a high possibility for misuse. Many psychiatric medications are given as single dosage. If the inmate is placed in segregated housing or has other restrictions on privileges, then the jail often will give all medication to them as single dosage.

## Right to information about medication

Generally, any time a jail healthcare provider wishes to give an inmate medication or medical treatment, the provider must first tell the inmate about the risks and benefits of this treatment. The jail healthcare provider should answer the inmate’s questions about the treatment. After discussing this information, the jail healthcare provider should get the inmate’s permission before beginning the medical treatment. This process is commonly called “informed consent.”

## Right to refuse medication

Generally, an inmate has the right to refuse to take medication that is offered or prescribed by a jail healthcare provider. If an inmate says no to a medication prescribed by the jail, a jail healthcare provider may do one or all of the following:

- Explain the reason for the medication and dosage to the inmate
- Tell the inmate about possible harms of refusing the medication
- Ask the inmate to sign a refusal form to formally record the refusal
- Schedule the inmate for an appointment with the jail healthcare provider to talk about the medication issues.

Based on an inmate's continued refusal of medication, the jail healthcare provider might do one of the following:

- Continue to offer the medication to the inmate for a period of time
- Stop the medication
- Change the dosage
- Try to fix reported side effects
- Offer a different medication to the inmate.

An inmate does not have the right to take a smaller or larger dosage of the medication unless the jail healthcare provider has agreed. Usually, the prescribed dosage must be given or no medication will be given at all. If an inmate wishes to change the dosage of medication, the inmate may want to make this very clear by submitting a kite or talking to a jail healthcare provider at sick call. Otherwise, if the jail believes the inmate is refusing medication, the jail might stop giving the medication even though the inmate just wants a different dosage.

There are exceptions to the right to refuse medication. For example, if jail healthcare providers believe that the inmate is an immediate danger to self or others due to medical or mental illness, then they might give the inmate a single dosage of psychotropic medication without getting the inmate's permission first. There are other exceptions that might involve legal proceedings and court orders.

## **The jail should not use medication to control an inmate's behavior**

Under no circumstances should the jail use medication to control an inmate's behavior or as punishment. The exception to this rule is under emergency circumstances when an inmate is believed to be a risk to self or others. If an inmate believes the jail is using medication to control their behavior or for punishment, the inmate may submit a kite to the jail healthcare provider to discuss the issue and may file a grievance. The inmate may also refuse the medication, as described above.

## Part Three: Access to medication at release from jail

### Leaving jail with medication

In a case called *Wakefield v. Thompson*, a federal appeals court ruled that a prison or jail is required to provide a releasing inmate “who is receiving and continues to require medication with a supply sufficient to ensure that he has that medication available during the period of time reasonably necessary to permit him to consult a doctor and obtain a new supply.” Despite this court decision, many jails in Washington State do not always provide inmates with a supply of their prescription medication at release.

If an inmate has any questions about how medications will be handled at release, the inmate may want to submit a kite to the jail or speak to healthcare staff as soon as possible, even before they know their release date.

If the jail does provide current prescription medication to inmates at release, the supply is usually between 3 and 7 days’ worth. Sometimes a jail will provide a written prescription for the medication at release, either as a substitute or in addition to the supply of medication.

To improve their chance of getting a supply of their prescription medication at release, the inmate might want to make this request to the jail as far in advance of release as possible. The inmate can make this request again as their release date gets closer. The inmate might also consider asking a family member, criminal defense attorney, case manager, or someone else they trust to contact the jail on the inmate’s behalf to request that the jail give the medication to the inmate at release.

If the jail will not give current prescription medication to the inmate at release, the inmate should consider asking the jail to give a specific reason for the denial in writing. The inmate may be able to get the jail to provide a response in writing by filing a grievance about the denial of medication at release.

**NOTE:**

The medications provided at release will often be placed in the inmate’s property bag.

## Contact the AVID Jail Project

The AVID Jail Project provides information and assistance to inmates and their families to help inmates advocate for themselves on disability-related issues in Washington State jails. Visit [www.avidjailproject.org](http://www.avidjailproject.org) for more information.

Contact the AVID Jail Project confidentially to request assistance or to make a referral or report:

 BY MAIL	 BY PHONE
Disability Rights Washington AVID Jail Project 315 5 <sup>th</sup> Avenue S., Suite 850 Seattle, WA 98104	We accept collect calls from jail (206) 324-1521

This information is a service of Disability Rights Washington (DRW). It provides general information as a public service only, and is not legal advice. If you need legal advice, you should contact an attorney. You do not have an attorney-client relationship with DRW.

Always advocate in a timely manner. Please be aware that there are certain time limits or deadlines to file a complaint, a lawsuit, or take legal action.

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