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I22 Medication Madness: Medication As the Basis for the Involuntary Intoxication Defense

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The goals of this presentation are to: (1) provide a summary of the defense of involuntary intoxication as it relates to prescribed medications; (2) review the medications most commonly used by defendants asserting this defense; and, (3) review the pitfalls of the defense to serve as practice pointers for lawyers and forensic mental health evaluators.

This presentation will impact the forensic science community by reviewing the defense of involuntary intoxication as it relates to prescribed medications and by providing practice pointers for those involved in cases in which this defense is raised.

The defense of involuntary intoxication has long been an exception to the general notion that intoxication is not a defense to criminal liability. In most jurisdictions, a criminal defendant may be excused from responsibility if he commits a wrongful act because of involuntary intoxication. This defense is based on the common-law premise that someone who ingests an intoxicant unknowingly, or without awareness of its implications, is not blameworthy.

Defendants may become involuntarily intoxicated through the fault of another; by accidental ingestion, inadvertence, or mistake; or because the defendant has a unique physiological or psychological condition beyond his/her control.¹ Although the term “intoxication” is generally associated with the ingestion of alcohol, the law recognizes that it could include any drug or substance with adverse effects, including prescribed medications.

This presentation will review the results of a recent study on the types of medications most commonly “blamed” by defendants using this defense, as identified in appellate case review.² Psychotropic medications are the most common group of medications used by defendants in their claims of involuntary intoxication. This presentation will discuss specific subclasses of medications.

In addition, this presentation will review the key challenges associated with a defendant’s use of the defense of involuntary intoxication due to prescribed medication. The major challenge to defendants attempting the defense of involuntary intoxication is one of proof. Although there are jurisdictional variations in the applicability of the defense, most jurisdictions require the defendant to establish intoxication due to the claimed agent, involuntariness, and legal insanity. Given this high standard, defendants seldom meet their burden.

This presentation will provide some instruction for legal counsel and mental health forensic evaluators who are called to assess individuals asserting this defense. Specifically, the following areas will be discussed: (1) establishing ingestion; (2) defendant’s misuse of the medication; (3) defendant’s concurrent use of alcohol or illicit substances; (4) defendant’s prior experience with the medication; and, (5) meeting the insanity standard under these laws.

Psychiatrists have unique skills and expertise to aid in the evaluation of defendants using this defense. Not only do psychiatrists have expertise in psychotropic medications and their anticipated effects, forensic psychiatric evaluators are in a unique position to assist the courts because of their experience in assessing mental state at the time of the crime.



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Reference(s):

1. Myers T. Halcion Made Me Do It: New Liability and a New Defense – Fear and Loathing in the Halcion Paper Chase. *62 U. Cin. L. Rev.* 603, 638 (1993).
 2. Piel J. The Defense of Involuntary Intoxication by Prescribed Medications: An Appellate Case Review. *J Am Acad Psychiatry Law.* 43:321–28 (2015).
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Involuntary Intoxication, Prescribed Medication, Insanity