

9515.0500 CONDITIONS GOVERNING USE OF ELECTROCONVULSIVE THERAPY.

Electroconvulsive therapy shall not be administered to adult patients residing in a state facility unless the medical director of the facility, after consultation with the patient's treating physician, has determined according to part 9515.0600 that electroconvulsive therapy is medically indicated; and unless one of the authorizations or consents described in item A or B applies. In the case of patients under age 18, including emancipated minors, electroconvulsive therapy shall not be administered without the judicial authorization required in part 9515.0700, subpart 1.

A. The patient is incapacitated and unable to consent to the treatment but authorization or consent exists because:

- (1) there is a court order authorizing electroconvulsive therapy;
- (2) a court-appointed guardian or conservator authorized by a court to consent to the treatment on the patient's behalf has given informed consent to a request from the state facility under this part; or
- (3) the patient has a valid advance directive that permits the treatment.

B. The patient has the capacity to give informed consent and does give written, informed consent for the treatment. A patient has capacity to give informed consent when the following conditions are met:

- (1) the patient demonstrates an awareness of the nature of the patient's condition, including the need for treatment and the possible consequences of refusing treatment;
- (2) the patient demonstrates an understanding of the proposed treatment and the risks, benefits, and alternatives to such treatment; and
- (3) the patient communicates a clear choice regarding the treatment and the choice is a reasoned one, not based on delusion. Disagreement with the physician's recommendation is not evidence of incapacity.

Statutory Authority: *MS s 246.01; 252.28; 256B.092; 256B.503*

History: *L 1984 c 654 art 5 s 58; 12 SR 1148; 25 SR 1313*

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