**Section 112.90 Administration of** **Psychotropic Medications and ECT**

This Section addresses the use of psychotropic medications or electroconvulsive therapy (ECT) in the treatment of patients receiving services within Department programs.

Definitions

*"Authorized involuntary treatment" means psychotropic medication or electroconvulsive therapy, including those tests and related procedures that are essential for the safe and effective administration of the treatment*. [405 ILCS 5/1-121.5]

"Capable" means the ability of the recipient to make reasoned decisions regarding treatment/habilitation alternatives.

"Code" means the Mental Health and Developmental Disabilities Code [405 ILCS 5].

"Electroconvulsive therapy (ECT)" means the use of electrical stimulation, for therapeutic ends, to induce a generalized seizure.

"Guardianship" refers to the legal relationship between an adult recipient or ward and a court appointed guardian, including a public guardian such as the Office of State Guardian. Illinois guardians may make legally binding decisions on behalf of wards in personal or financial affairs, or both. For the purposes of this Part, the guardian must have court authority to make personal decisions for the ward. Guardians with personal decision-making authority will typically act under a plenary guardianship. A plenary guardian is one who has full decision-making authority over the person without restrictions. However, a guardian may also legitimately act under a temporary or a limited guardianship in which the guardian has clearly defined medical decision-making authority. A parent of an adult recipient without guardianship is not legally authorized to make binding decisions on behalf of a recipient. When doubt exists as to the decision-making authority of a guardian, the guardian shall supply either letters of office or a copy of a court order documenting legal authority to act on behalf of the ward.

"Informed consent" means the voluntary and knowing choice by a recipient or his/her legal guardian.

"Lack of capacity" means the inability, due to mental impairment, to make reasoned decisions regarding treatment/habilitation alternatives, including the taking of medication, by evaluating, among other factors, information about the likelihood of therapeutic benefits and the risk of side effects.

"Legally and clinically competent recipient" means an individual who is not under guardianship and has the capacity to make reasoned decisions and give informed consent.

"Legally and clinically incompetent recipient" means an individual under guardianship or who lacks the capacity to make reasoned decisions and give informed consent.

*"Long-acting psychotropic medication" means psychotropic medications, including but not limited to Haldol Decanoate and Prolixin Decanoate, that are designed so that a single dose will have an intended clinical effect for a period of at least 48 hours*. [405 ILCS 5/1-113.5]

"Medical Coordinator" means the Medical Coordinator for Mental Health (if the recipient resides in a mental health facility) or the Medical Coordinator for Developmental Disabilities (if the recipient resides in a developmental disabilities facility).

"Medication", as used in this Section, means psychotropic medication.

"Psychotropic medication" means medication used for antipsychotic, antidepressant, antimanic, antianxiety, behavioral modification or behavioral management purposes, as listed in the Physician's Desk Reference (PDR), Drug Information Manual and Drug Facts and Comparisons, as incorporated by Section 112.80(a), or where there is a body of peer reviewed medical literature supporting its use.

*"Substitute decision maker" means a person who possesses the authority to make decisions under the Powers of Attorney for Health Care Law* [755 ILCS 45/Art. IV] *or under the Mental Health Treatment Preference Declaration Act* [755 ILCS 43]. [405 ILCS 5/1-110.5]

Procedures

a) Evaluation

1) No psychotropic medication or electroconvulsive therapy (ECT) shall be prescribed for a recipient unless examinations have been conducted in accordance with Section 112.30. The prescribing physician shall conduct the examinations personally, or shall review the record of the examinations. The prescribing physician shall record, sign, and date (with time) the prescription. The prescribing physician shall also document in the recipient's clinical record any appropriate clinical information.

2) With regard to psychotropic medication on an emergency basis, the requirements of subsection (a)(1) need not be met when the prescribing physician has determined by personal observation or from information supplied by another clinician with thorough knowledge of the recipient's current clinical condition that the recipient is in need of immediate medication in order to prevent the recipient from causing serious and imminent physical harm to self or others.

b) Informed Consent

Prior to prescribing psychotropic medications or ECT in non-emergency situations, a physician shall ascertain and document whether the recipient is capable of giving informed consent.

1) Legally and Clinically Competent Recipients

A) If the recipient is able to give informed consent, the physician shall advise the recipient, in writing, of the following:

i) nature and purpose of the proposed treatment;

ii) whether the proposed treatment requires periodic testing/procedures to ensure safety/efficacy;

iii) side effects, risks and benefits of the proposed treatment;

iv) prognosis and risks without the proposed treatment;

v) alternative treatments and their risks, side effects, benefits and efficacy; and

vi) the right to refuse the proposed treatment.

B) The required information shall be given to the recipient in a manner consistent with his/her ability to understand, including regular use of sign language for any deaf or hard of hearing individual for whom sign language is a primary mode of communication.

C) Informed written consent shall be obtained from the recipient.

D) If the recipient has previously executed a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act or a health care power of attorney under the Power of Attorney for Health Care Law, the facility is required to act in accordance with that declaration or power of attorney.

2) Legally and Clinically Incompetent Recipients

A) Prior to prescribing psychotropic medications or ECT in non-emergency situations, a physician shall advise the recipient and the recipient's guardian or substitute decision maker, in writing, of the following:

i) nature and purpose of the proposed treatment;

ii) whether the proposed treatment requires periodic testing/procedures to ensure safety/efficacy;

iii) side effects and risks of the proposed treatment;

iv) prognosis and risks without the proposed treatment;

v) alternative treatments and their risks, side effects, benefits and efficacy; and

vi) the right to refuse the proposed treatment.

B) The required information shall be given to the recipient and the recipient's guardian or substitute decision maker in a manner consistent with his/her ability to understand, including regular use of sign language for any deaf or hard of hearing individual for whom sign language is a primary mode of communication.

C) The recipient shall be asked if he/she agrees to receive the proposed treatment. If the recipient does not object, informed written consent shall be obtained from the recipient's guardian or substitute decision maker and shall be documented in the recipient's medical record. If the recipient has no guardian or substitute decision maker or if the guardian or substitute decision maker does not provide such informed written consent, any treatment must proceed in accordance with subsection (c) (Refusal of Treatment).

D) If the recipient objects to the proposed treatment, any treatment must proceed in accordance with subsection (c) (Refusal of Treatment).

E) If the recipient has previously executed a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act or a health care power of attorney under the Power of Attorney for Health Care Law, the facility is required to act in accordance with that declaration or power of attorney.

c) Refusal of Treatment

A recipient's refusal to receive psychotropic medication or ECT does not in itself constitute an emergency. Such refusal, as documented in the clinical record, shall be honored except in the following circumstances:

1) Emergencies

In an emergency, when treatment is necessary to prevent a recipient from causing serious and imminent physical harm to self or others.

A) In such an emergency, a member of the treatment/habilitation team shall document in the recipient's clinical record that the staff have explored alternative treatment options to contain the emergency. The documentation shall include a written explanation of the reasons why alternative treatments are not appropriate.

B) For administration of psychotropic medications the prescribing physician or a nurse in consultation with a physician shall document his/her determination that an emergency exists based on a personal examination of the individual. Administration of the medication shall be accompanied by a physician's order.

C) In prescribing psychotropic medications on an emergency basis the prescribing physician shall examine the recipient and document his/her determination of the initial emergency and response, including the circumstances leading up to the need for emergency treatment, in the recipient's clinical record as soon as possible, but within 24 hours. Psychotropic medication may not be continued unless the need for such medication is redetermined at least every 24 hours and the circumstances demonstrating that need are set forth in the recipient's clinical record. A redetermination is based on a personal examination of the recipient by a physician or a nurse with the consultation of a physician.

D) Treatment shall not be administered over a recipient's refusal under Section 2-107 of the Mental Health and Developmental Disabilities Code for a period in excess of 72 hours, excluding Saturdays, Sundays and holidays, unless the treating physician with the support of the treatment/habilitation team files a petition for a court order under Section 2-107.1 of the Code and the treatment continues to be necessary in order to prevent the recipient from causing serious and imminent physical harm to self or others. If no such petition is filed, treatment must be discontinued.

E) A restriction of rights form shall be completed for each administration of emergency treatment.

F) ECT may be administered over a patient's refusal only with a court order and prior written physician's order or in emergency situations as defined in Section 2-107 of the Code.

G) *Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall advise the recipient as to the circumstances under which the use of emergency forced medication is permitted under Section 2-107(a) of the Mental Health and Developmental Disabilities Code* [405 ILCS 5/2-200(d)].

Concurrently, the facility shall ask the recipient which form of intervention he/she would prefer if any of these circumstances arise. The recipient's preference shall be documented in the clinical record and communicated by the facility to the recipient's guardian or substitute decision maker, if any. If any such circumstances arise, the facility shall give due consideration to the preferences of the recipient regarding which form of intervention to use as communicated to the facility by the recipient or as stated in the recipient's advance directive.

H) Under no circumstances may long-acting psychotropic medications be administered under Section 2-107 of the Code.

I) Under no circumstances may ECT be administered to a minor recipient without a court order.

2) Administration of Treatment on Court Order

A) If the treating physician, with the support of the treatment/habilitation team, determines that psychotropic medication or ECT is clinically indicated for a recipient who does not at the time pose an imminent risk of serious physical harm to self or others, and the situation described in subsections (b)(2)(c) or (b)(2)(D) of this Part applies, the facility may file a petition in the circuit court under Section 2-107.1 of the Code for court-ordered treatment.

B) If the treating physician, with the support of the treatment/habilitation team, files a petition under Section 2-107.1 of the Code, a physician shall examine the recipient and address the following issues for the court:

i) whether the recipient has a serious mental illness or developmental disability;

ii) whether, because of the mental illness or developmental disability, the recipient exhibits any one the following: deterioration of his/her ability to function, suffering, or threatening behavior;

iii) whether the illness or disability has existed for a period marked by the continuing presence of the symptoms set forth in subsection (c)(2)(B)(ii) or the repeated episodic occurrence of such symptoms;

iv) whether the predicted benefits of the treatment will outweigh any possible harm;

v) whether the recipient lacks the capacity to make a reasoned decision about the treatment;

vi) whether other less restrictive treatment methods have been explored and found to be inappropriate;

vii) the specific treatments proposed, including dosage range and/or frequency of administration, as applicable; and

viii) if the petition seeks authorization for testing and other procedures, the physician shall include a statement that such testing and procedures are essential for the safe and effective administration of the treatment.

C) If the court grants the petition for involuntary treatment pursuant to Section 2-107.1 of the Code, the recipient may be administered treatment over his/her refusal (or the guardian's or substitute decision maker's refusal if the recipient was legally incompetent but did not object) within the constraints and for the duration of the court order.

d) Monitoring of Treatment

1) Documentation

A) The attending physician shall examine and document the status of the recipient's condition in the recipient's clinical record as often as the recipient's clinical condition warrants but no less often than every 30 calendar days. Documentation of the rationale for treatment, including type, dosage or frequency of the proposed treatment as applicable, shall be included. Beneficial effects and significant side effects as well as their treatment and/or management or the absence of treatment and/or management shall also be noted.

B) Facility staff shall document in the recipient's clinical record additional clinical information such as assessments, evaluations or laboratory results as they become available.

2) Treatment Review

A) When a recipient at a State-operated mental health facility has been receiving psychotropic medications and/or ECT continuously or regularly for a period of three months, and if such treatment is continued, every six months thereafter for so long as the treatment shall continue, the facility medical director, or other physician designated by the facility director, shall convene a treatment review panel.

B) The panel shall consist of representatives from at least two of the following clinical disciplines: psychiatry, medicine, clinical pharmacy and nursing. At least one panel member shall be a physician with expertise in the use of psychotropic medication (for example, psychiatrist or behavioral neurologist).

C) At least 7 days prior to the date of the treatment review panel meeting, the recipient, guardian or substitute decision maker, if any, and any person designated under Section 2-200(b) of the Mental Health and Developmental Disabilities Code shall be given written notification of the time and place of the treatment review panel meeting. The notice shall also advise the recipient of his/her right to designate some person to attend the meeting and assist the recipient in accordance with Section 2-107.2 of the Mental Health and Developmental Disabilities Code.

D) The panel shall provide a recommendation concerning the suitability of continued treatment.

E) If, during the course of the treatment review panel meeting, the recipient advises the committee that he/she no longer agrees to continue receiving medication or ECT, or if the recipient has a guardian or substitute decision maker and the guardian or substitute decision maker refuses medication or ECT for the recipient, the treatment shall be discontinued, except when the recipient is receiving treatment pursuant to subsections (c)(1) and (c)(2) of this Section.

i) If the panel determines that the recipient is receiving appropriate treatment and that the benefit to the recipient outweighs the risk of harm to the recipient, treatment shall be continued, provided that the recipient does not object (and the guardian or substitute decision maker, if any, does not refuse). (See Section 2-107.2 of the Code.)

ii) If the findings of the treatment review panel are not in agreement with the current treatment plan, revision shall be considered by the treatment/habilitation team.

iii) If there is disagreement on the implementation of the panel recommendations, the facility medical director or lead physician (designated by the facility director) shall review the case and make a final decision. The facility medical director (or lead physician) may consult with the appropriate Medical Coordinator in making a final determination.

F) The participation of the recipient and guardian or substitute decision maker if any, and the recommendations of the treatment review panel shall be recorded in the recipient's clinical record.

3) Annual ECT Report

The Department of Human Services shall summarize on an annual basis all quarterly reports (prepared in accordance with Section 2-110.1 of the Mental Health and Developmental Disabilities Code) from State-operated hospitals or facilities at which ECT is performed.

(Source: Amended at 25 Ill. Reg. 10834, effective August 2, 2001)