

# California Code of Regulations

## Title 9. Rehabilitative and Developmental Services

### Division 1. Department of Mental Health

#### Chapter 4. Community Mental Health Services Under the Lanterman-Petris-Short Act

#### **ARTICLE 5.5. VOLUNTARY PATIENTS' RIGHT TO REFUSE ANTIPSYCHOTIC MEDICATIONS**

##### **§ 850. Refusal of Antipsychotic Medications.**

Every person admitted as a voluntary patient for psychiatric evaluation or treatment in any facility as listed in Section 860 of this subchapter has the right to refuse the administration of antipsychotic medications.

A voluntary patient for purposes of this article does not include:

- (a) voluntary minor patients unless such minor is otherwise authorized by law to seek and consent to treatment for mental illness, nor
- (b) conservatees (as defined by Section 5350 et seq. of the Welfare and Institutions Code, i.e., "L-P-S conservatees") whose conservators have been given the right to require their conservatees to receive treatment related specifically to remedying or preventing the recurrence of the conservatees' being gravely disabled.

##### **§ 851. Informed Consent to Antipsychotic Medications.**

A voluntary patient shall be treated with antipsychotic medications only after such person has been informed of his or her right to accept or refuse such medications and has consented to the administration of such medications. In order to make an informed decision, the patient must be provided with sufficient information by the physician prescribing such medications (in the patient's native language, if possible) which shall include the following:

- (a) The nature of the patient's mental condition,
- (b) The reasons for taking such medication, including the likelihood of improving or not improving without such medication, and that consent, once given, may be withdrawn at any time by stating such intention to any member of the treating staff,
- (c) The reasonable alternative treatments available, if any,
- (d) The type, range of frequency and amount (including use of PRN orders), method (oral or injection), and duration of taking the medications,

(e) The probable side effects of these drugs known to commonly occur, and any particular side effects likely to occur with the particular patient,

(f) The possible additional side effects which may occur to patients taking such medication beyond three months. The patient shall be advised that such side effects may include persistent involuntary movement of the face or mouth and might at times include similar movement of the hands and feet, and that these symptoms of tardive dyskinesia are potentially irreversible and may appear after medications have been discontinued.

#### **§ 852. Maintenance of Records.**

For each patient receiving antipsychotic medications, the facility shall maintain a written record of the patient's decision to consent to such medications.

That written record shall be a written consent form signed by the patient indicating that items (a) through (f) of Section 851 have been discussed with the patient by the prescribing physician.

In the event that the patient has been shown but does not wish to sign the written consent form, it shall be sufficient for the physician to place the unsigned form in the patient's records maintained by the facility together with the notation that while the patient understands the nature and effect of antipsychotic medications and consents to the administration of such medications, the patient does not desire to sign a written consent form.

#### **§ 853. Emergency.**

Nothing in this article is intended to prohibit the physician from taking appropriate action in an emergency. An emergency exists when there is a sudden marked change in the patient's condition so that action is immediately necessary for the preservation of the life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first obtain consent. If antipsychotic medication is administered during an emergency, such medication shall be only that which is required to treat the emergency condition and shall be provided in ways that are least restrictive of the personal liberty of the patient.

#### **§ 854. Withdrawal of Consent.**

A voluntary patient may withdraw consent to the administration of antipsychotic medications at any time by stating such intention to any member of the treatment staff.

#### **§ 855. Consequence of Refusal.**

The refusal to consent to the administration of antipsychotic medications shall not in itself constitute grounds for initiating an involuntary commitment.

#### **§ 856. Definition of Antipsychotic Medication.**

For purposes of this article, "antipsychotic medication" means any drug customarily used for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

#### **§ 857. Reports of Violations.**

Any alleged or suspected violation of the rights of patients as set out in this article shall be reported to the county patients' rights advocate, or for state hospital patients, to the state hospital patients' rights

advocate, who shall report all complaints to the Director of the State Department of Mental Health. The Director shall take appropriate action which, depending on the nature of the complaint, could include:

- (a) Referral for disciplinary action to the facility governing body for review and monitoring,
- (b) Referral to the Board of Medical Quality Assurance regarding a review of the individual practitioner's license,
- (c) Referral for review of the facility license,
- (d) Compelling negotiations to ensure compliance with these regulations, withholding part or all of state mental health funds, or taking appropriate court action.

The remedies provided by these regulations shall not preclude any other remedies which the individual patient may have under the law.

Content not updated. Current as of 3/12/12.