

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Psychosurgery and Electroshock Therapy Procedures for Children

Utah Administrative Code R523-8-5

<https://rules.utah.gov/publicat/code/r523/r523-008.htm>

(1) By this rule, the Division establishes the following due process procedure for children prior to their being administered psychosurgery or electroshock therapy.

(a) This policy applies to persons **under the age of 18 who are committed to the physical custody of a local mental health authority or committed to the legal custody of the Division**. The following terms are herein defined:

(b) "ECT" means electroconvulsive therapy.

(c) "Psychosurgery" means a neurosurgical intervention to modify the brain to reduce the symptoms of a severely ill psychiatric patient.

FORM 001; CONSENT FOR ELECTROCONVULSIVE THERAPY (ECT) (d-e)

(d) A **local mental health authority** has the obligation to provide a child and guardian with the following information when recommending that the child be treated with ECT or Psychosurgery:

- (i) The nature of the child's mental illness;
- (ii) The recommended ECT/Psychosurgery treatment, its purpose, the method of administration, and recommended length of time for treatment;
- (iii) The desired beneficial effects on the child's mental illness as a result of the recommended treatment;
- (iv) The possible or probable mental health consequences to the child if recommended treatment is not administered;
- (v) The possible side effects, if any, of the recommended treatment;
- (vi) The ability of the staff to recognize any side effects, should any actually occur, and the possibility of ameliorating or abating those side effects;
- (vii) The possible, if any, alternative treatments available and whether those treatments are advisable;
- (viii) The right to give or withhold consent for the proposed ECT/psychosurgery; and
- (ix) When informing a child and their guardian they have the right to withhold consent, the local mental health authority shall inform them that regardless of whether they give or withhold consent, a due process procedure will be conducted before two Neutral and Detached Fact Finders to determine the appropriateness of such treatment.

(e) The child and guardian shall then be **afforded an opportunity to sign a consent form stating that they have received the information listed in Subsection R523-8-5(1)(d)** of this section, and that they consent or do not consent to the proposed treatment.

(f) If the guardian **refuses to consent** to ECT/psychosurgery, **the local mental health authority shall consider** a treatment team dispositional review to determine whether the child is appropriate for treatment through their services.

(g) **Regardless of whether the child or guardian agrees or disagrees** with the proposed ECT/psychosurgery, **a due process procedure shall be conducted** before the treatment can be administered.

FORM 002; REQUEST TO TREAT WITH ELECTROCONVULSIVE THERAPY (ECT) (h)

(h) A **physician shall request ECT or psychosurgery** for a child by completing a Request to Treat with ECT or Psychosurgery form and submitting to the Director/Designee of the Local Mental Health Authority providing treatment.

(i) Upon receipt of the request, the **Director/Designee shall contact two Neutral and Detached Fact Finders, one of which must be a physician, and set a date and time for an ECT/Psychosurgery Hearing**.

FORM 003; NOTICE TO CONVENE A HEARING FOR TREATMENT WITH ELECTROCONVULSIVE THERAPY (ECT) (j)

(j) The **child and guardian shall be provided notice of the hearing.**

(k) Prior to the hearing, the **two designated examiners shall be provided documentation regarding the child's mental condition**, including the child's medical records, physician's orders, diagnosis, nursing notes, and any other pertinent information. The attending physician shall document their proposed course of treatment and reason(s) justifying the proposal in the medical record.

(l) ECT/psychosurgery **hearings shall be conducted by two Designated Examiners, one of whom is a physician**, Hearings shall be held where the child is currently being treated, and shall be conducted in an informal, non-adversarial manner as to not have a harmful effect upon the child.

- (i) **The child has the right to attend the hearing, have an adult informant (guardian /foster parent, etc.) present, and to ask pertinent questions.**
- (ii) If the child or others become disruptive during the hearing, the two Neutral and Detached Fact Finders may request that those persons be removed. The hearing shall continue in that person's absence.
- (iii) The hearing shall begin with the child, guardian, and any others being informed of the purpose and procedure of the hearing.
- (iv) The record shall be reviewed by the Neutral and Detached Fact Finders and the proposed treatment shall be discussed.
- (v) The child, guardian, and others present shall be afforded an opportunity to comment on the issue of ECT or psychosurgery.
- (vi) **Following the review of the case and the hearing of comments, the two Neutral and Detached Fact Finders shall render a decision**
- (vii) If needed the two Neutral and Detached Fact Finders may ask everyone to leave the room to allow them time to deliberate.

FORM 004; AUTHORIZATION FOR ELECTROCONVULSIVE THERAPY (ECT) (m-n)

(m) The **Designated Examiners may order ECT or psychosurgery if, after consideration of the record and deliberation, they both find that the following conditions exist:**

- (i) The **child has a mental illness** as defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM); and
- (ii) The child is **gravely disabled and in need of ECT or Psychosurgery** for the reason that he/she suffers from a mental illness such that they (a) **are in danger of serious physical harm** resulting from a failure to provide for his essential human needs of health or safety, or (b) **manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over their actions** and is not receiving such care as is essential for their health safety; and/or
- (iii) **Without ECT or psychosurgery, the child poses a likelihood of serious harm to self, others, or property.** Likelihood of serious harm means either:
 - o (A) substantial risk that physical harm will be inflicted by an individual upon their own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on one's own self, or
 - o (B) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which has placed another person or persons in reasonable fear of sustaining such harm, or
 - o (C) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; and
- (iv) The **proposed treatment is an appropriate and accepted method of treatment for the patient's mental condition;** and
- (v) The **proposed medication treatment is in accordance with prevailing standards of accepted medical practice.**

(n) The basis for the decision shall be supported by adequate documentation. The **Neutral and Detached Fact Finders shall complete and sign an ECT or Psychosurgery form at the end of the hearing.** A copy of the decision shall be

provided to the child and/or guardian.

FORM 005; REQUEST FOR SECOND OPINION OF DECISION TO TREAT WITH ELECTROCONVULSIVE THERAPY (ECT) (o)

(o) The **child and/or guardian may request a second opinion of a decision to treat with ECT or psychosurgery by filing a Request for a Second Opinion form with the Director/designee** of the Division within 24 hours (excluding Saturdays, Sundays, and legal holidays) of the initial hearing.

(p) **ECT or psychosurgery may be commenced within 48 hours of the decision by the Neutral and Detached Fact Finders**, if no request for a second opinion is made. If a request is made, treatment may be commenced as soon as the Director/designee physician renders their affirmative decision.

FORM 006; SECOND OPINION FOR DECISION TO TREAT WITH ELECTROCONVULSIVE THERAPY (ECT) (q)

(q) Upon receipt of a Request, the Director/designee will review the record, consult with whomever he/she believes is necessary, and **render a decision within 48 hours** (excluding Saturdays, Sundays, and legal holidays) of receipt of the Request. The Director/designee shall sign a Second Opinion for Decision to Treat with ECT/Psychosurgery form which is placed in the child's record. A copy shall be provided to the child and the guardian prior to the commencement of treatment.

(r) If a child has been receiving ECT treatment and **requires further treatment than that outlined** in the original ECT plan, the procedures set forth in R523-8-5(1)(d) through (q) shall be followed before initiating further treatment.