



## **PSYCHOACTIVE MEDICATION CONSENT REQUIREMENTS**

### **Questions and Answers**

Please see the following regarding psychoactive medication consent requirements for hospitals licensed under Health & Safety Code (HSC) Chapter 241.

1. **Q.** What is the breadth and scope of HHSC's interpretation of the rule at Texas Administrative Code Title 25 (25 TAC) §133.41(l)(3)(D) that hospitals must comply with the requirements of 25 TAC Chapter 414, Subchapter I, Consent to Treatment with Psychoactive Medication--Mental Health Services?

**A.** A hospital must obtain informed consent for each individual psychoactive medication, not by medication class, administered when providing mental health services to a patient, regardless of whether the hospital has an identifiable mental health services unit.

2. **Q.** What is the concern being addressed by HHSC's interpretation?

**A.** Psychoactive medications may have side effects, and patients receiving mental health services and legally authorized representatives need to be fully aware of this in order to make an informed decision regarding their treatment.

3. **Q.** Is the MHRS 9-7 consent form required when obtaining consent?

**A.** A hospital may use the MHRS 9-7 or a form that meets the requirements of 25 TAC §§414.404-.405 to document informed consent.

4. **Q.** Is the consent required to be in writing?

**A.** A patient's or patient's legally authorized representative's informed consent, whether written or verbal, must be documented as required by 25 TAC §414.405.

5. **Q.** Is consent required for all psychoactive medications given?
- A.** Yes, as stated above, informed consent is required for each individual medication, not by medication class, that is administered when a hospital provides mental health services to a patient.
6. **Q.** Is consent required for psychoactive medications used to treat a Diagnostic and Statistical Manual-V diagnosis or every time the medication is used to treat a patient?
- A.** Informed consent is required before initiating a new psychoactive medication when providing mental health services to a patient. Any time the medication regimen is altered in a way that would result in a significant change in the risks or benefits for the patient, an explanation of the change is required. A new consent must be obtained when a different medication is prescribed.
7. **Q.** What if a patient or legally authorized representative is not available to provide consent?
- A.** Psychoactive medication may not be administered to a patient without informed consent of a patient or legally authorized representative, except in a psychiatric emergency under 25 TAC §414.410.
8. **Q.** How do I determine if a medication is considered a psychoactive medication requiring consent?
- A.** Consent is required for a psychoactive medication used in the provision of mental health services, defined at 25 TAC §414.403(10) as “[m]edication whose primary intended therapeutic effect is to treat or ameliorate the signs or symptoms of mental disorder, or to modify mood, affect, perception, or behavior, consistent with... [HSC] §574.101.”
- HSC §574.101(3) defines psychoactive medication as “a medication prescribed for the treatment of symptoms of psychosis or other severe mental or emotional disorders and that is used to exercise an effect on the central nervous system to influence and modify behavior, cognition, or affective state when treating the symptoms of mental illness.”
- The following psychoactive medication classes require consent when used in the provision of mental health services:

- Antipsychotics,
- Antidepressants,
- Anxiolytics (i.e. anti-anxiety medications),
- Mood Stabilizers,
- Stimulants, and
- The other medication categories listed in HSC §574.101(3).

9. **Q.** Is consent required in provider-based clinics?

**A.** Consent is required in any part of the hospital licensed under HSC Chapter 241. A hospital license does not include off-site outpatient facilities.

10. **Q.** What services are considered treatment of a mental health or psychiatric diagnosis?

**A.** Please see the definition of mental health services at 25 TAC §133.2(34), which is reproduced below for reference:

(34) Mental health services-All services concerned with research, prevention, and detection of mental disorders and disabilities and all services necessary to treat, care for, supervise, and rehabilitate persons who have a mental disorder or disability, including persons whose mental disorders or disabilities result from alcoholism or drug addiction.