

**RULES
OF
TENNESSEE DEPARTMENT OF MENTAL HEALTH
AND MENTAL RETARDATION**

OFFICE OF THE COMMISSIONER

**CHAPTER 0940—1—1
PSYCHOTROPIC MEDICATIONS**

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0940—1—1—.01 PURPOSE. The purpose of these rules is to regulate the prescription and administration to adult patients and residents of psychotropic medications prescribed for the purpose of the treatment of mental illness. These rules do not apply to the prescription or the administration of psychotropic medications for medical purposes other than the treatment of mental illness.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—3—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

0940—1—1—.02 DEFINITIONS.

- (1) For the purposes of chapters 0940—1—1 through 0940—1—3, unless the context requires otherwise, the terms listed below shall be interpreted as follows.
 - (a) “Psychotropic medication” means a drug which exercises a direct effect upon the central nervous system and which is capable of influencing and modifying behavior. Drugs covered by these rules include but are not limited to:
 1. anti-psychotics,
 2. anti-depressants,
 3. agents for control of mania and depression,
 4. anti-anxiety agents,
 5. psychomotor stimulants, and
 6. hypnotics.
 - (b) “Medication”, unless otherwise noted means psychotropic medication.
 - (c) “Voluntary patient” means a patient who has been admitted pursuant to T.C.A. §33—6—101.

(Rule 0940-1-1-.02, continued)

- (d) “Voluntary resident” means a resident who has been admitted pursuant to *T.C.A. §33—5—101*.
- (e) “Involuntary patient” means a patient who has been admitted pursuant to *T.C.A. §§33—6—103, 33—6—104, 33—7—301, and 33—7—303*.
- (f) “Involuntary resident” means a resident who has been admitted pursuant to *T.C.A. §§33—5—305 and 33—3—401*.
- (g) “Guardian” means a court appointed guardian or conservator.
- (h) “Legally incompetent patient or resident” means a patient or resident from whom a court, pursuant to *T.C.A. Title 34, Chapter 12, Part 1 or 2*, has removed the power to make decisions as to treatment and for whom it has appointed a guardian to make such decisions.
- (i) “Informed Consent” means consent voluntarily given in writing after sufficient explanation and disclosure of the subject matter involved to enable the person whose consent is sought to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion. Informed consent for psychotropic medication can be obtained from a person who is capable of understanding after adequate explanation a medication’s expected benefits, possible risks and side effect, the advantage and risk or alternative treatments, and the prognosis if medication is not given.
- (j) “Lacks capacity” means that a patient or resident is not able to give informed consent for psychotropic medication and has not had a guardian granted that authority.
- (k) “Emergency” means circumstances in which there exists:
 - 1. an immediate threat of serious physical harm to the patient or resident or to others caused by the violent behavior of the patient or resident,
 - 2. an immediate threat to the patient or resident of deteriorating physical well-being with risk to life or long term health caused by the effects of mental illness, or
 - 3. actual violent behavior by the patient or resident causing substantial property damage.
- (l) “Treatment Team” means mental health institute personnel directly involved in developing, administering, and monitoring a patient’s treatment plan or resident’s individual habilitation plan.
- (m) “Interdisciplinary Team” (IDT) means developmental center personnel directly involved in developing, administering, and monitoring a resident’s individual habilitation plan.
- (n) “Treatment Review Committee” (TRC) means a committee constituted under these rules to review Treatment Team decisions at a mental health institute.
- (o) “Behavior Management Committee” (BMC) means a committee constituted by the Superintendent of a developmental center or mental retardation secure facility to review behavior change programs which use psychotropic medications and aversive procedures.
- (o) “Human Rights Committee” (HRC) means a committee constituted by the Assistant Commissioner for Mental Retardation Services to safeguard the rights of residents at the developmental centers or mental retardation secure facilities.
- (p) “Patient Rights Advisor” (PRA) means a person designated by the superintendent of the Institute to have the responsibilities imposed by these rules.

(Rule 0940-1-1-.02, continued)

- (q) “Clinical professional” means, at a mental health institute, a professional who has been granted clinical privileges and, at a developmental center or mental retardation secure facility, a professional who is a Qualified Mental Retardation Professional (QMRP) and who has been designated as a clinical professional for the purposes of these rules.
- (r) “Regular working day” means 8:00 a.m. until 4:30 p.m., Monday through Friday, excluding legal holidays.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—3—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

0940—1—1—.03 INFORMED CONSENT REQUIRED FOR PRESCRIPTION AND ADMINISTRATION. Except as otherwise authorized under rules 0940—1—1—.05 through 0940—1—1—.10, staff may not prescribe or administer a psychotropic medication to an adult voluntary or involuntary patient or resident unless the adult patient or resident has given voluntary, informed consent in writing to that specific class of medications under these rules. A change of dosage or a change of medication within the same class does not require obtaining a new consent, but the patient or resident shall be informed of such change and shall be provided an explanation for the change.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—3—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

0940—1—1—.04 DURATION OF CONSENT AND EFFECT OF REVOCATION.

- (1) A consent for a specific class of medication remains effective until either:
 - (a) the patient or resident who has consented or the patient’s or resident’s guardian who has the authority to consent to medication expressly revokes the consent in writing or orally, or
 - (b) the patient or resident who has consented continuously refuses, either orally or behaviorally, to take the medication for a 72 hour period, thereby revoking the consent. If the patient or resident or guardian subsequently indicates a willingness to have the medication administered, the medication may be resumed only after the patient or resident gives a voluntary, informed consent in writing as initially required under rule 0940—1—1—.03 or as otherwise authorized under rules 0940—1—1—.05 through 0940—1—1—.10.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—3—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

0940—1—1—.05 EMERGENCY ADMINISTRATION OF MEDICATION.

- (1) Medication may be administered without the patient’s or resident’s consent in an emergency if other measures have been determined to be unlikely to prevent the threatened harm. The initial order for medication is valid for no longer than twenty-four hours. If the initial order for medication was authorized without personal observation of the patient or resident by the physician, a physician shall evaluate the patient’s or resident’s condition within twelve hours of the order.
- (2) The physician may renew emergency medication only one time for an additional twelve hour period and may do so only if the emergency continues. If the renewal order for medication was authorized without

(Rule 0940-1-1-.05, continued)

personal observation of the patient or resident by the physician, a physician shall evaluate the patient's or resident's condition within six hours of the order.

- (3) The effective duration of prescribed medication shall be appropriate to the situation. Depot forms of neuroleptics, which are psychotropic drugs characterized by a slow rate of absorption and a long duration of action, and anti-depressants shall not be administered as emergency treatment.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—3—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

0940—1—1—.06 ADMINISTRATION OF MEDICATION TO PATIENTS OR RESIDENTS WHO LACK CAPACITY TO GIVE OR WITHHOLD CONSENT.

- (1) If a clinical professional determines that the patient or resident lacks capacity, psychotropic medication may be administered to the patient or resident on the certification of the treating physician that such medication is a necessary part of the patient's treatment plan or the resident's individual habilitation plan and there is no reasonable alternative. The certification shall be made by the physician after a personal evaluation of the patient or resident and after consultation with the treatment team or interdisciplinary team. This information shall be documented in the patient's or resident's clinical record. The order is valid for up to 72 hours and may be renewed only one time for up to 72 additional hours. Further medication under this rule requires review by the TRC or by the BMC and HRC.
- (2) The patient or resident, the PRA or a clinical professional may request a review by the TRC or by the BMC or the HRC. The PRA shall request a review by the TRC if the patient requests that it is done.
- (3) When a clinical professional determines the patient or resident no longer lacks capacity, the patient's or resident's informed consent shall be obtained before further administration of medication.
- (4) If a patient or resident continues to lack capacity for thirty days, the Superintendent shall advise the patient's or resident's family and the PRA of the need for a guardian and shall advise the family that the patient or resident is receiving medication under this rule. If the family does not initiate guardianship proceedings, the Superintendent shall proceed under authority of T.C.A. Title 33 to obtain a limited guardian. If neither the family nor the Superintendent initiates a guardianship proceeding within ninety days after medication begins under this rule, such medication shall terminate no later than ninety days after it begins, and the patient or resident may not be medicated again under this rule until a guardian is appointed or the patient or resident no longer lacks capacity. If the family or Superintendent initiates a guardianship proceeding, medication may continue under this rule until adjudication of the guardianship proceeding.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—3—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

0940—1—1—.07 LEGALLY INCOMPETENT PATIENTS OR RESIDENTS.

- (1) Medication may be administered to a legally incompetent patient or resident only:
- (a) with the voluntary, informed consent of the guardian, or
 - (b) in emergencies under the rule 0940—1—1—.05, or
 - (c) if the guardian refuses consent, under the same circumstances and procedures as a refusing patient or resident under rule 0940—1—1—.08, or

(Rule 0940-1-1-.07, continued)

(d) if the guardian is unavailable, under the same circumstances and procedures as a patient or resident who lacks capacity under rule 0940—1—1—.06 but not for more than sixty days.

(2) If consent is required for medication and the guardian is unavailable, the Superintendent shall seek appointment of an alternative guardian.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—3—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

0940—1—1—.08 ADMINISTRATION OF MEDICATION TO PATIENTS OR RESIDENTS WHO DO NOT LACK CAPACITY AND WHO REFUSE MEDICATION.

(1) consent to medication, medication may not be administered to the patient or resident. If no viable treatment alternative is available for the patient or resident, discharge of the patient or resident may be recommended after considering available legal alternatives of providing the treatment.

(2) Involuntary Patients or Residents.

(a) If an involuntary patient or resident who does not lack capacity refuses to consent to medication, a class of medication may be administered to the patient or resident for up to one year upon the determination of both the treating physician and

1. at a mental health institute, the Medical Director following TRC review, or
2. at a developmental center or mental retardation secure facility, the Superintendent following HRC review that such medication is a necessary part of the treatment plan.

(b) If the treating physician proposes to renew medication under this rule.

1. after administering medication for the one year maximum period under (a) above, or
2. after discontinuing a medication administered under this rule, or
3. after the patient or resident has been discharged and readmitted,

the proposed class of medication may be administered only in conformity with (a). TRC or HRC review shall occur at least annually until consent is obtained or medications are discontinued or the patient or resident is discharged.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—3—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

0940—1—1—.09 GENERAL RULES APPLICABLE TO THE PRESCRIPTION AND ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS.

(1) Medication may only be prescribed by a physician licensed to practice in Tennessee or by a physician who is serving at the institution as part of an approved residency training program in Tennessee.

(2) Medication orders must be re-written at least every thirty days.

(Rule 0940-1-1-.09, continued)

- (3) Orders for PRN psychotropic medication may only be written with the voluntary, informed consent of the patient or resident or the patient's or resident's guardian or through appropriate authorization under rule 0940—1—1—.05.
- (4) The Department of Mental Health and Mental Retardation shall operate an on-going program for continuing education and training of personnel involved in obtaining informed consent and in the prescription and administration of psychotropic medications.
- (5) The chart of each patient or resident shall contain a history of adverse reactions to any psychotropic medication and a medical history of cardiac, liver, renal, CNS, or other disease, as well as a history of any drug allergies.
- (6) All staff responsible for administering medication shall receive appropriate training to do so.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—1—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.

0940—1—1—.10 AUTHORITY OF GUARDIANS. A guardian to whom a court has granted the authority to make treatment decisions for a patient or resident has all the rights, powers, and privileges granted to the patient or resident under chapters 0940—1—1 through 0940—1—3.

Authority: T.C.A. §§33—1—203 through 33—1—205, 33—3—104 and 33—3—105. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985.