



Ohio Revised Code

Section 5122.271 Consent to treatment.

Effective: April 6, 2023

Legislation: House Bill 281

(A) Except as provided in divisions (C), (D), and (E) of this section, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for a patient's care shall provide all information, including expected physical and medical consequences, necessary to enable any patient of a hospital for persons with mental illnesses to give a fully informed, intelligent, and knowing consent, the opportunity to consult with independent specialists and counsel, and the right to refuse consent for any of the following:

- (1) Surgery;
- (2) Convulsive therapy;
- (3) Major aversive interventions;
- (4) Sterilizations;
- (5) Any unusually hazardous treatment procedures;
- (6) Psycho-surgery.

(B) No patient shall be subjected to any of the procedures listed in divisions (A)(4) to (6) of this section until both the patient's informed, intelligent, and knowing consent and the approval of the court have been obtained, except that court approval is not required for a legally competent and voluntary patient in a nonpublic hospital.

(C) If, after providing the information required under division (A) of this section to the patient, the chief clinical officer or attending physician concludes that a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the patient's natural or court-appointed



guardian, who may give an informed, intelligent, and knowing written consent.

If a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section and has no guardian, the information, the recommendation of the chief clinical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in which the hospital is located, which may approve the surgery. Before approving the surgery, the court shall notify the Ohio protection and advocacy system created by section 5123.60 of the Revised Code, and shall notify the patient of the rights to consult with counsel, to have counsel appointed by the court if the patient is indigent, and to contest the recommendation of the chief clinical officer.

(D) If, in a medical emergency, and after providing the information required under division (A) of this section to the patient, it is the judgment of one licensed physician that delay in obtaining surgery would create a grave danger to the health of the patient, it may be administered without the consent of the patient or the patient's guardian if the necessary information is provided to the patient's spouse or next of kin to enable that person to give informed, intelligent, and knowing written consent. If no spouse or next of kin can reasonably be contacted, or if the spouse or next of kin is contacted, but refuses to consent, the surgery may be performed upon the written authorization of the chief clinical officer or, in a nonpublic hospital, upon the written authorization of the attending physician responsible for the patient's care, and after the approval of the court has been obtained. However, if delay in obtaining court approval would create a grave danger to the life of the patient, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for the patient's care may authorize surgery, in writing, without court approval. If the surgery is authorized without court approval, the chief clinical officer or the attending physician who made the authorization and the physician who performed the surgery shall each execute an affidavit describing the circumstances constituting the emergency and warranting the surgery and the circumstances warranting their not obtaining prior court approval. The affidavit shall be filed with the court with which the request for prior approval would have been filed within five court days after the surgery, and a copy of the affidavit shall be placed in the patient's file and be given to the guardian, spouse, or next of kin of the patient, to the hospital at which the surgery was performed, and to the Ohio protection and advocacy system as defined in section 5123.60 of the Revised Code.

(E) Major aversive interventions shall not be used unless a patient continues to engage in behavior



destructive to self or others after other forms of therapy have been attempted. Major aversive interventions may be applied if approved by the director of mental health and addiction services. Major aversive interventions shall not be applied to a voluntary patient without the informed, intelligent, and knowing written consent of the patient or the patient's guardian.

(F) Unless there is substantial risk of physical harm to self or others, or other than under division (D) of this section, this chapter does not authorize any form of compulsory medical, psychological, or psychiatric treatment of any patient who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing without specific court authorization.

(G) For purposes of this section, "convulsive therapy" does not include defibrillation.