

CHAPTER 4 ELECTROCONVULSIVE TREATMENT

Rule 8.4.1

Conditions for Administering

Convulsive treatment may be administered to an involuntary patient pursuant to Welfare and Institutions Code section 5326.7 and to a voluntary patient pursuant to Welfare and Institutions Code section 5326.75 consistent with these rules.

(Adopted 7/1/2006; Rev. 1/1/2021)

Rule 8.4.2

Attorney's Consent to Patient's Capacity

The patient's attorney is authorized to agree to the patient's capacity or incapacity to give written informed consent pursuant to Welfare and Institutions Code section 5326.7. If the patient's attorney and physician agree that the patient has the capacity to give written informed consent, such agreement must be documented in the patient's records. The attorney's consent must be obtained for additional treatments in number or time, not to exceed 30 days.

(Adopted 7/1/2006)

Rule 8.4.3

Filing Petition

If either the attending physician or the attorney believes that the patient does not have the capacity to give informed consent, either the attorney or the attending physician must file a petition in the Mental Health Court to determine the patient's capacity to give consent.

(Adopted 7/1/2006)

Rule 8.4.4

Patient's Attorney – Declaration Concerning Conflict of Interest

The attorney representing the patient may file a declaration with the court, prior to or at the time of the hearing, stating the reasons why the court should find that there is no conflict of interest in the attorney's representation of the patient. A copy of said declaration must be made available to County Counsel by the attorney filing the declaration.

(Adopted 7/1/2006)

Rule 8.4.5

Treating Physician - Declaration Concerning Treatment

The physician recommending the treatment must submit to the court a declaration that states the conditions for administering electroconvulsive treatment, as referenced by section 5326.7 of the Welfare and Institutions Code, have been satisfied.

(Adopted 7/1/2006)

Rule 8.4.6

Change of Patient's Condition

If the court determines that the patient does have the capacity to give written informed consent, a subsequent petition may not be filed unless it can be shown by facts stated in the petition that the patient's condition has changed since the court made the finding and that, as a result of the changed condition, the patient does not have capacity to give a written informed consent.

(Adopted 7/1/2006)

Rule 8.4.7

Appointment of Temporary Conservator

If the court determines that the patient does not have the capacity to give written informed consent and there is no responsible relative or conservator of the patient available, the court may appoint the Public Conservator as temporary conservator. Such appointment may be made on the basis of testimony of the professional person representing the LPS approved facility, that the patient has a mental disorder and is gravely disabled and that said professional person intends to file a conservatorship referral recommending conservatorship. In cases where the patient is found to be a danger to self and/or others but not gravely disabled, the court may appoint the Public Conservator as guardian ad litem for purpose of giving consent to convulsive treatment.

(Adopted 7/1/2006)