
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1809 Session of
2017

INTRODUCED BY MURT, KINSEY, V. BROWN, DALEY, DEAN, DRISCOLL,
McCLINTON, READSHAW, ROEBUCK, ROZZI, THOMAS AND VAZQUEZ,
SEPTEMBER 21, 2017

REFERRED TO COMMITTEE ON HEALTH, SEPTEMBER 21, 2017

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, providing for use of electroconvulsive
3 therapy.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 35 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 54

9 USE OF ELECTROCONVULSIVE THERAPY

10 Sec.

11 5401. Scope of chapter.

12 5402. Definitions.

13 5403. Electroconvulsive therapy prohibited.

14 5404. Consent to electroconvulsive therapy.

15 5405. Revocation of consent to electroconvulsive therapy.

16 5406. Administration of electroconvulsive therapy by physician.

17 5407. Registration of medical equipment used for

18 electroconvulsive therapy.

1 5408. Reports on administration of electroconvulsive therapy.

2 5409. Duties of department.

3 5410. Regulations.

4 § 5401. Scope of chapter.

5 This chapter applies to the use of electroconvulsive therapy
6 by a person.

7 § 5402. Definitions.

8 The following words and phrases when used in this chapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Department." The Department of Health of the Commonwealth.

12 "Electroconvulsive therapy." A procedure, done under general
13 anesthesia, in which small electric currents are passed through
14 the brain, intentionally triggering a brief seizure.

15 § 5403. Electroconvulsive therapy prohibited.

16 Electroconvulsive therapy may not be used on any of the
17 following individuals:

18 (1) A patient who is younger than 16 years of age.

19 (2) A patient who is 16 years of age or older and
20 voluntarily receiving mental health treatment under Article
21 II of the act of July 9, 1976 (P.L.817, No.143), known as the
22 Mental Health Procedures Act, unless the individual consents
23 to the use of the electroconvulsive therapy under section
24 5404 (relating to consent to electroconvulsive therapy).

25 (3) An individual who is 16 years of age or older and
26 involuntarily receiving mental health treatment under Article
27 III of the Mental Health Procedures Act, unless the
28 individual or the individual's guardian consents to the use
29 of electroconvulsive therapy under section 5404. If known by
30 the guardian of the individual, the guardian shall choose to

1 consent or not consent under this paragraph based on the
2 individual's preference.

3 § 5404. Consent to electroconvulsive therapy.

4 (a) Consent form.--The department shall have the following
5 duties:

6 (1) Developing a standard written consent form which
7 shall be used when electroconvulsive therapy is considered.

8 (2) Prescribing the information which shall be included
9 in the written supplement required under subsection (c).

10 (b) Contents.--The standard written consent form developed
11 under subsection (a) (1) shall clearly and explicitly state the
12 following:

13 (1) The nature and purpose of electroconvulsive therapy.

14 (2) The nature, degree, duration and probability of the
15 side effects and significant risks of electroconvulsive
16 therapy commonly known by the medical profession, including
17 the possibility of memory loss, injury or death.

18 (3) There is a division of opinion by the medical
19 profession as to the efficacy of electroconvulsive therapy.

20 (4) The probable degree and duration of improvement or
21 remission expected with or without electroconvulsive therapy.

22 (c) Duties of administrators.--Before a patient receives
23 electroconvulsive therapy, the hospital, facility or physician
24 administering the electroconvulsive therapy shall ensure all of
25 the following:

26 (1) The patient or patient's guardian receives a copy of
27 the standard written consent form under subsection (a) (1).

28 (2) The patient or the patient's guardian receives a
29 written supplement that contains related information about
30 the patient and electroconvulsive therapy.

1 (3) The contents of the copy of the standard written
2 consent form under subsection (a)(1) and the written
3 supplement under paragraph (2) are explained to the patient
4 and the patient's guardian in the following manner:

5 (i) Orally, in simple, nontechnical terms.

6 (ii) Through the use of a means reasonably
7 calculated to communicate with a hearing impaired or
8 visually impaired person, if applicable.

9 (4) The patient or the patient's guardian, as
10 appropriate, signs a copy of the standard written consent
11 form under subsection (a)(1) and the written supplement under
12 paragraph (2) stating that the patient or the patient's
13 guardian has read the copy of the standard written consent
14 form and the written supplement and understands the
15 information included in the documents.

16 (5) The signed copy of the standard written consent form
17 under subsection (a)(1) is made a part of the patient's
18 clinical record.

19 (d) Senior patients.--Before a patient 65 years of age or
20 older receives electroconvulsive therapy, the hospital, facility
21 or physician administering the electroconvulsive therapy shall
22 ensure the following:

23 (1) No less than two physicians have signed an
24 appropriate form that states the electroconvulsive therapy is
25 medically necessary.

26 (2) The form specified under paragraph (1) is available
27 to the patient or the patient's guardian.

28 (3) The patient or the patient's guardian is informed
29 of any known current medical condition of the patient that
30 may increase the possibility of injury or death as a result

1 of the electroconvulsive therapy.

2 (e) Validity.--Consent under this section shall not be valid
3 unless the individual providing consent understands the
4 information presented and consents voluntarily and without
5 coercion or undue influence.

6 § 5405. Revocation of consent to electroconvulsive therapy.

7 A patient or the patient's guardian who consents to the use
8 of electroconvulsive therapy may revoke the consent for any
9 reason and at any time.

10 § 5406. Administration of electroconvulsive therapy by
11 physician.

12 (a) Administration.--No individual other than a physician
13 may administer electroconvulsive therapy. A physician may not
14 delegate the act of administering the electroconvulsive therapy.

15 (b) Violation.--A nonphysician who administers
16 electroconvulsive therapy shall be engaging in the unlawful
17 practice of medicine as specified under section 38 of the act of
18 December 20, 1985 (P.L.457, No.112), known as the Medical
19 Practice Act.

20 § 5407. Registration of medical equipment used for
21 electroconvulsive therapy.

22 (a) Prohibition.--Medical equipment may not be used for
23 electroconvulsive therapy unless the medical equipment is
24 registered with the department in accordance with this section.

25 (b) Filing.--A hospital or facility administering
26 electroconvulsive therapy or private physician administering
27 electroconvulsive therapy on an outpatient basis shall file an
28 application to register medical equipment used for
29 electroconvulsive therapy.

30 (c) Application fee.--The application under subsection (b)

1 shall be submitted on a form prescribed by the department and
2 accompanied by a nonrefundable application fee. The department
3 shall set the application fee which shall not exceed the cost to
4 the department of implementing this section.

5 (d) Contents.--The application under subsection (b) shall
6 contain the following information:

7 (1) The model, manufacturer and age of each piece of
8 medical equipment used to administer the electroconvulsive
9 therapy.

10 (2) Any other information required by the department.

11 (e) Determination.--The following apply:

12 (1) The department may conduct an investigation as
13 necessary after receiving the application under subsection
14 (b) and the application fee under subsection (c) to determine
15 whether the medical equipment used for electroconvulsive
16 therapy is dangerous.

17 (2) The department may deny, suspend or revoke a
18 registration if the department determines that the medical
19 equipment used for electroconvulsive therapy is dangerous.

20 § 5408. Reports on administration of electroconvulsive therapy.

21 (a) Reports.--A hospital or facility administering
22 electroconvulsive therapy or a private physician administering
23 electroconvulsive therapy on an outpatient basis shall submit to
24 the department quarterly reports on the administration of
25 electroconvulsive therapy.

26 (b) Contents.--A quarterly report submitted under subsection
27 (a) shall include all of the following information:

28 (1) The total number of patients who received the
29 electroconvulsive therapy.

30 (2) The number of patients voluntarily receiving mental

1 health services under Article II of the act of July 9, 1976
2 (P.L.817, No.143), known as the Mental Health Procedures Act,
3 who consented to electroconvulsive therapy.

4 (3) The number of patients involuntarily receiving
5 mental health services under Article III of the Mental Health
6 Procedures Act who consented to electroconvulsive therapy.

7 (4) The number of patients involuntarily receiving
8 mental health services under Article III of the Mental Health
9 Procedures Act who had their guardians consent to
10 electroconvulsive therapy.

11 (5) The age, sex and race of the patients who received
12 electroconvulsive therapy.

13 (6) The payment sources for electroconvulsive therapy.

14 (7) The average number of electroconvulsive therapy
15 treatments administered for each complete series of
16 treatments, not including maintenance treatments.

17 (8) The average number of maintenance electroconvulsive
18 therapy treatments administered per month.

19 (9) The number of reported incidents of memory loss,
20 apnea, fractures and other injuries and cardiac arrests
21 without death.

22 (10) Autopsy findings if patient death occurs within 14
23 days after the date of the administration of
24 electroconvulsive therapy.

25 (11) Any other information deemed necessary by the
26 department to assess the administration of electroconvulsive
27 therapy.

28 § 5409. Duties of department.

29 The department shall have the following duties:

30 (1) Using the information received from applications

1 under sections 5407(b) (relating to registration of medical
2 equipment used for electroconvulsive therapy) and 5408(a)
3 (relating to reports on administration of electroconvulsive
4 therapy) to analyze the use of electroconvulsive therapy in
5 this Commonwealth.

6 (2) Filing an annual report with the Governor, the
7 President pro tempore of the Senate and the Speaker of the
8 House of Representatives summarizing the analysis under
9 paragraph (1). An annual report submitted under this
10 paragraph may not identify a physician who administered
11 electroconvulsive therapy or a patient who received
12 electroconvulsive therapy.

13 § 5410. Regulations.

14 The department shall promulgate regulations necessary to
15 implement this chapter.

16 Section 2. This act shall take effect as follows:

17 (1) The addition of 35 Pa.C.S. § 5410 shall take effect
18 immediately.

19 (2) The remainder of this act shall take effect in 60
20 days.