



Long-Term Care Regulatory Provider Letter

Number: PL 2022-11
Title: Consent for Antipsychotic and Neuroleptic Medications
Provider Types: Nursing Facilities (NFs)
Date Issued: May 5, 2022

1.0 Subject and Purpose

Texas Health and Safety Code, [§242.505](#) and Texas Administrative Code, Title 26 (26 TAC), [§554.1207](#) require a NF to obtain written consent for treating a resident with antipsychotic or neuroleptic medication. This letter provides guidance on this requirement.

2.0 Policy Details & Provider Responsibilities

Under 26 TAC [§554.1207](#), a resident receiving antipsychotic or neuroleptic medications must provide written consent. Written consent can also be given by a person authorized by law to consent on the resident's behalf. Consent for antipsychotic and neuroleptic medications must be documented on Texas Health and Human Services Commission (HHSC) [Form 3713](#).

2.1 Consent for Antipsychotic and Neuroleptic Medications with Form 3713

If the antipsychotic or neuroleptic medication is being prescribed to a resident for the first time, a NF must complete Form 3713 before the first dose is administered.

If a resident is already taking an antipsychotic or neuroleptic medication, a NF must complete Form 3713 as soon as possible.

The intent of the rule is not to abruptly stop an existing course of medication. If Form 3713 has not been completed and antipsychotic or neuroleptic medications are administered to a resident, a NF must

document any actions taken to obtain written consent and the communication with all parties involved. This documentation should discuss whether the medication should continue and could include notes from healthcare professionals at the NF, healthcare professionals outside the NF, the resident, and the person authorized to consent for the resident if applicable. Healthcare professionals may include the resident's attending physician, a physician in the community or hospital setting, a registered nurse, a licensed vocational nurse, an advanced practice registered nurse, a physician assistant, a clinical pharmacist, or a psychiatrist.

2.2 Completing Form 3713

The prescriber of the medication, the prescriber's designee, or the NF's medical director must complete Section I of Form 3713. HHSC cannot specify who can be the designee for the prescriber. Prescribers should consult their own board, such as the Texas Medical Board, to determine who can act as their designee. A prescriber can delegate the completion of Form 3713, Section I, if the prescriber's license permits it.

The resident or the resident's legally authorized representative must sign Section II of Form 3713. The rule requires consent in writing by the resident or by a person authorized by law to consent on behalf of the resident. Verbal consent does not meet the rule requirements. NF staff cannot sign on behalf of the resident.

The original Form 3713 or a copy of the completed form must be kept in the resident's clinical record to meet the consent requirement. Copies could be mailed, faxed or securely emailed if all parties are unable to sign the form in one sitting. Any copy or original consent form must be accurately completed and contain all required information and applicable signatures.

2.3 Consent for Other Psychoactive Medications

The resident's written consent is not required for psychoactive medications that are not considered antipsychotic or neuroleptic medications. The rule still requires documented consent for all other psychoactive medications, but it does not have to be written consent

on Form 3713. The person prescribing the medication, the prescriber's designee, or the NF's medical director must provide the resident, and if applicable, the person authorized to consent on behalf of the resident, the following information:

- The condition being treated;
- The beneficial effects on that condition expected from the medication;
- The potential side effects of the medication;
- The associated risks of the medication; and
- The proposed course of medication.

A NF may document consent for psychoactive medications that are not considered antipsychotic or neuroleptic medications in the resident's clinical record using a form prescribed by the NF, or by a statement from the prescriber of the medication or that person's designee. The record must show how consent was obtained from the appropriate person.

3.0 Background/History

On January 2, 2022, an amended rule became effective that contains requirements related to consent for the prescription of antipsychotic or neuroleptic medication to residents of nursing facilities. The new rule implements [House Bill \(HB\) 2050 of the 86th Legislature, Regular Session, 2019](#).

The statute requiring nursing facilities to obtain written consent for antipsychotic and neuroleptic medication has been in effect since September 2019.

Form 3713 was updated on May 5, 2022 to remove the requirement for the signature of a delegating physician and clarify who can complete the form.

4.0 Resources

- 26 TAC [§554.1207](#) Prescription of Psychoactive Medication
- [PL 21-43](#) Updates to Nursing Facility Rules
- [Texas Health and Safety Code, §242.505](#), Prescription of Psychoactive Medication

- Texas Health and Safety Code, [Chapter 166](#), Subchapter D, Medical Power of Attorney, and [Chapter 313](#), Consent to Medical Treatment Act (for information on who may consent on behalf of the resident)

5.0 Contact Information

If you have any questions about this letter, please contact the Policy and Rules Section by email at LTCRPolicy@hhs.texas.gov or call (512) 438-3161.