

# Electroconvulsive Treatment (ECT)

The purpose of this brochure is to tell you about your legal rights regarding Electroconvulsive Treatment (ECT).

## ***1. What is ECT?***

ECT stands for Electroconvulsive Treatment. It causes a person to have a seizure via electrical or chemical means for therapeutic purposes. It is commonly known as “shock treatment.”

## ***2. When is ECT most often given?***

ECT is most often given to treat mood disorders like major depression.

## ***3. What are the side effects of ECT?***

Memory loss is considered to be the most common side effect of ECT. Whether or not ECT causes brain damage is a source of debate.

## ***4. Can a person refuse ECT?***

Yes. If you can give written informed consent but refuse, you cannot be given ECT. This is true no matter where you are being treated (a facility, a doctor’s office, a private home, a clinic). If you refuse ECT, the doctor must write in your record that you refused ECT against the doctor’s advice. The doctor must also tell you that you are responsible for anything that happens to you because you refused the treatment. The doctor cannot make you feel forced to agree to ECT. For instance, the doctor cannot threaten that you will be moved to another facility or lose privileges if you do not accept ECT.

## ***5. How is it determined if I have the capacity to refuse (or to consent to) ECT?***

To show that you have “capacity,” it is important that you understand all of the following:

- ♦ your condition;
- ♦ what ECT is, including information about side effects and risks such as memory loss;
- ♦ how long and how often you would receive ECT;
- ♦ whether ECT would help you to improve for a little while or a long time;

- ♦ whether you would improve without ECT;
- ♦ that some doctors disagree with the use of ECT because of risks and side effects;
- ♦ other treatments you could be given and why your doctor thinks ECT is best;
- ♦ that you have the right to consent to ECT or refuse ECT; and
- ♦ that if you agree to receive ECT, you can change your mind later, for any reason, and ask that the treatment be stopped.

**6. *If I have a mental illness, does that mean I do not have the capacity to refuse (or to consent to) ECT?***

No. Even if you have been diagnosed with a mental illness, you can still refuse (or consent to) ECT.

**7. *What happens if I consent to ECT but then change my mind?***

As described in Questions #10 and #11, you can change your mind at any time (either orally or in writing). If you do change your mind, ECT must be stopped immediately. Then, ECT cannot be given to you unless you give your written informed consent again.

**8. *If I consent to ECT, how long does my consent last?***

As described in Questions #10 and #11, your written informed consent can only last for a certain maximum number of treatments and for no longer than 30 days. More treatments means you must give your written informed consent again.

**9. *What happens if I do not want ECT, but my conservator, guardian, or relative thinks I need it, or agrees to it on my behalf?***

If you can give written informed consent but refuse, ECT cannot be given to you. If a court has said you cannot give written informed consent, then ECT can be given to you but only if your conservator, guardian, or responsible relative gives written informed consent (see Question #10). At any time during your ECT treatment(s), you can say you have regained “capacity.” Then ECT must be stopped immediately and you must be reevaluated (see Question #10, paragraphs (e), (f), and (g)).

**10. *When may ECT be given to an adult who is an “involuntary patient” in a facility?***

If you are an adult living in a facility but did not choose to be there, ECT may be given to you only if:

- (a) Your doctor writes in your record the reasons why ECT is being considered for you. The reasons why ECT is being considered must include information about other treatments that have been considered and why ECT is the best treatment for you. Your doctor must also sign your record.
- (b) Two psychiatrists or neurologists must review your records and agree with your doctor that ECT is the best treatment for you. The psychiatrists or neurologists cannot be your personal doctors, but one of them must personally examine you. They must also write in your record that they agree with your doctor.
- (c) Information about your treatment is given to a relative of your choice if you want a relative to know about your treatment. The information must also be given to your guardian or conservator. If you want a relative to know about your treatment, a doctor from the facility must give your relative information that is easy to understand. The information must include:
- your condition;
  - what ECT is, including information about side effects and risks such as memory loss;
  - how long and how often you will receive ECT;
  - whether ECT will help you to improve for a little while or a long time;
  - whether you would improve without ECT;
  - that some doctors disagree with the use of ECT because of risks and side effects;
  - other treatments you could be given and why your doctor thinks ECT is best;
  - that you have the right to consent to ECT or refuse ECT treatment; and
  - that if you agree to receive ECT, you can change your mind later, for any reason, and ask that the treatment be stopped.
- (d) You give written informed consent to ECT. Written informed consent means:
- your doctor has given you a form explaining ECT and all the information in paragraph (c) above;
  - your doctor has talked to you about ECT in a way that you can understand;
  - you show that you agree to ECT by signing the form;

- someone else (a witness) watches you sign the form;
  - nobody has forced you to sign the form or made you agree to ECT when you did not want to;
  - a copy of the form and a note that your doctor explained it to you is put into your record;
  - if you agree to ECT, no less than 24 hours goes by between the time you are given the form (and all the information in paragraph (c) above) and the time you sign the form;
  - your doctor has not pushed you into signing the form by offering you extra privileges or threatening that you will be placed in a more restrictive facility if you refuse ECT;
  - your written informed consent to ECT can only cover a limited number of treatments and cannot last more than 30 days – more treatments means you have to give your written informed consent again;
  - if you consent to ECT but then change your mind, your doctor must get your written informed consent again;
  - you have the right to change your mind at any time – if you change your mind, no ECT can be given to you.
- (e) Your attorney or public defender agrees with a doctor from the facility that you have the capacity to give written informed consent to ECT and have given such consent.
- (f) If either the doctor from the facility or your attorney believes you do not have capacity to give written informed consent, a court petition must be filed to determine your capacity. The court will send you a notice and hold a hearing within three days of the petition. You must be at the hearing and have an attorney with you who is on your side.
- (g) If the court says you do not have the capacity to give written informed consent, then ECT may be given to you if written informed consent (as explained in paragraphs (c) and (d) above) is given by the relative you have chosen or your conservator or guardian.
- (h) If the court has said you do not have the capacity to give written informed consent, you can claim that you have (re)gained capacity at any time during ECT treatment. If you make this claim, ECT must be stopped immediately and you have a right to be reevaluated (see sections (e), (f), and (g) above).

**11. *When may ECT be given to an adult who is a “voluntary patient” in a facility, doctor’s office, clinic, or private home?***

If you are an adult who chose the treatment you are receiving (i.e. you are living in a facility and chose to be there), ECT may be given to you only if:

- (a) Your doctor writes in your record the reasons why ECT is considered for you. The reasons why ECT is being considered must include information about other treatments that have been considered and why ECT is the best treatment for you. Your doctor must also sign your record.
- (b) Information about your treatment is given to a relative of your choice if you want a relative to know about your treatment. The information must also be given to your guardian or conservator. If you want a relative to know about your treatment, a doctor from the facility must give your relative information that is easy to understand. The information must include:
  - your condition;
  - what ECT is, including information about side effects and risks such as memory loss;
  - how long and how often you will receive ECT;
  - whether ECT will help you to improve for a little while or a long time;
  - whether you would improve without ECT;
  - that some doctors disagree with the use of ECT because of risks and side effects;
  - other treatments you could be given and why your doctor thinks ECT is best;
  - that you have the right to consent to ECT or refuse ECT treatment; and
  - that if you agree to receive ECT, you can change your mind later, for any reason, and ask that treatment be stopped.
- (c) You give written informed consent to ECT. Written informed consent means:
  - your doctor has given you a form explaining ECT and all the information in paragraph (b) above;
  - your doctor has talked to you about ECT in a way that you can understand;
  - you show that you agree to ECT by signing the form;
  - someone else (a witness) watches you sign the form;

- nobody has forced you to sign the form or made you agree to ECT when you did not want to;
  - a copy of the form and a note that your doctor explained it to you is put into your record;
  - if you agree to ECT, no less than 24 hours goes by between the time you are given the form (and all the information in paragraph (b) above) and the time you sign the form;
  - your doctor has not pushed you into signing the form by offering you extra privileges or threatening that you will be placed in a more restrictive facility if you refuse ECT;
  - your written informed consent to ECT can only cover a limited number of treatments and cannot last more than 30 days – more treatments means you have to give your written informed consent again;
  - if you consent to ECT but then change your mind, your doctor must get your written informed consent again;
  - you have the right to change your mind at any time – if you change your mind, no ECT can be given to you.
- (d) A psychiatrist or neurologist who is not your doctor must examine you and say that you are able to give, and have given, your written informed consent to ECT. This statement must go into your record and be signed by your doctor. If the psychiatrist or neurologist says that you did not or cannot give written informed consent, then all the requirements in place for involuntary patients (see Question #3, paragraphs (b), (e), (f), (g), and (h), above) must also be followed.

***12. When may ECT be given to a child under 12 years old?***

ECT can never be given to a child under 12 years old.

***13. When may ECT be given to a child between 12 and 16 years old?***

A child between 12 and 16 years old may be given ECT only if:

- (a) It is an emergency and ECT will help save the child's life;
- (b) Three child psychiatrists all agree it is an emergency and that ECT is needed. None of these psychiatrists can be the child's own doctor(s);
- (c) The regulations of the Department of Mental Health about ECT are followed; and
- (d) Information about the ECT is kept in a record and reported right away to the Department of Mental Health.

Sometimes, children who are considered “emancipated” minors are allowed to decide whether or not they want ECT; for other children, the parent(s) or legal guardian has the right to make this decision (as long as all laws and procedures are followed).

***14. When may ECT be given to a minor 16 or 17 years old?***

Minors 16 or 17 years old have the same rights as people over age 18 when it comes to ECT.

***15. Who is licensed to perform ECT?***

In California, only medical doctors licensed to practice can perform ECT.

***16. What is “excessive use” of ECT?***

Anything more than 15 treatments in 30 days or 30 treatments in a year is “excessive use” of ECT.

***17. Can a person ever be given ECT that goes beyond the “excessive use” limits?***

The doctor can give you ECT beyond the “excessive use” limits only if the doctor first gets approval from the facility or the county. The request for approval must include your diagnosis, why the doctor is recommending extra treatments, a maximum number of treatments, and that the doctor considered other treatments but thinks that extra ECT is less risky for you. If extra ECT is approved, the doctor and facility must still follow all applicable procedures (see Questions #10 and #11).

***18. Are there any committees set up to review the use of ECT?***

Yes. Facilities that perform ECT must have a committee to review all ECT treatments and to make sure they are necessary. Every three months, the committee must review all ECT given in the facility. The local mental health director must also set up a committee to review ECT given outside a facility. Records of these committees are available.

***19. Do any reporting requirements apply to the use of ECT?***

Yes. A doctor or facility that performs ECT must send a report every three months to the local mental health director, who must then send a copy of the report to the state director of mental health. The report must include the number of persons who received ECT in each of these categories: (1) involuntary patients who gave written informed consent; (2) involuntary patients who a court said could not give written informed consent and who received ECT against their will; (3) voluntary

patients who gave written informed consent; and (4) voluntary patients who a court said could not give written informed consent.

If you have any questions, contact your county Patients' Rights Advocate, or call:

**Disability Rights California**  
**Toll Free (800) 776-5746**

Central Office  
100 Howe Avenue, Suite 185N  
Sacramento, CA 95825  
(916) 488-9950

Bay Area Office  
449 15<sup>th</sup> Street, Suite 401  
Oakland, CA 94612  
(510) 839-0811

Los Angeles Office  
3580 Wilshire Blvd., Suite 902  
Los Angeles, CA 90010  
(213) 427-8747

San Diego Office  
1111 Sixth Avenue, Suite 200  
San Diego, CA 92101  
(619) 239-7861

Office of Patients' Rights  
100 Howe Avenue, Suite 240  
Sacramento, CA 95825  
(916) 575-1610  
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