



# OLR RESEARCH REPORT

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## SHOCK THERAPY STATUTE

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You asked for a summary and history of the statute addressing informed consent for shock therapy (CGS § [17a-543\(c\)](#)).

### SUMMARY

Connecticut law generally prohibits shock therapy from being administered to a patient without the patient's written informed consent. The patient may revoke the consent at any time, and the consent is valid for up to 30 days.

If the head of the hospital and two qualified physicians determine that a patient has become incapable of giving informed consent, shock therapy may be administered following a probate court order after a hearing. The court must find that (1) the patient is incapable of informed consent and (2) there is no other, less intrusive beneficial treatment. Such an order is valid for up to 45 days (CGS § [17a-543\(c\)](#)).

For these purposes, the law defines shock therapy as a form of psychiatric treatment in which electric current, insulin, carbon dioxide or indoklon, or other similar agent is administered to the patient and results in a loss of consciousness or a convulsive or comatose reaction. Informed consent is defined as permission given competently and voluntarily after a patient has been informed of the reason for treatment, the nature of the proposed treatment, its advantages or disadvantages, medically acceptable alternatives, the risks associated with receiving the proposed treatment, and the risk of no treatment (CGS § [17a-540](#)).

Connecticut law has limited the use of shock therapy without a patient's informed consent since at least 1971. Following the 1971 act, the provision on shock therapy was codified at CGS § 17-206d; it was later moved to CGS § [17a-543](#).

Since 1971, significant changes to the statute include the following, among others:

1. a 1978 act (1) set separate consent requirements for shock therapy and other types of medical or surgical procedures for mental health treatment, (2) eliminated differences between the consent requirements for patients who were voluntarily or involuntarily admitted, and (3) provided that shock therapy could be given without a patient's consent only following an order of the probate court under specified circumstances;
2. a 1993 act strengthened the definition of informed consent; and
3. a 2003 act set a 45-day limit on probate court orders authorizing shock therapy for people unable to give informed consent.

Below, we summarize substantive changes to the shock therapy statute since 1971. We also summarize certain substantive changes to definitions that apply to the shock therapy statute. We do not include minor or technical changes.

## **HISTORY OF CHANGES TO SHOCK THERAPY STATUTE**

### ***1971, P.A. 834***

1971, P.A. 834 established the general requirement for informed written consent prior to electroshock therapy. The act differentiated between patients who were admitted voluntarily and involuntarily.

For voluntary patients, the act prohibited performing medical or surgical procedures, including electroshock therapy, without the patient's written informed consent. For involuntary patients, the act prohibited performing medical or surgical procedures, including electroshock therapy, without the written informed consent of (1) the patient's guardian, if any; (2) the patient's next of kin; or (3) a qualified physician appointed by a probate court judge who signed the hospitalization order.

The act did not define electroshock therapy. It defined informed consent as permission given on the basis of knowledge of the implications, consequences, or possible consequences or effects of that permission.

### ***PA 74-35***

PA 74-35 added a provision allowing for electroshock therapy (and other medical or surgical procedures) for a voluntary patient whom the head of the hospital and two qualified physicians determined had become incapable of giving informed consent. In that situation, the procedure could be performed only with the written informed consent of the same parties who could give informed consent for involuntary patients (i.e., a guardian, next of kin, or qualified physician appointed by a probate judge).

The act also added a provision allowing for emergency measures, including medical or surgical procedures (such as electroshock therapy), without the consent otherwise required if the head of the hospital, in consultation with two physicians, determined that the patient's condition was of such a critical nature that it would be immediately fatal unless a medical or surgical procedure were administered. This provision applied whether the patient had been admitted voluntarily or involuntarily.

### ***PA 76-227***

This act added a provision prohibiting a facility from requesting or requiring blanket consent to all procedures as a condition of admission or treatment for mental illness.

### ***PA 78-219***

PA 78-219 reorganized the statute and made several substantive changes concerning shock therapy. The act established consent requirements for shock therapy or psychosurgery (e.g., lobotomy) that differed from the requirements for other medical or surgical procedures.

For psychosurgery and shock treatment, the act no longer differentiated between patients who had been admitted voluntarily or involuntarily. It also eliminated the ability of a guardian, next of kin, or court-appointed physician to give consent on a patient's behalf, as prior law allowed regarding (1) voluntarily admitted patients who were no longer capable of giving informed consent or (2) involuntary patients.

The act generally prohibited shock therapy or psychosurgery without the patient's written informed consent, specified that the patient could revoke the consent at any time, and made the consent valid for up to 30 days.

Under the act, if the head of the hospital and two qualified physicians determined that a patient had become incapable of giving informed consent, shock therapy could be administered following a probate court order after a hearing. The court had to find that (1) the patient was incapable of informed consent and (2) there was no other reasonable alternative procedure.

The act removed shock therapy and psychosurgery from the provision allowing for emergency measures without consent under certain circumstances (see PA 74-35).

The act also added definitions for shock therapy and psychosurgery. Other than technical changes, the definitions have not changed since then (see summary above for shock therapy definition).

### **PA 93-369**

This act strengthened the definition of informed consent. It defined such consent as permission given competently and voluntarily after the patient had been apprised of the reason for treatment, the nature of the proposed treatment, its advantages or disadvantages, medically acceptable alternatives, the risks associated with the proposed treatment, and the risk of no treatment. Prior law required that the patient be apprised of the implications, consequences, or possible complications and effects of the proposed treatment.

The act deleted the provision specifically prohibiting a facility from requesting or requiring blanket consent to all procedures as a condition of admission or treatment, but made many other changes expanding the rights of patients being treated for mental illness to consent to their treatment (e.g., providing involuntary patients in many circumstances with the right to refuse medication).

### **PA 03-31**

This act established a 45-day limit on probate court orders authorizing shock therapy for people unable to give informed consent. The law already set a 30-day limit on voluntary consents, but did not limit the duration of involuntary orders.

Before issuing an involuntary order, the act required probate court judges to find, after a hearing, that there was no other less intrusive, beneficial treatment. Under prior law, the court instead had to find that no other reasonable alternative procedure existed.

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