**Section 380.150 Informed Consent**

a) For the purposes of this Section and Section 380.160, the following definitions shall apply:

1) Authorized representative – a guardian with a court order granting authority to consent to psychotropic medication or the use of restraints on behalf of a consumer, or a person authorized to consent to psychotropic medication or the use of restraints on behalf of a consumer pursuant to the Power of Attorney Act or the Mental Health Treatment Preference Declaration Act.

2) Capable consumer – a consumer who is able to understand the nature of the decision to be made, the information relevant to making the decision and the possible consequences of any decision, and to make a reasoned judgment based on this information.

3) Informed consent – written consent for specific medical care, given freely, without coercion or deceit, by a capable consumer, or by a consumer's authorized representative, after the consumer, or the consumer's authorized representative, has been fully informed of, and had an opportunity to consider, the nature of the care, the likely and possible benefits and risks to the consumer of receiving the care, any other likely and possible consequences of receiving or not receiving the care, and possible alternatives to the proposed care. Written informed consent shall be obtained from a consumer or from a consumer's authorized representative when he or she is admitted. Before obtaining informed consent from a consumer, or from a consumer's authorized representative, the facility shall inform the consumer or the consumer's authorized representative that the potential consequences of an emergency situation in a SMHRF may include temporary holding, restraint, or the use of medications as ordered by the physician for safety purposes. For psychotropic medications, the informed consent shall comply with subsection (d).

b) The facility shall document in the consumer's record whether he or she is capable of giving informed consent for medical care, including for receiving psychotropic drugs. If the consumer is not capable of giving informed consent, the identity of the consumer's authorized representative shall be placed in the consumer's record.

c) No psychotropic medication may be given to any consumer without the informed consent of the consumer or, if the consumer is not capable, the informed consent of a person authorized to consent for the consumer without capacity. Informed consent shall be secured in compliance with the requirements of this Section.

d) Procedure for Securing Informed Consent for Psychotropic Medication

1) Prior to initiating any detailed discussion designed to secure informed consent, a licensed medical professional shall inform the consumer or the consumer's authorized representative that the consumer's physician has prescribed a psychotropic medication for the consumer, and that an informed decision is required from the consumer or the consumer's authorized representative before the consumer may be given the medication.

2) The discussion designed to secure informed consent shall be private, between the consumer or the consumer's authorized representative, and the resident's physician, a registered pharmacist who is not a dispensing pharmacist for the facility where the consumer is receiving services, or a licensed nurse. The consumer shall be given the opportunity to ask questions throughout the discussion. The consumer shall be given as much time as he or she needs to grant informed consent, and shall be told that he or she is not required to make the decision during the meeting.

3) The discussion shall include information about:

A) The name of the medication;

B) The consumer's illness that the medication is intended to treat;

C) The symptoms of the illness that the medication is intended to treat, and how those symptoms are affecting the consumer;

D) How the medication is intended to affect those symptoms;

E) Other possible effects or side effects of the medication, and any reasons (e.g., age, health status, other medications) that the consumer is more or less likely to experience side effects;

F) Dosage information, including how much medication would be administered, how often, and the method of administration (e.g., orally or by injection; with, before, or after food);

G) Any tests and related procedures that are required for the safe and effective administration of the medication;

H) Any food or activities the consumer should avoid while taking the medication;

I) Any possible alternatives to taking the medication that could accomplish the same purpose; and

J) Any possible consequences to the consumer of not taking the medication.

4) The consumer or the consumer's authorized representative shall be told that his or her informed consent may be withdrawn at any time, and that, even with informed consent, the consumer may refuse to take the medication. The consumer or the consumer's authorized representative shall be told whether stopping the medication poses a risk of serious health consequences for the consumer, and whether stopping the medication and resuming it will reduce the subsequent effectiveness of the medication.

5) In addition to the oral discussion, the consumer or his or her authorized representative shall be given the information in subsection (d)(2) in writing. The information shall be in plain language, understandable to the reader. If the document is in a language not understood by the reader, the facility shall provide a translator capable of communicating with the reader and the health care professional conducting the discussion. The health care professional shall guide the consumer through the written information. The document shall include a place for the consumer or his or her authorized representative to give, or to refuse to give, informed consent, or to request more time or more information prior to making a decision. Informed consent is not secured until the consumer or authorized representative has given oral and written informed consent.

6) If a consumer has an authorized representative, the consumer may still be present at the discussion required by this Section. If a consumer has an authorized representative, that consumer shall still be given appropriate information about the medication. The information shall include, at a minimum, written information and an oral explanation of common side effects of the medication to facilitate the consumer in identifying the medication and in communicating the existence of side effects to the nursing staff. If the consumer is capable of understanding, the explanation shall also include:

A) The information in subsection (d)(3)(H);

B) Whether stopping the medication poses a risk of serious health consequences for the consumer; and

C) Whether stopping the medication and resuming it will reduce the subsequent effectiveness of the medication.

7) The time period for informed consent for psychotropic medication shall not exceed one year.

8) Informed consent shall be given for a maximum daily dosage. Additional informed consent is not required so long as the medication administered to the consumer remains within the maximum daily dosage for which consent was given.

9) If a consumer in a triage center has a current prescription for psychotropic medication, the triage center shall take all reasonable steps to confirm that the consumer has given informed consent for the medication.

10) A consumer shall be asked to consent to the administration of a new psychotropic medication in a dosage or frequency that exceeds the maximum recommended daily dosage as found in the Physician's Desk Reference only when the reason for exceeding the recommended daily dosage is explained to the consumer by a nurse, physician, or psychiatrist, and the reason for exceeding the recommended daily dosage is justified by the prescribing physician or psychiatrist in the clinical record. The dosage and frequency shall be reviewed and rejustified by the prescriber on a weekly basis and reviewed by a consulting pharmacist. The justification for exceeding the recommended daily dosage shall be recorded in the consumer's record and shall be approved, in writing, by the medical director of the facility.

11) The facility shall obtain informed consent using forms provided by the Department pursuant to Section 2-106.1 of the Nursing Home Care Act.