

**RULES
OF
THE TENNESSEE DEPARTMENT OF MENTAL HEALTH
AND SUBSTANCE ABUSE SERVICES
OFFICE OF THE COMMISSIONER**

**CHAPTER 0940-01-02
PROCEDURES FOR PRESCRIPTION AND ADMINISTRATION
OF PSYCHOTROPIC MEDICATIONS AT MENTAL HEALTH INSTITUTES**

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0940-01-02-.01 PURPOSE. The purpose of these rules is to delineate requirements and processes for obtaining informed consent for treatment, including psychotropic medication and physical treatment as defined in these rules, release of information, and authorizing treatment contrary to a Declaration for Mental Health Treatment at a Regional Mental Health Institute (RMHI). These rules may be utilized as guidelines by private psychiatric hospitals and psychiatric units of private general hospitals.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985. Amendments filed December 22, 2025; effective March 22, 2026.

0940-01-02-.02 SCOPE.

- (1) These rules address informed consent for services provided at an RMHI, not services that may be provided for RMHI patients at another agency, either during hospitalization or after discharge.
- (2) An RMHI Treatment Review Committee (TRC) shall not authorize use of convulsive therapy, including but not limited to electroconvulsive therapy (ECT), either at the RMHI or by an outside provider. Use of convulsive therapy requires informed consent from the patient, the patient’s conservator or other legal representative, or a court order authorizing the treatment.
- (3) A Treatment Review Committee shall not authorize use of seclusion or restraint, including physical holding restraint. Use of seclusion or restraint shall be authorized only by a licensed practitioner in accordance with Chapter 0940-03-06 (Hospital Isolation and Restraint).
- (4) Nothing in these rules shall prevent the provision of treatment, including medication, or release of information in the event of an emergency situation.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** (For Administrative History prior to February, 1985 see page 1.001). New rule filed January 9, 1985; effective February 8, 1985. Administrative corrections made to agency names in December 2022 pursuant to Public Chapter 575 of 2012. Amendments filed December 22, 2025; effective March 22, 2026.

0940-01-02-.03 DEFINITIONS.

- (1) "Advanced Practice Nurse" (APN) means a licensed registered nurse certified as an advanced practice nurse by the Tennessee Board of Nursing under Title 63, Chapter 7, T.C.A. who has been issued a certificate of fitness to write and sign prescriptions.
- (2) "Clinical Professional" means a staff member who is a qualified mental health professional, a registered nurse, a pharmacist, or a member of the RMHI Medical Staff.
- (3) "Conservator" means a person or an entity appointed by a court under Title 34, Chapter 3 or Chapter 5, T.C.A. with authority to make health care decisions for an adult who lacks capacity to make informed decisions.
- (4) "Declaration for Mental Health Treatment" means a document authorized by Title 33, Chapter 6, Part 10, T.C.A. that allows a person to say how they want to be treated or not be treated when they are unable to make informed decisions about their mental health treatment.
- (5) "The Department" means the Tennessee Department of Mental Health and Substance Abuse Services.
- (6) "Emergency" means circumstances in which there exists:
 - (a) An immediate threat of serious physical harm to the patient or to others caused by the violent behavior of the patient;
 - (b) Actual violent behavior by the patient causing substantial property damage; and/or
 - (c) An immediate threat to the patient of deteriorating physical well-being with risk to life or long-term health caused by the effects of mental illness and/or a physical illness or condition.
- (7) "Informed Consent" means voluntary consent or authorization, when applicable, given in writing after sufficient explanation and disclosure of the subject matter involved to enable the person whose consent is sought to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.
- (8) "Involuntary Patient" means a patient who has been admitted pursuant to Title 33, Chapter 6, Part 4 or 5, T.C.A. §§ 33-3-401, 33-3-402, 33-3-403, 33-3-412, 33-3-607, 33-7-301, 33-7-303, or 37-1-128.
- (9) "Lacks Capacity" means that the patient is unable to understand the following:
 - (a) A proposed psychotropic medication, physical treatment, and/or release of information;
 - (b) The risks and benefits of such psychotropic medication, physical treatment, and/or release of information;
 - (c) The risks and benefits of any available alternative(s) to the psychotropic medication, physical treatment, and/or release of information; and/or
 - (d) The risks and benefits of not receiving the psychotropic medication, physical treatment, and/or release of information, then
 - (e) That patient cannot give informed consent for psychotropic medication, physical treatment, and/or release of information unless a conservator or other legal representative has been granted that authority.

(Rule 0940-01-02-.03, continued)

- (10) "Legally Incompetent Patient" means a patient from whom a court, pursuant to T.C.A. Title 34, has removed the power to make decisions as to treatment and for whom it has appointed a conservator to make such decisions.
- (11) "Legal Representative" means an individual who has been granted legal authority to act on behalf of another individual.
- (12) "Licensed Physician" means a graduate of an accredited medical school authorized to confer the degree of Doctor of Medicine (M.D.) who is duly licensed in the state, or an osteopathic physician who is a graduate of a recognized osteopathic college authorized to confer the degree of Doctor of Osteopathy (D.O.) and who is licensed to practice osteopathic medicine in the state.
- (13) "Medical Record" means written documents, computerized electronic information, radiology film and scans, laboratory reports and pathology slides, videos, audio recordings, and other forms of information regarding the condition of a patient. The medical record includes both electronic and paper medical record systems.
- (14) "Medication" means prescriptive medication, including psychotropic medication, that is administered to patients to treat or prevent disease or other abnormal conditions.
 - (a) "Prescriptive Medication" means a drug which requires authorization by a physician, advanced practice nurse, physician assistant, pharmacist, or other professional authorized by law to prescribe medication and which cannot be obtained on an over-the-counter basis in the community. This includes drugs prescribed to treat physical illnesses or conditions and psychotropic medication prescribed to treat mental illness.
 - (b) "Psychotropic Medication" means a drug which exercises a direct effect upon the central nervous system and which is capable of influencing and modifying behavior. Psychotropic medications include but are not limited to anti-psychotics, anti-depressants, agents for control of mania and depression, anti-anxiety agents, psychomotor stimulants, and hypnotics.
- (15) "Patient Rights Advocate" (PRA) means a person designated by the RMHI Chief Executive Officer or designee to have the responsibilities imposed by these rules.
- (16) "Physical Treatment" means a medical procedure or medication prescribed to treat a physical condition or illness, with the exception of routine first aid, performing examinations, giving injections, or obtaining laboratory samples.
- (17) "Physician Assistant" (PA) means a person licensed as a physician assistant under Title 63, Chapter 13, T.C.A.
- (18) "Privileged" means authorization has been granted by the RMHI Governing Body to a physician, advanced practice nurse, physician assistant, or other licensed practitioner to render specific services, based upon the individual's professional license and certification, as well as experience, competence, ability, and judgment.
- (19) "Qualified Mental Health Professional" means a person who is licensed in the state, if required for the profession, and who is a psychiatrist; physician with expertise in psychiatry as determined by training, education, or experience; psychologist with health service provider designation; psychological examiner or senior psychological examiner; licensed master's social worker with two (2) years of mental health experience or licensed clinical social worker; marital and family therapist; nurse with a master's degree in nursing who functions as a

(Rule 0940-01-02-.03, continued)

psychiatric nurse; professional counselor; or, if the person is providing service to patients who are children, any of the above educational credentials plus mental health experience with children.

- (20) "Regional Mental Health Institute" (RMHI) means a mental health hospital or psychiatric inpatient unit operated by the Department.
- (21) "Regular Working Day" means 8:00 a.m. until 4:30 p.m., Monday through Friday, excluding legal state holidays.
- (22) "Release of Information" means authorization, in accordance with applicable state and federal statutes and regulations, for a healthcare provider or organization to request or provide information that identifies an individual as a patient or former patient and information regarding their diagnosis and treatment to a specified person or organization.
- (23) "Release of Information Form" means the Authorization to Release Confidential Information Form approved by the Department to be utilized to authorize release of information.
- (24) "Revocation of Authorization to Release Confidential Information Form" means the form approved by the Department to be utilized to document revocation of a release of information.
- (25) "RMHI Medical Staff" means a self-governing entity accountable to the RMHI Governing Body that is comprised of licensed physicians, advanced practice nurses, physician assistants, and, in accordance with the RMHI Medical Staff Bylaws, other licensed practitioners. Members of the RMHI Medical Staff are privileged by the RMHI Governing Body to provide specific patient care functions, such as ordering medications and providing medical treatment. For purposes of these rules, physicians in an approved residency program at an RMHI shall be considered to be members of the RMHI Medical Staff.
- (26) "Staff Member" means an individual employed by or performing duties at the RMHI, including contract employees, students, residents, and volunteers.
- (27) "Treatment Review Committee" (TRC) means a committee constituted under T.C.A. § 33-6-107 and these rules to make decisions for patients.
- (28) "Treatment Team" means RMHI staff members directly involved in developing, implementing, and monitoring a patient's treatment plan, including but not limited to the attending physician or assigned advanced practice nurse or physician assistant, a registered nurse, and a social services staff member.
- (29) "Voluntary Patient" means a patient who has been admitted pursuant to Title 33, Chapter 6, Part 2 or Part 3, T.C.A.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** (For Administrative History prior to February, 1985 see page 1.001). New rule filed January 9, 1985; effective February 8, 1985. Amendments filed December 22, 2025; effective March 22, 2026.

0940-01-02-.04 INFORMED CONSENT REQUIRED.

- (1) Except as otherwise authorized or in applicable state and federal statutes or regulations, psychotropic medications shall not be administered to a patient unless the patient has given informed consent in writing. A change of dosage or medication within a class does not require obtaining a new consent, but the patient shall be informed of such change and shall be provided an explanation for the change, and this shall be documented in the record.

(Rule 0940-01-02-.04, continued)

Informed consent for psychotropic medication includes consent for procedures associated with the safety and efficacy of psychotropic medication management, such as periodic lab work.

- (2) Except as otherwise authorized or in applicable state and federal statutes or regulations, physical treatment, including medication, shall not be administered to a patient unless the patient or patient's legal representative has given informed consent in writing. Informed consent for physical treatment includes consent for procedures associated with the safety and efficacy of the physical treatment, such as periodic lab work.
- (3) Except as otherwise authorized or in applicable state and federal statutes or regulations, healthcare information relating to a patient shall not be released to a person or organization unless the patient or patient's legal representative has given informed consent in writing.
- (4) Each RMHI shall have an informed consent policy that delineates which treatments/services require informed consent and which treatments/services do not require informed consent.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** (For Administrative History prior to February, 1985 see page 1.001). New rule filed January 9, 1985; effective February 8, 1985. Amendments filed December 22, 2025; effective March 22, 2026.

0940-01-02-.05 DURATION OF INFORMED CONSENT AND EFFECT OF REVOCATION.

- (1) Informed consent for psychotropic medication, physical treatment, and release of information shall be limited to the current RMHI admission. If a patient is discharged and subsequently readmitted, informed consent as required by these rules must be obtained for any psychotropic medication, physical treatment, and/or release of information related to the new admission.
- (2) A consent for psychotropic medication or physical treatment remains effective until:
 - (a) The patient who has consented or the patient's conservator who has the authority to give consent expressly revokes the consent in writing or orally, or
 - (b) The patient who has consented continuously refuses, either orally or behaviorally, to take the psychotropic medication or physical treatment for a 72-hour period, thereby revoking the consent.
- (3) A release of information remains effective until:
 - (a) The date, event or condition of expiration specified on the release of information form occurs, or
 - (b) The patient who has consented or the patient's conservator who has the authority to give consent expressly revokes the release of information in writing or orally.
 - (c) The release of information expires automatically one (1) year from the date of signature.
- (4) If, after revoking a consent, the patient or conservator subsequently indicates a willingness to have the psychotropic medication administered, to accept the physical treatment, and/or to allow release of information, the psychotropic medication, physical treatment, and/or release of information shall be resumed only after the patient gives a voluntary, informed consent in writing in accordance with Rules 0940-01-02-.04 and 0940-01-02-.06. If the patient continues to refuse psychotropic medication, and the treatment team deems that the medication is

(Rule 0940-01-02-.05, continued)

essential to the patient's recovery, a TRC may be pursued in accordance with Rule 0940-01-02-.10.

- (5) Revocation of informed consent shall be documented as follows:
 - (a) If a patient or the patient's conservator revokes a consent for psychotropic medication, the revocation shall be documented immediately in the patient's medical record, and an order discontinuing the revoked psychotropic medication shall be written by a member of the RMHI Medical Staff. Refer to 0940-01-02-.07 related to the administration of emergency medications in the event of an emergency situation.
 - (b) If a patient or the patient's conservator revokes a consent for physical treatment, the revocation shall be documented immediately in the patient's medical record, and an order discontinuing the revoked physical treatment shall be written by a member of the RMHI Medical Staff.
 - (c) If a patient or the patient's conservator revokes a release of information, the revocation shall be documented immediately on the Revocation of Authorization to Release Confidential Information Form and maintained in the patient's medical record.
- (6) A patient or the patient's conservator may decide to partially revoke consent, retaining consent for part of the psychotropic medications, physical treatment, and/or release of information included on the consent. The written documentation of the partial revocation must clearly reflect which parts of the consent are revoked and which are retained.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** (For Administrative History prior to February, 1985 see page 1.001). New rule filed January 9, 1985; effective February 8, 1985. Amendments filed December 22, 2025; effective March 22, 2026.

0940-01-02-.06 PROCEDURES FOR OBTAINING INFORMED CONSENT.

- (1) Any staff member may encourage a patient to give informed consent for psychotropic medication, physical treatment, and/or release of information. A consent is not voluntary if it is given in response to force or to the threat of force, discharge, involuntary commitment, transfer to a more restrictive environment, or loss of privileges. Providing information about the benefits of psychotropic medication, physical treatment, and/or release of information and the potential adverse consequences of consenting or not consenting is permitted.
- (2) Informed consent shall be obtained only after determining that there are no indicators (e.g., actions, statements, behavior) that the patient lacks capacity to give informed consent or, if indicators are present, after a physician, licensed practitioner, or qualified mental health professional has determined that the patient does not lack capacity. If the patient has provided a current Declaration for Mental Health Treatment that addresses the issue for which informed consent is needed, then the patient's capacity must be assessed by:
 - (a) Two (2) physicians; or
 - (b) One (1) physician with expertise in psychiatry by training, education, or experience and one (1) psychologist with health service provider designation.
- (3) A staff member who has been trained in obtaining informed consent must discuss the proposed psychotropic medication, physical treatment, and/or release of information with the patient as follows:

(Rule 0940-01-02-.06, continued)

- (a) For psychotropic medication: A member of the RMHI Medical Staff, a registered nurse, or a pharmacist must discuss the psychotropic medication(s) to be prescribed and its type and purpose; the dosage and route of administration; the potential risks and side effects of the psychotropic medication(s); the advantages and risks of alternative treatments, if available; and the prognosis if the psychotropic medication(s) is not given. This discussion shall be tailored to the patient's level of understanding.
 - (b) For physical treatment: A member of the RMHI Medical Staff or a registered nurse must discuss the physical treatment(s) to be prescribed and its purpose; the potential risks of the physical treatment(s); the advantages and risks of alternative treatments, if available; and the prognosis if the physical treatment is not provided. This discussion shall be tailored to the patient's level of understanding.
 - (c) For release of information: A clinical professional or a staff member supervised by a clinical professional must discuss the proposed release, including the name of the person or organization the information is to be released to/from; the information to be released; the purpose of the release; and the potential risks if the information is not released. This discussion shall be tailored to the patient's level of understanding.
- (4) A staff member who has been trained in obtaining informed consent must discuss the content of the consent form(s) and/or the release of information form with the patient, patient's conservator or other legal representative, offered to answer questions, and advised the patient that they may revoke informed consent at any time.
 - (5) Informed consent for psychotropic medication and/or physical treatment shall be documented on a state-approved form and maintained in the patient's medical record.

Consent forms shall include notice of:

- (a) The rights of a voluntary patient who does not lack capacity to refuse psychotropic medication and/or physical treatment, except in emergency situations;
 - (b) The rights of an involuntary patient who does not lack capacity to refuse psychotropic medication and/or physical treatment, except in emergency situations, unless the Treatment Review Committee authorizes psychotropic medication and/or physical treatment over the patient's objection in accordance with Rule 0940-01-02-.10;
 - (c) The definition of emergency and the duration of psychotropic medication and/or physical treatment allowed in emergency situations;
 - (d) The right of revocation and procedures for revocation;
 - (e) The consent form shall state the class of psychotropic medication and/or physical treatment prescribed and shall contain an acknowledgment that the person who obtained the consent has fully discussed the psychotropic medication and/or physical treatment with the patient, including the information specified in subparagraphs 0940-01-02-.06(3)(a) and (b); and
 - (f) The consent form shall contain an acknowledgment that the person who obtained the consent has fully discussed the contents of the consent form with the patient, offered to answer questions, and advised the patient of their right to refuse psychotropic medication and/or physical treatment.
- (6) Informed consent for release of information shall be documented on the release of information form.

(Rule 0940-01-02-.06, continued)

- (7) The consent form and/or the release of information form shall be signed, dated, and time-stamped by the person giving informed consent and by the staff member who obtained the consent. The completed form must be maintained in the patient's medical record.
 - (a) If a patient, conservator or other legal representative gives oral consent to psychotropic medication, physical treatment, and/or release of information, but is unable or unwilling to sign the consent form and/or the release of information form, oral consent shall be noted on the consent form and/or the release of information form and witnessed by two (2) staff members.
 - (b) Informed consent may be obtained from a conservator or other legal representative by phone, video-conference, or other electronic means that allow the required information to be provided to the conservator or other legal representative. The consent form and/or the release of information form is to be explained to the conservator or other legal representative, and the conservator or other legal representative is to be given the opportunity to discuss the psychotropic medication, physical treatment, and/or release of information with a staff member in accordance with Rules 0940-01-02-.04 and 0940-01-02-.06.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985. Amendments filed December 22, 2025; effective March 22, 2026.

0940-01-02-.07 EMERGENCY SITUATIONS.

- (1) Psychotropic Medication
 - (a) Without regard to whether the patient has or lacks capacity to give informed consent for psychotropic medication, in an emergency situation as defined in Rule 0940-01-02-.03, emergency psychotropic medication may be ordered and administered to the patient without informed consent or TRC authorization for up to twenty-four (24) hours and may be renewed for up to an additional twenty-four (24) hours, if the emergency situation continues.
 1. The initial order for emergency psychotropic medication shall be valid for no longer than twenty-four (24) hours. If the initial order for emergency psychotropic medication was authorized without personal observation of the patient by the member of the RMHI Medical Staff who ordered the emergency psychotropic medication, a member of the RMHI Medical Staff shall personally evaluate the patient's condition within one (1) hour of the order.
 2. If the emergency continues beyond twenty-four (24) hours, the emergency order for psychotropic medication may be renewed once for up to an additional twenty-four (24) hours, but only after a face-to-face assessment of the patient by a member of the RMHI Medical Staff.
 - (b) After forty-eight (48) hours from the initial order for emergency psychotropic medication, the patient shall not receive psychotropic medication without informed consent or authorization by the TRC under Rules 0940-01-02-.08, 0940-01-02-.09, 0940-01-02-.10, or 0940-01-02-.11.
 - (c) The effective duration of emergency psychotropic medication prescribed shall be appropriate to the emergency situation. Depot forms of neuroleptics, which are

(Rule 0940-01-02-.07, continued)

psychotropic drugs characterized by a slow rate of absorption and a long duration of action, shall not be ordered or administered as emergency psychotropic medication.

(2) Physical Treatment

(a) Without regard to whether the patient has or lacks capacity to give informed consent for physical treatment, in an emergency situation as defined in Rule 0940-01-02-.03, emergency physical treatment may be provided to the patient without informed consent or TRC authorization for up to twenty-four (24) hours and may be renewed for up to an additional twenty-four (24) hours, if the emergency situation continues.

1. The initial order for emergency physical treatment shall be valid for no longer than twenty-four (24) hours. If the initial order for emergency physical treatment was authorized without personal observation of the patient by the member of the RMHI Medical Staff who ordered the emergency physical treatment, a member of the RMHI Medical Staff shall personally evaluate the patient's condition within one (1) hour of the order.

2. If the emergency continues beyond twenty-four (24) hours, the emergency order for physical treatment may be renewed once for up to an additional twenty-four (24) hours, but only after a face-to-face assessment of the patient by a member of the RMHI Medical Staff.

(b) After forty-eight (48) hours from the initial order for emergency physical treatment, the patient shall not receive physical treatment without informed consent or authorization by the TRC under Rules 0940-01-02-.08, 0940-01-02-.09, 0940-01-02-.10, or 0940-01-02-.11.

(3) Release of Information

Emergency releases of information shall be managed in accordance with applicable state and federal statutes and regulations.

(4) The authorization for emergency psychotropic medication and/or emergency physical treatment, including a description of the emergency situation, shall be documented on a state-approved form and maintained in the patient's medical record. Documentation shall include:

(a) A description of the emergency situation detailing how the criteria specified in Rule 0940-01-02.03 were met, including the observations of the member of the RMHI Medical Staff ordering the emergency psychotropic medication and/or emergency physical treatment, and

(b) The rationale for ordering the emergency psychotropic medication and/or emergency physical treatment, including any alternate measures that were considered.

(5) By the end of the next regular working day following the initial order for emergency psychotropic medication and/or emergency physical treatment, the PRA shall be informed of the use of emergency psychotropic medication and/or emergency physical treatment.

(6) Within twenty-four (24) hours of being informed of the use of emergency psychotropic medication and/or physical treatment, or, if such period expires on a weekend or a legal holiday, by the end of the next regular working day, the PRA shall:

(a) Review the documentation relating to the emergency situation and the actions taken;

(b) Interview the patient (unless the patient declines to be interviewed); and

(Rule 0940-01-02-.07, continued)

- (c) Document comments and/or recommendations in the patient's medical record.
- (7) TRC Process
- (a) The patient, the PRA, a member of the RMHI Medical Staff, or a member of the patient's treatment team may request TRC review of the emergency psychotropic medication and/or emergency physical treatment.
 - (b) By the end of the next regular working day following receipt of a request for review of emergency psychotropic medication and/or emergency physical treatment, the TRC shall meet and:
 - 1. Review the documentation relating to the emergency situation and the actions taken;
 - 2. Interview the patient (unless the patient declines to participate in the TRC meeting); and
 - 3. Document its review on a state-approved form in the patient's medical record.
 - (c) The TRC may request an assessment of the patient's capacity to give informed consent to determine if TRC approval under Rules 0940-01-02-.08, 0940-01-02-.09, 0940-01-02-.10, or 0940-01-02-.11 is needed.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985. Amendments filed December 22, 2025; effective March 22, 2026.

0940-01-02-.08 PATIENTS WHO LACK CAPACITY TO GIVE OR WITHHOLD INFORMED CONSENT WITH NO DECLARATION FOR MENTAL HEALTH TREATMENT.

- (1) If a patient's actions, statements, and/or behavior indicate that they may lack capacity to give informed consent, a physician, licensed practitioner or other qualified mental health professional shall assess the patient's capacity in accordance with the requirements of Rule Chapter 0940-01-06 (Capacity to Make Decisions).
- (2) A physician, licensed practitioner or qualified mental health professional who determines that a patient lacks capacity to give informed consent shall document the basis for the determination on a state-approved form in the patient's medical record.
- (3) Psychotropic medication and/or physical treatment may be ordered for a patient who lacks capacity to give informed consent for up to seventy-two (72) hours and may be renewed once for up to seventy-two (72) additional hours if the patient continues to lack capacity to give informed consent. Further psychotropic medication and/or physical treatment requires authorization by the TRC.
- (4) Releases of information for a patient who lacks capacity to give informed consent shall be managed in accordance with applicable state and federal statutes and regulations until TRC authorization is obtained for releases of information.
- (5) By the end of the next regular working day following the determination that the patient lacks capacity to give informed consent, the PRA shall be informed.
- (6) The patient, the PRA, a member of the RMHI Medical Staff, or a member of the patient's treatment team may request that the TRC make decision(s) for the patient regarding psychotropic medication, physical treatment, and/or release of information.

(Rule 0940-01-02-.08, continued)

(7) TRC Process

If the patient, the PRA, a member of the RMHI Medical Staff, or a member of the patient's treatment team requests the TRC to make a decision for the patient regarding psychotropic medication, physical treatment, and/or release of information, the TRC shall meet within three (3) regular working days of the request; and

- (a) Review the patient's medical record, including the documentation relating to the patient lacking capacity, the need for psychotropic medication, physical treatment, and/or release of information, and the actions taken;
 - (b) Interview the patient (unless the patient declines to participate in the TRC meeting);
 - (c) Make the final decision regarding psychotropic medication, physical treatment, and/or release of information; and
 - (d) Document the final decision on a state-approved form in the patient's medical record.
- (8) The TRC shall authorize the release of information only for involuntary patients and may authorize the release of information only to qualified mental health professionals, other treatment agencies, providers, support persons or family members of the patient.
- (9) The PRA shall continue to monitor the patient at least every thirty (30) days and document comments and/or recommendations in the patient's medical record. The PRA may, if indicated, request that a physician or qualified mental health professional reassess the patient to determine whether the patient still lacks capacity to give informed consent no more frequently than every two (2) weeks during the same admission.
- (10) If the patient gains capacity to give informed consent, the TRC's authority expires, and informed consent must be obtained from the patient as required by Rules 0940-01-02-.04 and 0940-01-02-.06 before further administration of psychotropic medication, provision of physical treatment, and/or release of information.
- (11) If a patient continues to lack capacity for thirty (30) days, the PRA shall advise the Chief Executive Officer or designee of the need for a conservator to give informed consent for the patient. The Chief Executive Officer or designee shall proceed under authority of T.C.A. Title 33 to obtain a limited conservator for the patient.
- (a) If conservatorship proceedings are initiated within ninety (90) days after psychotropic medication, physical treatment, and/or release of information was authorized by the TRC, the psychotropic medication, physical treatment, and/or release of information may continue until a conservator is appointed or the patient gains capacity and provides informed consent.
 - (b) If conservatorship proceedings are not initiated within ninety (90) days after psychotropic medication, physical treatment, and/or release of information was authorized by the TRC, the psychotropic medication, physical treatment, and/or release of information shall terminate no later than ninety (90) days after it was authorized by the TRC, and the patient shall not be medicated or treated and information shall not be released except in emergency situations under Rule 0940-01-02-.07 until a conservator is appointed or the patient no longer lacks capacity and gives informed consent.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** (For Administrative History prior to February, 1985, see page 1.001). New rule filed January 9, 1985; effective February 8, 1985. Amendments filed December 22, 2025; effective March 22, 2026.

0940-01-02-.09 LEGALLY INCOMPETENT PATIENTS.

- (1) Psychotropic medication and/or physical treatment shall be administered to and release of information shall be authorized for a legally incompetent patient only:
 - (a) With the voluntary, informed consent of the conservator, or
 - (b) If the conservator is unavailable, under the same circumstances and procedures as a patient who lacks capacity under Rule 0940-01-02-.08, but not for more than ninety (90) days, or
 - (c) In emergencies under Rule 0940-01-02-.07.
- (2) A conservator to whom a court has granted the authority to make treatment decisions for a patient has all the rights, powers, and privileges granted to the patient.
- (3) A TRC shall not override a decision by a parent, legal custodian, or legal guardian of a minor patient or a conservator of an adult patient.
- (4) If informed consent is required for psychotropic medication, physical treatment, and/or release of information and the conservator is consistently unavailable, the Chief Executive Officer or designee shall be informed and shall seek appointment of an alternative conservator.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, 34-3-107 and 33-6-1006.
Administrative History: New rules filed December 22, 2025; effective March 22, 2026.

0940-01-02-.10 PATIENTS WHO DO NOT LACK CAPACITY AND WITHOLD INFORMED CONSENT.

- (1) Voluntary Patients
 - (a) If a voluntary patient who does not lack capacity withholds informed consent for psychotropic medication, physical treatment, and/or release of information, the treatment team shall discuss the recommendations regarding the proposed psychotropic medication, physical treatment, and/or release of information and the patient's response when informed consent is requested.
 - (b) The treatment team shall attempt to formulate a plan that is acceptable to the patient (e.g., reduced dosage, alternate medication, a possible trial period of medication or treatment, alternative treatment if any is available, and/or a limited release of information), and shall then meet with the patient to determine if they are willing to give informed consent or authorization when applicable for the psychotropic medication, physical treatment, and/or release of information.
 - (c) The treatment team shall document the following on a state-approved form in the patient's medical record:
 1. The discussion of the recommendations with the patient and the patient's response;
 2. The attempt to formulate a plan that is acceptable to the patient, including the patient's involvement in this attempt, and the patient's response; and
 3. Any attempt to meet with the patient that the patient declines.
 - (d) If, after the treatment team meets with the patient, the patient still withholds informed consent for the psychotropic medication or physical treatment, the psychotropic

(Rule 0940-01-02-.10, continued)

medication and/or physical treatment shall not be administered to the patient except in emergency situations as specified in Rule 0940-01-02-.07.

- (e) If, after the treatment team meets with the patient, the patient still withholds informed consent or authorization when applicable for release of information, releases of information shall be managed in accordance with applicable state and federal statutes and regulations.
 - (f) Staff members may continue non-coercive efforts to persuade the patient to give informed consent for the psychotropic medication, physical treatment, and/or release of information.
- (2) Involuntary Patients
- (a) If an involuntary patient who does not lack capacity withholds informed consent for psychotropic medication, physical treatment, and/or release of information, the treatment team shall discuss the physician's or licensed practitioner's recommendations regarding the proposed psychotropic medication, physical treatment, and/or release of information and the patient's response when informed consent is requested.
 - (b) The treatment team shall attempt to formulate a plan that is acceptable to the patient (e.g., reduced dosage, alternate medication, a possible trial period of medication or treatment, alternative treatment if any is available, and/or a limited release of information), and shall then meet with the patient to determine if they are willing to give informed consent for the psychotropic medication, physical treatment, and/or release of information.
 - (c) The treatment team shall document the following on a state-approved form in the patient's medical record:
 - 1. The discussion of the recommendations with the patient and the patient's response;
 - 2. The attempt to formulate a plan that is acceptable to the patient, including the patient's involvement in this attempt, and the patient's response; and
 - 3. Any attempt to meet with the patient that the patient declines.
 - (d) If, after the treatment team meets with the patient, the patient still withholds informed consent for the psychotropic medication and/or physical treatment and the treatment team continues to believe that the psychotropic medication and/or physical treatment is a necessary part of the patient's treatment plan, a TRC meeting shall be requested.
 - (e) If, after the treatment team meets with the patient, the patient still withholds informed consent for release of information, releases of information shall be managed in accordance with applicable state and federal statutes and regulations. The TRC shall not approve releases of information for a patient who does not lack capacity.
 - (f) Staff members may continue non-coercive efforts to persuade the patient to give informed consent for the psychotropic medication, physical treatment, and/or release of information.
- (3) TRC Process
- (a) The TRC shall meet within three (3) regular working days of the request and:

(Rule 0940-01-02-.10, continued)

1. Review the patient's medical record, including documentation regarding the patient's objections to the use of psychotropic medications and/or physical treatment, attempts by the treatment team to formulate a plan acceptable to the patient, and the recommendation of the treatment team;
 2. Interview the patient (unless the patient declines to participate in the TRC meeting);
 3. Make the final decision regarding psychotropic medication and/or physical treatment; and
 4. Document its review and final decision on a state-approved form in the patient's medical record.
- (b) Psychotropic medication and/or physical treatment may be administered to an involuntary patient who does not lack capacity and who withholds informed consent for psychotropic medication and/or physical treatment for up to ninety (90) days upon the approval of the TRC.
- (c) The TRC may continue to approve use of psychotropic medication and/or physical treatment at ninety (90) day intervals until informed consent for the psychotropic medication and/or physical treatment is obtained, the psychotropic medication and/or physical treatment is discontinued, or the patient is determined to lack capacity to give informed consent and the processes under Rules 0940-01-02-.08, 0940-01-02-.09, or 0940-01-02-.11 are followed.
- (4) The TRC's authority expires if the patient subsequently agrees to give informed consent for the psychotropic medication and/or physical treatment. Informed consent shall be obtained from the patient as required by Rules 0940-01-02-.04 and 0940-01-02-.06 before further administration of psychotropic medication and/or provision of physical treatment.
- (5) The PRA shall see the patient at least every thirty (30) days, document comments and/or recommendations in the patient's medical record, and shall request additional review by the TRC, if indicated. The PRA may, if indicated, request that a physician, licensed practitioner or qualified mental health professional assess the patient to determine whether the patient still has capacity to give informed consent.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** New rules filed December 22, 2025; effective March 22, 2026.

0940-01-02-.11 AUTHORIZATION FOR TREATMENT CONTRARY TO A DECLARATION FOR MENTAL HEALTH TREATMENT.

- (1) If a patient's actions, statements, and/or behavior indicate that they may lack capacity to give informed consent and the patient has provided the RMHI with a current Declaration for Mental Health Treatment that addresses the issue requiring informed consent (e.g., psychotropic medication, physical treatment, release of information, or another issue detailed in the Declaration for Mental Health Treatment), then the patient's capacity must be assessed in accordance with the requirements of Chapter 0940-01-06 (Capacity to Make Decisions) by:
 - (a) Two (2) physicians; or
 - (b) One (1) physician with expertise in psychiatry by training, education, or experience and one (1) psychologist with health service provider designation.
- (2) If the patient's Declaration for Mental Health Treatment does not address the issue requiring informed consent (e.g., psychotropic medication, physical treatment, and/or release of

(Rule 0940-01-02-.11, continued)

information), the patient's capacity to give informed consent shall be assessed in accordance with Rule 0940-01-02-.08, and, if the patient is determined to lack capacity to give informed consent, the provisions of Rule 0940-01-02-.08 shall be followed relative to psychotropic medication, physical treatment, and/or release of information.

- (3) If the patient is determined to lack capacity to give informed consent and the patient is hospitalized on a voluntary status, treatment shall be provided in accordance with the Declaration for Mental Health Treatment, except in emergency situations in accordance with Rule 0940-01-02-.07, with informed consent provided by the Declaration for Mental Health Treatment.
- (4) If the patient is determined to lack capacity to give informed consent and the patient is hospitalized on an involuntary status, treatment shall be provided in accordance with the Declaration for Mental Health Treatment, except in emergency situations in accordance with Rule 0940-01-02-.07 or except as otherwise authorized by the TRC in accordance with Rule 0940-01-02-.11, with informed consent provided by the Declaration for Mental Health Treatment.
- (5) TRC Process

If the patient's Treatment Team determines that treatment, including psychotropic medication, physical treatment, and/or release of information, in a manner contrary to an involuntary patient's wishes as expressed in the Declaration for Mental Health Treatment is the only viable treatment for the patient, a TRC meeting shall be requested to consider approval to provide the treatment. The TRC shall meet within three (3) regular working days of the request and:

- (a) Review the patient's medical record, including the documentation relating to the patient lacking capacity, the patient's Declaration for Mental Health Treatment, the request for authorization for treatment in a manner contrary to the Declaration for Mental Health Treatment, the rationale for the request, and the treatment recommendations;
 - (b) Interview the patient (unless the patient declines to participate in the TRC meeting);
 - (c) Make a decision regarding whether to authorize treatment in a manner contrary to the patient's Declaration for Mental Health Treatment; and
 - (d) Document its decision and the justification on a state-approved form in the patient's medical record.
- (6) The TRC may authorize treatment, including but not limited to psychotropic medications, physical treatment, and/or release of information, in a manner contrary to the patient's wishes as expressed in a Declaration for Mental Health Treatment for no longer than ninety (90) days.
 - (7) The PRA shall monitor the patient and document comments and/or recommendations in the patient's medical record. The PRA may, if indicated, request that two (2) physicians or a physician with expertise in psychiatry by training, education, or experience and a psychologist with health service provider designation reassess the patient to determine whether the patient still lacks capacity no more frequently than every two (2) weeks during the same admission.
 - (8) The authority of the Declaration for Mental Health Treatment and/or the authority of the TRC expires if the patient gains capacity to provide informed consent. Informed consent shall be obtained from the patient as required by Rules 0940-01-02-.04 and 0940-01-02-.06 before further administration of psychotropic medication, provision of physical treatment, and/or release of information.

(Rule 0940-01-02-.11, continued)

- (9) If the patient continues to lack capacity for thirty (30) days, the PRA shall advise the Chief Executive Officer or designee of the need for a conservator to give informed consent for the patient. The Chief Executive Officer or designee shall proceed under authority of T.C.A. Title 33 to obtain a limited conservator for the patient.
 - (a) If conservatorship proceedings are initiated within ninety (90) days after psychotropic medication, physical treatment, and/or release of information was authorized by the TRC, the psychotropic medication, physical treatment, and/or release of information may continue until a conservator is appointed or the patient no longer lacks capacity.
 - (b) If conservatorship proceedings are not initiated within ninety (90) days after psychotropic medication, physical treatment, and/or release of information was authorized by the TRC, such psychotropic medication, physical treatment, and/or release of information shall terminate no later than ninety (90) days after it was authorized by the TRC. The patient may not be medicated and/or treated and information may not be released, except in emergency situations under Rule 0940-01-02-.07 or in accordance with the provisions of the patient's Declaration for Mental Health Treatment, until a conservator is appointed or the patient no longer lacks capacity.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** New rules filed December 22, 2025; effective March 22, 2026.

0940-01-02-.12 PATIENT RIGHTS ADVOCATES.

- (1) Each RMHI shall have a staff member designated by the Chief Executive Officer or designee to be the Patient Rights Advocate (PRA).
- (2) The PRA's job plan shall include the duties imposed by these rules.
- (3) The PRA shall work cooperatively with other RMHI staff members, shall be an objective advocate for patient rights, and shall effectively present the patient's views and wishes in the procedures.
- (4) The PRA shall work with RMHI staff members in conducting both initial and continuing education on the requirements of these rules.
- (5) The PRA shall maintain a compliance monitoring file on each patient receiving psychotropic medication, physical treatment, and/or release of information under Rules 0940-01-02-.07, 0940-01-02-.08, 0940-01-02-.09, 0940-01-02-.10, or 0940-01-02-.11.
- (6) The PRA shall compile a summary of actions taken at least annually and shall submit a report to the RMHI Governing Body Quality Committee for its review.
- (7) The PRA's duties in implementing these rules shall take priority over other duties as a general patient rights advocate and over other duties they may be assigned.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** New rules filed December 22, 2025; effective March 22, 2026.

0940-01-02-.13 TREATMENT REVIEW COMMITTEES.

- (1) Each RMHI shall have a Treatment Review Committee (TRC) to make decisions for patients. A RMHI may have multiple TRCs making decisions in various areas of the facility. If multiple TRCs are established, all must meet the composition requirements of this rule.

(Rule 0940-01-02-.13, continued)

- (2) The Chief Executive Officer or designee shall appoint the Treatment Review Committee members. A TRC shall be composed of four or more members. The members shall be:
 - (a) A chair, designated by the Chief Executive Officer or designee, who shall be responsible for conducting the TRC meeting in accordance with these rules and for assuring that all required TRC documentation is completed as required by these rules. One of the following shall be designated as the chair of the TRC:
 1. For TRCs considering psychotropic medication, the chair shall be a member of the RMHI Clinical Staff.
 2. For TRCs considering physical treatment, the chair shall be a member of the RMHI Medical Staff.
 3. For TRCs considering release of information, the chair shall be a member of the RMHI Medical Staff or a qualified mental health professional.
 - (b) The Patient Rights Advocate, and
 - (c) Two (2) or more of the following: a physician, an advanced practice nurse, a physician assistant, a pharmacist, a registered nurse, a psychologist with health service provider designation, a psychological examiner or senior psychological examiner with health service provider designation, a master's level social worker, a professional counselor, a marital and family therapist, or a clinical chaplain.
- (3) No person who is a member of a patient's Treatment Team shall serve on a TRC for that patient.
- (4) A TRC that considers psychotropic medication shall include a psychiatrist, a psychiatric advanced practice nurse, or a psychiatric physician assistant.
- (5) A TRC that considers physical treatment, including medication, for a physical condition or illness shall include a physician, an advanced practice nurse, or a physician assistant.
- (6) The TRC shall encourage the patient to participate in the TRC meeting to the extent possible.
- (7) The patient's family members, support persons, conservator, or other legal representative may attend the TRC meeting.
- (8) At the discretion of the TRC, members of the patient's treatment team may be requested to attend the TRC meeting to provide input.
- (9) Unless clinically contraindicated, a TRC meeting may be held by phone, video-conference, or other electronic means that allows full participation by the patient, all members of the TRC, and the patient's conservator or other legal representative, if applicable. If the TRC meeting is conducted in this manner, at least one (1) member of the TRC shall be physically present with the patient.
- (10) If the patient requests a review by the TRC, the PRA shall immediately request a review by the TRC, unless the TRC has met on the same issue for the patient during the two (2) weeks prior to the request during the same admission.
- (11) The patient may request the PRA or another staff member, including a member of the patient's treatment team, to assist or to speak on the patient's behalf in all TRC meetings.

Authority: T.C.A. §§ 33-1-302 through 33-1-305, 33-3-104, 33-6-107, and 33-6-1006. **Administrative History:** New rules filed December 22, 2025; effective March 22, 2026.