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Director

State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

June 4, 2009

AFL 09-12

TO: Skilled Nursing Facilities

SUBJECT: Informed Consent for Antipsychotic Medication

This letter is to reiterate the provisions of current law regarding informed consent for prescribing antipsychotic medication pursuant to Health and Safety Code (HSC) Section 1418.9.

The provisions of this law are for residents who have the capacity to offer consent. If a resident does not have the capacity to offer consent, then a designated family member may offer consent. HSC Section 1418.8 states that a physician will make the determination of whether or not a resident has capacity.

If the attending physician and surgeon of a resident in a skilled nursing facility prescribes, orders, or increases an order for an antipsychotic medication for the resident, the physician and surgeon shall do both of the following:

- Obtain the informed consent of the resident for purposes of prescribing, ordering, or increasing an order for the medication.
- Seek the consent of the resident to notify the resident's interested family member, as designated in the medical record. If the resident consents to the notice, the physician and surgeon shall make reasonable attempts, either personally or through a designee, to notify the interested family member, as designated in the medical record, within 48 hours of the prescription, order, or increase of an order.

The notification of an interested family member is not required for the above if any of the following circumstances exist:

- There is no interested family member designated in the medical record.
- The resident has been diagnosed as terminally ill by his or her physician and surgeon and is receiving hospice services from a licensed, certified hospice agency in the facility.
- The resident has not consented to the notification.

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These provisions shall not be construed to require consent from an interested family member for an attending physician and surgeon of a resident to prescribe, order, or increase an order for antipsychotic medication.

The information in this All Facilities Letter is a brief summary of current law and facilities should refer to the full text to ensure compliance. The California Department of Public Health's failure to expressly notify facilities of legislative changes does not relieve facilities of their responsibility for following all laws and for being aware of all legislative changes.

If you have any further questions, please contact your district office.

Sincerely,

Original Signed by Kathleen Billingsley, R.N.

Kathleen Billingsley, R.N.
Deputy Director
Center for Health Care Quality