

202B.245 ICF/ID review committee -- Procedure when involuntary resident refuses to participate in treatment plan.

- (1) Every ICF/ID approved under the provisions of this chapter shall have a review committee of three (3) qualified professionals in the area of intellectual disabilities appointed by the facility director. This review committee shall have the authority to review the appropriateness of a resident's individual treatment plan.
- (2) Upon the refusal of an involuntary resident to participate in any aspect of the resident's treatment plan, the review committee shall examine the appropriateness of the resident's individual treatment plan. Within three (3) days of the refusal, the review committee shall meet with the resident and the resident's counsel or other representative to discuss their recommendations.
- (3) If the resident still refuses to participate in any aspect of the resident's individual treatment plan, the ICF/ID may petition the District Court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days, the court shall conduct a hearing, consistent with the resident's rights to due process of law, and shall utilize the following factors in reaching its determination:
 - (a) Whether the treatment is necessary to protect other residents or the resident himself from harm;
 - (b) Whether the resident is incapable of giving informed consent to the proposed treatment;
 - (c) Whether any less restrictive alternative treatment exists; and
 - (d) Whether the proposed treatment carries any significant risk of permanent side effects.
- (4) Upon completion of the hearing, the court shall enter an appropriate judgment. The proposed treatment shall be authorized if supported by clear and convincing evidence. If the court denies the ICF/ID the right to administer the treatment in question, the ICF/ID may discharge the resident, unless an interdisciplinary team of the ICF/ID determines that an alternative treatment is available and acceptable to both the interdisciplinary team and the resident and would benefit the resident.

Effective: July 12, 2012

History: Amended 2012 Ky. Acts ch. 146, sec. 56, effective July 12, 2012. -- Created 1990 Ky. Acts ch. 147, sec. 30, effective July 13, 1990.