

By: Zaffirini

S.B. No. 35

A BILL TO BE ENTITLED

AN ACT

relating to the pro re nata administration of psychoactive medication in certain residential health care facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 576.025(a), Health and Safety Code, is amended to read as follows:

(a) Subject to Section 576.0255, a [A] person may not administer a psychoactive medication to a patient receiving voluntary or involuntary mental health services who refuses the administration unless:

(1) the patient is having a medication-related emergency;

(2) the patient is younger than 16 years of age, or the patient is younger than 18 years of age and is a patient admitted for voluntary mental health services under Section 572.002(3)(B), and the patient's parent, managing conservator, or guardian consents to the administration on behalf of the patient;

(3) the refusing patient's representative authorized by law to consent on behalf of the patient has consented to the administration;

(4) the administration of the medication regardless of the patient's refusal is authorized by an order issued under Section 574.106; or

(5) the administration of the medication regardless of

1 the patient's refusal is authorized by an order issued under
2 Article 46B.086, Code of Criminal Procedure.

3 SECTION 2. Subchapter B, Chapter 576, Health and Safety
4 Code, is amended by adding Section 576.0255 to read as follows:

5 Sec. 576.0255. PRO RE NATA ADMINISTRATION OF PSYCHOACTIVE
6 MEDICATION IN CERTAIN RESIDENTIAL HEALTH CARE FACILITIES. (a) For
7 each health and human services agency that regulates the care or
8 treatment of a resident at a facility, the executive commissioner
9 of the Health and Human Services Commission shall adopt rules to
10 govern the pro re nata administration of psychoactive medication to
11 facility residents.

12 (b) The rules adopted under Subsection (a) must:

13 (1) allow for the pro re nata administration of a
14 psychoactive medication by injection:

15 (A) in a medication-related emergency;

16 (B) under a court order, such as an order
17 described by Section 576.025(a)(4) or (5); or

18 (C) on a per request basis by a facility
19 resident, subject to Subsection (d);

20 (2) require a practitioner who administers
21 psychoactive medication in a medication-related emergency to
22 document in the resident's clinical record the administration,
23 including the reason for the administration and the effect of the
24 administration, using specific medical and behavioral terms;

25 (3) prescribe training on the criteria that must be
26 met to administer psychoactive medication pro re nata in a
27 medication-related emergency; and

1 (4) require a person employed by a facility to attend
2 training on a resident's consent to treatment and refusal of
3 consent to treatment that includes information instructing staff
4 on:

5 (A) identification of behaviors signifying a
6 resident's refusal to consent to administration of medication; and

7 (B) effective intermediate measures to calm
8 residents in distress by the use of methods other than control and
9 intervention.

10 (c) A nurse licensed in this state and employed by a
11 facility may not in a medication-related emergency administer
12 psychoactive medication pro re nata by injection unless the nurse
13 has attended the training under Subsection (b)(3).

14 (d) Except as otherwise provided by Section 576.025 or rules
15 adopted under this section, before each individual pro re nata
16 administration of a psychoactive medication by injection, the
17 facility must first obtain from the resident a signed consent. The
18 signed consent must indicate that the resident prefers
19 administration of the medication by injection over oral
20 administration.

21 (e) In this section:

22 (1) "Facility" and "health and human services agency"
23 have the meanings assigned by Section 322.001.

24 (2) "Medication-related emergency" and "psychoactive
25 medication" have the meanings assigned by Section 574.101.

26 SECTION 3. (a) Not later than January 1, 2014, the
27 executive commissioner of the Health and Human Services Commission

1 shall adopt the rules required by Section 576.0255, Health and
2 Safety Code, as added by this Act.

3 (b) A health care practitioner subject to Section 576.0255,
4 Health and Safety Code, as added by this Act, is not required to
5 comply with that section until January 1, 2014.

6 SECTION 4. This Act takes effect September 1, 2013.