

By: Zaffirini

S.B. No. 1560

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of chemical dependency treatment
3 facilities and certain other facilities.

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

5 SECTION 1. Section 164.003(6), Health and Safety Code, is
6 amended to read as follows:

7 (6) "Mental health professional" means a:

8 (A) "physician" as defined by Section 571.003;

9 (B) "licensed professional counselor" as defined
10 by Section 503.002, Occupations Code;

11 (C) "chemical dependency counselor" as defined
12 by Section 504.001, Occupations Code;

13 (D) "psychologist" offering "psychological
14 services" as defined by Section 501.003, Occupations Code;

15 (E) "registered nurse" licensed under Chapter
16 301, Occupations Code;

17 (F) "advanced practice registered nurse" as
18 defined by Section 301.152 [~~"vocational nurse" licensed under~~
19 ~~Chapter 301~~], Occupations Code;

20 (G) "licensed marriage and family therapist" as
21 defined by Section 502.002, Occupations Code; ~~and~~

22 (H) "social worker" as defined by Section
23 505.002, Occupations Code; and

24 (I) "physician assistant" licensed under Chapter

1 204, Occupations Code.

2 SECTION 2. Section 164.009(e), Health and Safety Code, is
3 amended to read as follows:

4 (e) A chemical dependency facility may not represent or
5 recommend that a prospective patient should be admitted to a
6 facility for treatment unless and until:

7 (1) the prospective patient has been evaluated, in
8 person, by a mental health professional; and

9 (2) a ~~the~~ mental health professional determines that
10 the patient meets the facility's admission standards.

11 SECTION 3. Sections 462.009(a) and (b), Health and Safety
12 Code, are amended to read as follows:

13 (a) A treatment facility licensed by the department under
14 Chapter 464 may not provide treatment to a patient without the
15 patient's legally adequate consent. ~~[A patient receiving treatment~~
16 ~~in a treatment facility is entitled to refuse a medication,~~
17 ~~therapy, or treatment unless:~~

18 ~~[(1) the patient is younger than 18 years of age, the~~
19 ~~patient is admitted under Section 462.022(a)(3)(A), and the~~
20 ~~patient's parent, managing conservator, or guardian consents to the~~
21 ~~medication, therapy, or treatment on behalf of the patient,~~

22 ~~[(2) the patient has been adjudicated to be~~
23 ~~incompetent to manage the patient's personal affairs or to make a~~
24 ~~decision to refuse the medication, therapy, or treatment and the~~
25 ~~patient's guardian of the person or another person legally~~
26 ~~authorized to consent to medical treatment consents to the~~
27 ~~medication, therapy, or treatment on behalf of the patient, or~~

1 ~~[(3) a physician treating the patient determines that~~
2 ~~the medication is necessary to prevent imminent serious physical~~
3 ~~harm to the patient or to another individual and the physician~~
4 ~~issues a written order, or a verbal order if authenticated in~~
5 ~~writing by the physician within 24 hours, to administer the~~
6 ~~medication to the patient.]~~

7 (b) The executive commissioner by rule shall prescribe
8 standards for obtaining a patient's legally adequate consent under
9 this section, including rules prescribing reasonable efforts to
10 obtain a patient's consent and requiring documentation for those
11 efforts. ~~[The decision of a guardian or of a person legally~~
12 ~~authorized to consent to medical treatment on the patient's behalf~~
13 ~~under Subsection (a)(2) must be based on knowledge of what the~~
14 ~~patient would desire, if known.]~~

15 SECTION 4. Subchapter A, Chapter 462, Health and Safety
16 Code, is amended by adding Sections 462.010, 462.011, 462.012, and
17 462.013 to read as follows:

18 Sec. 462.010. CONSENT TO MEDICATION. Consent to the
19 administration of prescription medication given by a patient
20 receiving treatment in a treatment facility licensed by the
21 department under Chapter 464 or by a person authorized by law to
22 consent on behalf of the patient is valid only if:

23 (1) the consent is given voluntarily and without
24 coercive or undue influence;

25 (2) the patient and, if appropriate, the patient's
26 representative authorized by law to consent on behalf of the
27 patient are informed in writing that consent may be revoked; and

1 (3) the consent is evidenced in the patient's clinical
2 record by a signed form prescribed by the treatment facility or by a
3 statement of the treating physician or a person designated by the
4 physician that documents that consent was given by the appropriate
5 person and the circumstances under which the consent was obtained.

6 Sec. 462.011. RIGHT TO REFUSE MEDICATION. (a) Each
7 patient receiving treatment in a treatment facility licensed by the
8 department under Chapter 464 has the right to refuse unnecessary or
9 excessive medication.

10 (b) Medication may not be used by the treatment facility:

11 (1) as punishment; or

12 (2) for the convenience of the staff.

13 Sec. 462.012. MEDICATION INFORMATION. (a) The executive
14 commissioner by rule shall require the treating physician of a
15 patient admitted to a treatment facility licensed by the department
16 under Chapter 464 or a person designated by the physician to provide
17 to the patient in the patient's primary language, if possible,
18 information relating to prescription medications ordered by the
19 physician.

20 (b) At a minimum, the required information must:

21 (1) identify the major types of prescription
22 medications; and

23 (2) specify for each major type:

24 (A) the conditions the medications are commonly
25 used to treat;

26 (B) the beneficial effects on those conditions
27 generally expected from the medications;

1 (C) side effects and risks associated with the
2 medications;

3 (D) commonly used examples of medications of the
4 major type; and

5 (E) sources of detailed information concerning a
6 particular medication.

7 (c) If the treating physician designates another person to
8 provide the information under Subsection (a), then, not later than
9 two working days after that person provides the information,
10 excluding weekends and legal holidays, the physician shall meet
11 with the patient and, if appropriate, the patient's representative
12 who provided consent for the administration of the medications
13 under Section 462.010, to review the information and answer any
14 questions.

15 (d) The treating physician or the person designated by the
16 physician shall also provide the information to the patient's
17 family on request, but only to the extent not otherwise prohibited
18 by state or federal confidentiality laws.

19 Sec. 462.013. LIST OF MEDICATIONS. (a) On the request of a
20 patient, a person designated by the patient, or the patient's legal
21 guardian or managing conservator, if any, the facility
22 administrator of a treatment facility licensed by the department
23 under Chapter 464 shall provide to the patient, the person
24 designated by the patient, and the patient's legal guardian or
25 managing conservator, a list of the medications prescribed for
26 administration to the patient while the patient is in the treatment
27 facility. The list must include for each medication:

1 (1) the name of the medication;

2 (2) the dosage and schedule prescribed for the
3 administration of the medication; and

4 (3) the name of the physician who prescribed the
5 medication.

6 (b) The list must be provided before the expiration of four
7 hours after the facility administrator receives a written request
8 for the list from the patient, a person designated by the patient,
9 or the patient's legal guardian or managing conservator, if any. If
10 sufficient time to prepare the list before discharge is not
11 available, the list may be mailed before the expiration of 24 hours
12 after discharge to the patient, the person designated by the
13 patient, and the patient's legal guardian or managing conservator.

14 (c) A patient or the patient's legal guardian or managing
15 conservator, if any, may waive the right of any person to receive
16 the list of medications while the patient is participating in a
17 research project if release of the list would jeopardize the
18 results of the project.

19 SECTION 5. Section 462.025(h)(4), Health and Safety Code,
20 is amended to read as follows:

21 (4) "Screening" means the process a treatment facility
22 uses to determine whether a prospective patient presents sufficient
23 signs, symptoms, or behaviors to warrant a more in-depth assessment
24 by a qualified professional after the patient is admitted.

25 SECTION 6. The following provisions of the Health and
26 Safety Code, including provisions amended by S.B. No. 219, Acts of
27 the 84th Legislature, Regular Session, 2015, are repealed:

1 (1) Sections 462.009(c), (d), (e), (f), and (g); and

2 (2) Section 462.025(h)(2).

3 SECTION 7. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2015.