

## **BILL ANALYSIS**

Senate Research Center

H.B. 2050  
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Health & Human Services  
5/12/2019  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There are concerns that nursing home residents may be receiving antipsychotic or neuroleptic medications without a medical need and often without the resident's or the resident's legal representative's consent. It has been suggested that these powerful drugs may pose serious or life-threatening risks when administered to certain residents, especially those with dementia. H.B. 2050 seeks to address this issue by revising consent requirements for the prescription of these medications to residents of nursing facilities and related institutions.

H.B. 2050 amends current law relating to consent requirements for the prescription of certain psychoactive medications to residents of nursing facilities and related institutions.

Note: While the statutory reference in this bill is to the Department of Aging and Disability Services, the following amendments affect the Health and Human Services Commission, as the successor in function for aging and disability services.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 242.505, Health and Safety Code, by amending Subsection (c) and adding Subsections (c-1) and (c-2), as follows:

(c) Provides that, subject to Subsection (c-1), consent to the prescription of psychoactive medication given by a resident or by a person authorized by law to consent on behalf of the resident is valid only if:

(1) makes no changes to this subdivision;

(2) the person prescribing the medication, that person's designee, or the facility's medical director, rather than the person prescribing the medication or that person's designee, provided certain information, in a standard format approved by the Department of Aging and Disability Services, to the resident and, if applicable, to the person authorized by law to consent on behalf of the resident;

(3) makes no changes to this subdivision;

(4) the consent is evidenced in the resident's clinical record by:

(A) creates this subdivision from existing text and makes a nonsubstantive change; and

(B) the original or a copy of the written consent required by Subsection (c-1), if applicable.

(c-1) Provides that, in addition to the requirements of Subsection (c), consent to the prescription of an antipsychotic or neuroleptic medication is valid only if the consent to the prescription of that medication is given in writing, on a form prescribed by the Health and Human Services Commission (HHSC), by a resident or by a person authorized by law to consent on behalf of the resident.

(c-2) Provides that written consent provided by a resident or the resident's legally authorized representative on the form described by Subsection (c-1) is presumed to satisfy the consent requirements of Subsection (c) and the disclosure requirements established by the Texas Medical Disclosure Panel in Sections 74.103 (Duties of Disclosure Panel) and 74.105 (Manner of Disclosure), Civil Practice and Remedies Code.

SECTION 2. Requires the executive commissioner of HHSC, as soon as practicable after the effective date of this Act, to develop the form required by Section 242.505(c-1), Health and Safety Code, as added by this Act. Requires HHSC, in developing the form, to consult with the Texas Medical Disclosure Panel.

SECTION 3. Effective date: September 1, 2019.