By:  Paddie, Price (Senate Sponsor - Kolkhorst) H.B. No. 2050

(In the Senate - Received from the House May 2, 2019; May 3, 2019, read first time and referred to Committee on Health & Human Services; May 16, 2019, reported favorably by the following vote: Yeas 9, Nays 0; May 16, 2019, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Buckingham        X

Campbell          X

Flores            X

Johnson           X

Miles             X

Powell            X

Seliger           X

A BILL TO BE ENTITLED

AN ACT

relating to consent requirements for the prescription of certain psychoactive medications to residents of nursing facilities and related institutions.

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

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

(c)  Subject to Subsection (c-1), consent [~~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)  the consent is given voluntarily and without coercive or undue influence;

(2)  the person prescribing the medication, [~~or~~] that person's designee, or the facility's medical director provided the following information, in a standard format approved by the department, to the resident and, if applicable, to the person authorized by law to consent on behalf of the resident:

(A)  the specific condition to be treated;

(B)  the beneficial effects on that condition expected from the medication;

(C)  the probable clinically significant side effects and risks associated with the medication; and

(D)  the proposed course of the medication;

(3)  the resident and, if appropriate, the person authorized by law to consent on behalf of the resident are informed in writing that consent may be revoked; and

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

(A)  a signed form prescribed by the facility or by a statement of the person prescribing the medication or that person's designee that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained; and

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

(c-1)  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 commission, by a resident or by a person authorized by law to consent on behalf of the resident.

(c-2)  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 and 74.105, Civil Practice and Remedies Code.

SECTION 2.  As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall develop the form required by Section 242.505(c-1), Health and Safety Code, as added by this Act. In developing the form, the commission shall consult with the Texas Medical Disclosure Panel.

SECTION 3.  This Act takes effect September 1, 2019.

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