

By: Paddie, Price

H.B. No. 2050

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to consent requirements for the prescription of certain  
3 psychoactive medications to residents of nursing facilities and  
4 related institutions.

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

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

9 (c) Subject to Subsection (c-1), consent [~~Consent~~] to the  
10 prescription of psychoactive medication given by a resident or by a  
11 person authorized by law to consent on behalf of the resident is  
12 valid only if:

13 (1) the consent is given voluntarily and without  
14 coercive or undue influence;

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

20 (A) the specific condition to be treated;

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

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

1 (D) the proposed course of the medication;

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

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

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

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

14 (c-1) In addition to the requirements of Subsection (c),  
15 consent to the prescription of an antipsychotic or neuroleptic  
16 medication is valid only if the consent to the prescription of that  
17 medication is given in writing, on a form prescribed by the  
18 commission, by a resident or by a person authorized by law to  
19 consent on behalf of the resident.

20 (c-2) Written consent provided by a resident or the  
21 resident's legally authorized representative on the form described  
22 by Subsection (c-1) is presumed to satisfy the consent requirements  
23 of Subsection (c) and the disclosure requirements established by  
24 the Texas Medical Disclosure Panel in Sections 74.103 and 74.105,  
25 Civil Practice and Remedies Code.

26 SECTION 2. As soon as practicable after the effective date  
27 of this Act, the executive commissioner of the Health and Human

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1 Services Commission shall develop the form required by Section  
2 242.505(c-1), Health and Safety Code, as added by this Act. In  
3 developing the form, the commission shall consult with the Texas  
4 Medical Disclosure Panel.

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