

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), (c-2), and (c-3) 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

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) satisfies the consent requirements of  
23 Subsection (c).

24 (c-3) There is a rebuttable presumption that the written  
25 consent provided by a resident or the resident's legally authorized  
26 representative on the form described by Subsection (c-1) satisfies  
27 the disclosure requirements established by the Texas Medical

1 Disclosure Panel in Sections 74.104 and 74.105, Civil Practice and  
2 Remedies Code.

3           SECTION 2. As soon as practicable after the effective date  
4 of this Act, the executive commissioner of the Health and Human  
5 Services Commission shall develop the form required by Section  
6 242.505(c-1), Health and Safety Code, as added by this Act. In  
7 developing the form, the commission shall consult with the Texas  
8 Medical Disclosure Panel.

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

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2050 was passed by the House on May 2, 2019, by the following vote: Yeas 141, Nays 2, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2050 on May 23, 2019, by the following vote: Yeas 140, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2050 was passed by the Senate, with amendments, on May 19, 2019, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor