

House Bill 2050
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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.

SENATE VERSION (IE)

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: [FA1(1)]

(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.

CONFERENCE

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HOUSE VERSION

(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.

SENATE VERSION (IE)

(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) satisfies the consent requirements of Subsection (c). [FA1(2)-(3)]

(c-3) There is a rebuttable presumption that the written consent provided by a resident or the resident's legally authorized representative on the form described by Subsection (c-1) satisfies the disclosure requirements established by the Texas Medical Disclosure Panel in Sections 74.104 and 74.105, Civil Practice and Remedies Code. [FA1(4)]

SECTION 2. Same as House version.

SECTION 3. Same as House version.

CONFERENCE