

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 142

By: Bice of the Senate

and

West (Tammy) of the House

COMMITTEE SUBSTITUTE

An Act relating to long-term care; defining terms; prohibiting prescribing and administration of certain drugs to long-term care facility residents except under certain conditions; requiring informed consent; setting forth provisions related to prescriptions and administration; setting forth certain patient protections; specifying applicability of act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-881 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Antipsychotic drug" means a drug, sometimes called a major tranquilizer, used to treat symptoms of severe psychiatric

1 disorders, including but not limited to schizophrenia and bipolar  
2 disorder;

3 2. "Long-term care facility" means:

4 a. a nursing facility as defined by Section 1-1902 of  
5 Title 63 of the Oklahoma Statutes,

6 b. a continuum of care facility as defined under the  
7 Continuum of Care and Assisted Living Act, or

8 c. the nursing care component of a life care community as  
9 defined by the Long-term Care Insurance Act;

10 3. "Resident" means a resident as defined by Section 1-1902 of  
11 Title 63 of the Oklahoma Statutes;

12 4. "Representative of a resident" means a representative of a  
13 resident as defined by Section 1-1902 of Title 63 of the Oklahoma  
14 Statutes; and

15 5. "Prescribing clinician" means:

16 a. an allopathic or osteopathic physician licensed by and  
17 in good standing with the State Board of Medical  
18 Licensure and Supervision or the State Board of  
19 Osteopathic Examiners, as appropriate,

20 b. a physician assistant licensed by and in good standing  
21 with the State Board of Medical Licensure and  
22 Supervision, or

23 c. an Advanced Practice Registered Nurse licensed by and  
24 in good standing with the Oklahoma Board of Nursing.

1       B. Except in case of an emergency in which the resident poses  
2 harm to the resident or others, no long-term care facility resident  
3 shall be prescribed or administered an antipsychotic drug that was  
4 not already prescribed to the resident prior to admission to the  
5 facility unless each of the following conditions has been satisfied:

6       1. The resident has been examined by the prescribing clinician  
7 and diagnosed with a psychiatric condition and the prescribed drug  
8 is approved by the United States Food and Drug Administration for  
9 that condition or prescribed in accordance with generally accepted  
10 clinical practices;

11       2. The prescribing clinician, or a previous prescribing  
12 clinician, has unsuccessfully attempted to accomplish the drug's  
13 intended effect using contemporary and generally accepted  
14 nonpharmacological care options, and has documented those attempts  
15 and their results in the resident's medical record or has deemed  
16 that those attempts would not be medically appropriate based upon a  
17 physical examination by the prescribing clinician and documented the  
18 rationale in the resident's medical record;

19       3. The facility has provided to the resident or representative  
20 of a resident a written explanation of applicable informed consent  
21 laws. The explanation shall be written in language that the  
22 resident or representative of a resident can be reasonably expected  
23 to understand;

1       4. The prescribing clinician has confirmed with the nursing  
2 facility verbally or otherwise that written, informed consent has  
3 been obtained from the resident or representative of the resident  
4 that meets the requirements of subsection C of this section; and

5       5. In the event a long-term care facility resident is  
6 prescribed an antipsychotic medication in the case of an emergency,  
7 the prescribing physician shall prescribe the minimum dosage and  
8 duration that is prudent for the resident's condition and shall  
9 examine the patient in person within thirty (30) days.

10       C. Except in the case of an emergency as provided for in  
11 subsection B of this section, the prescribing clinician shall  
12 confirm that written, voluntary informed consent to authorize the  
13 administration of an antipsychotic drug to a facility resident has  
14 been obtained from the resident or the representative of the  
15 resident prior to the initial administration of the antipsychotic  
16 drug. Voluntary informed consent shall, at minimum, consist of the  
17 following:

18       1. The prescribing clinician has confirmed that a signed,  
19 written affirmation has been obtained from the resident or the  
20 representative of the resident that the resident has been informed  
21 of all pertinent information concerning the administration of an  
22 antipsychotic drug in language that the signer can reasonably be  
23 expected to understand. Pertinent information shall include, but  
24 not be limited to:

- a. the reason for the drug's prescription and the intended effect of the drug on the resident's condition,
- b. the nature of the drug and the procedure for its administration, including dosage, administration schedule, method of delivery and expected duration for the drug to be administered,
- c. risks, common side effects and potential severe adverse reactions associated with the administration of the drug,
- d. the right of the resident or representative of the resident to refuse the administration of the antipsychotic drug and the medical consequences of such refusal, and
- e. an explanation of pharmacological and non-pharmacological alternatives to the administration of antipsychotic drugs and the resident's right to choose such alternatives; and

2. Except in the case of an emergency as provided for in subsection B of this section, the prescribing clinician shall inform the resident or the representative of the resident of the existence of the long-term care facility's policies and procedures for compliance with informed consent requirements. The facility shall

1 make these available to the resident or representative of the  
2 resident prior to administering any antipsychotic drug upon request.

3 D. 1. Antipsychotic drug prescriptions and administration  
4 shall be consistent with standards for dosage, duration and  
5 frequency of administration that are generally accepted for the  
6 resident's condition.

7 2. Throughout the duration of the administration of an  
8 antipsychotic drug and at generally accepted intervals approved for  
9 the resident's condition, the prescribing clinician or designee  
10 shall monitor the resident's condition and evaluate drug performance  
11 with respect to the condition for which the drug was prescribed.  
12 The prescribing clinician shall provide documentation of the status  
13 of the resident's condition to the resident or the representative of  
14 the resident upon request and without unreasonable delay.

15 3. Any change in dosage or duration of the administration of an  
16 antipsychotic drug shall be justified by the prescribing clinician  
17 with documentation on the resident's record of the clinical  
18 observations that warranted the change.

19 E. 1. No long-term care facility shall deny admission or  
20 continued residency to a person on the basis of the person's or his  
21 or her representative's refusal to the administration of  
22 antipsychotic drugs, unless the prescribing clinician or care  
23 facility can demonstrate that the resident's refusal would place the  
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1 health and safety of the resident, the facility staff, other  
2 residents or visitors at risk.

3 2. Any care facility that alleges that the resident's refusal  
4 to consent to the administration of antipsychotic drugs will place  
5 the health and safety of the resident, the facility staff, other  
6 residents or visitors at risk shall document the alleged risk in  
7 detail and shall present this documentation to the resident or the  
8 representative of the resident, to the State Department of Health  
9 and to the Long-Term Care Ombudsman; and shall inform the resident  
10 or the representative of the resident of the resident's right to  
11 appeal to the State Department of Health. The documentation of the  
12 alleged risk shall include a description of all nonpharmacological  
13 or alternative care options attempted and why they were unsuccessful  
14 or why the prescribing clinician determined alternative treatments  
15 were not medically appropriate for the condition following a  
16 physical examination.

17 F. The provisions of this section shall not apply to a hospice  
18 patient as defined in Section 1-860.2 of Title 63 of the Oklahoma  
19 Statutes.

20 SECTION 2. This act shall become effective November 1, 2019.  
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