

1 ENGROSSED SENATE
2 BILL NO. 142

By: Bice of the Senate

3 and

4 West (Tammy) of the House

5
6 An Act relating to long-term care; defining terms;
7 prohibiting prescribing and administration of certain
8 drugs to long-term care facility residents except
9 under certain conditions; requiring informed consent;
10 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.

11
12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

17 A. As used in this section:

18 1. "Antipsychotic drug" means a drug, sometimes called a major
19 tranquilizer, used to treat symptoms of severe psychiatric
20 disorders, including but not limited to schizophrenia and bipolar
21 disorder;

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

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

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

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

5 3. "Prescribing clinician" means:

6 a. an allopathic or osteopathic physician licensed by and
7 in good standing with the State Board of Medical
8 Licensure and Supervision or the State Board of
9 Osteopathic Examiners, as appropriate,

10 b. a physician assistant licensed by and in good standing
11 with the State Board of Medical Licensure and
12 Supervision, or

13 c. an Advanced Practice Registered Nurse licensed by and
14 in good standing with the State Board of Nursing.

15 B. Except in case of an emergency where the resident poses harm
16 to the resident or others, no long-term care facility resident shall
17 be prescribed or administered an antipsychotic drug that was not
18 already prescribed to the resident prior to admission to the
19 facility unless each of the following conditions has been satisfied:

20 1. The resident has been examined by the prescribing clinician
21 and diagnosed with a psychiatric condition and the prescribed drug
22 is approved by the Food and Drug Administration for that condition
23 or prescribed in accordance with generally accepted clinical
24 practices;

1 2. The prescribing clinician, or a previous prescribing
2 clinician, has unsuccessfully attempted to accomplish the drug's
3 intended effect using contemporary and generally accepted
4 nonpharmacological care options, and has documented those attempts
5 and their results in the resident's medical record;

6 3. The facility has provided to the resident or resident's
7 legal representative a written explanation of applicable informed
8 consent laws. The explanation shall be written in language that the
9 resident or resident's legal representative can be reasonably
10 expected to understand;

11 4. The prescribing clinician has confirmed that written,
12 informed consent has been obtained from the resident or resident's
13 legal representative that meets the requirements of subsection C of
14 this section; and

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

20 C. The prescribing clinician shall confirm that written,
21 voluntary informed consent to authorize the administration of an
22 antipsychotic drug to a facility resident has been obtained from the
23 resident or the resident's legal representative prior to the initial
24

1 administration of the antipsychotic drug. Voluntary informed
2 consent shall, at minimum, consist of the following:

3 1. The prescribing clinician has confirmed that a signed,
4 written affirmation has been obtained from the resident or the
5 resident's legal representative that the resident has been informed
6 of all pertinent information concerning the administration of an
7 antipsychotic drug in language that the signer can reasonably be
8 expected to understand. Pertinent information shall include, but
9 not be limited to:

- 10 a. the reason for the drug's prescription and the
11 intended effect of the drug on the resident's
12 condition,
- 13 b. the nature of the drug and the procedure for its
14 administration, including dosage, administration
15 schedule, method of delivery and expected duration for
16 the drug to be administered,
- 17 c. the probable degree of improvement of the clinical
18 condition expected from the recommended administration
19 of the drug,
- 20 d. risks, common side effects and potential severe
21 adverse reactions associated with the administration
22 of the drug,
- 23 e. the resident's or resident's legal representative's
24 right to refuse the administration of the

1 antipsychotic drug and the medical consequences of
2 such refusal, and

3 f. an explanation of pharmacological and non-
4 pharmacological alternatives to the administration of
5 antipsychotic drugs and the resident's right to choose
6 such alternatives; and

7 2. The prescribing clinician shall inform the resident or the
8 resident's legal representative of the existence of the long-term
9 care facility's policies and procedures for compliance with informed
10 consent requirements and shall make these available to the resident
11 or resident's legal representative prior to administering any
12 antipsychotic drug upon request.

13 D. 1. Antipsychotic drug prescriptions and administration
14 shall be consistent with standards for dosage, duration and
15 frequency of administration that are generally accepted for the
16 resident's condition.

17 2. Throughout the duration of the administration of an
18 antipsychotic drug and at generally accepted intervals approved for
19 the resident's condition, the prescribing clinician or designee
20 shall monitor the resident's condition and evaluate drug performance
21 with respect to the condition for which the drug was prescribed.
22 The prescribing clinician shall provide documentation of the status
23 of the resident's condition to the resident or the resident's legal
24 representative upon request and without unreasonable delay.

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

5 E. 1. No long-term care facility shall deny admission or
6 continued residency to a person on the basis of the person's or
7 their legal representative's refusal to the administration of
8 antipsychotic drugs, unless the prescribing clinician or care
9 facility can demonstrate that the resident's refusal would place the
10 health and safety of the resident, the facility staff, other
11 residents or visitors at risk.

12 2. Any care facility that alleges that the resident's refusal
13 to consent to the administration of antipsychotic drugs will place
14 the health and safety of the resident, the facility staff, other
15 residents or visitors at risk shall document the alleged risk in
16 detail, and shall present this documentation to the resident or the
17 resident's legal representative, to the State Department of Health
18 and to the Long-Term Care Ombudsman; and shall inform the resident
19 or their legal representative of the resident's or legal
20 representative's right to appeal to the Long-Term Care Ombudsman.
21 The documentation of the alleged risk shall include a description of
22 all nonpharmacological or alternative care options attempted and why
23 they were unsuccessful.

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

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

Passed the Senate the 19th day of February, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2019.

Presiding Officer of the House
of Representatives