

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 142

By: Bice of the Senate

and

7 West (Tammy), **Bush, Stark,**  
8 **Blancett, Munson, Grego** and  
9 **Dills** of the House

10  
11                               COMMITTEE SUBSTITUTE

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

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

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

A. As used in this section:

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

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

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

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

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

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

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

17        5. "Prescribing clinician" means:

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

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

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

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

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

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

21          3.    The facility has provided to the resident or representative  
22   of a resident a written explanation of applicable informed consent  
23   laws. The explanation shall be written in language that the  
24

1 resident or representative of a resident can be reasonably expected  
2 to understand;

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

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

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

20 1. The prescribing clinician has confirmed that a signed,  
21 written affirmation has been obtained from the resident or the  
22 representative of the resident that the resident has been informed  
23 of all pertinent information concerning the administration of an  
24 antipsychotic drug in language that the signer can reasonably be

1 expected to understand. Pertinent information shall include, but  
2 not be limited to:

- 3 a. the reason for the drug's prescription and the  
4 intended effect of the drug on the resident's  
5 condition,
- 6 b. the nature of the drug and the procedure for its  
7 administration, including dosage, administration  
8 schedule, method of delivery and expected duration for  
9 the drug to be administered,
- 10 c. risks, common side effects and potential severe  
11 adverse reactions associated with the administration  
12 of the drug,
- 13 d. the right of the resident or representative of the  
14 resident to refuse the administration of the  
15 antipsychotic drug and the medical consequences of  
16 such refusal, and
- 17 e. an explanation of pharmacological and non-  
18 pharmacological alternatives to the administration of  
19 antipsychotic drugs and the resident's right to choose  
20 such alternatives; and

21 2. Except in the case of an emergency as provided for in  
22 subsection B of this section, the prescribing clinician shall inform  
23 the resident or the representative of the resident of the existence  
24 of the long-term care facility's policies and procedures for

1 compliance with informed consent requirements. The facility shall  
2 make these available to the resident or representative of the  
3 resident prior to administering any antipsychotic drug upon request.

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

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

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

20 E. 1. No long-term care facility shall deny admission or  
21 continued residency to a person on the basis of the person's or his  
22 or her representative's refusal to the administration of  
23 antipsychotic drugs, unless the prescribing clinician or care  
24 facility can demonstrate that the resident's refusal would place the

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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22 COMMITTEE REPORT BY: COMMITTEE ON HEALTH SERVICES AND LONG-TERM  
23 CARE, dated 04/11/2019 - DO PASS, As Amended and Coauthored.  
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