

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 142

By: Bice

AS INTRODUCED

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

2. "Long-term care facility" means:

- a. a nursing facility, specialized facility or residential care home as defined by Section 1-1902 of Title 63 of the Oklahoma Statutes,
- b. an assisted living center as defined by Section 1-890.2 of Title 63 of the Oklahoma Statutes,
- c. the nursing care component of a continuum of care facility as defined under the Continuum of Care and Assisted Living Act, or
- d. the nursing care component of a life care community as defined by the Long-term Care Insurance Act; and

3. "Prescribing clinician" means an allopathic or osteopathic physician licensed by and in good standing with the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, as appropriate.

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

1. The resident has been examined by the prescribing clinician and diagnosed with a behavioral health condition and the prescribed drug is approved for that condition;

2. The prescribing clinician, or a previous prescribing clinician, has unsuccessfully attempted to accomplish the drug's

1 intended effect using approved nonpharmacological care options, and
2 has documented those attempts and their results in the resident's
3 medical record;

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

9 4. The prescribing clinician has obtained written, informed
10 consent from the resident or resident's legal representative that
11 meets the requirements of subsection C of this section.

12 C. The prescribing clinician shall obtain written, voluntary
13 informed consent to authorize the administration of an antipsychotic
14 drug to a facility resident from the resident or the resident's
15 legal representative prior to the administration of the
16 antipsychotic drug. Voluntary informed consent shall, at minimum,
17 consist of the following:

18 1. The prescribing clinician has obtained signed, written
19 affirmation from the resident or the resident's legal representative
20 that the resident has been informed of all pertinent information
21 concerning the administration of an antipsychotic drug in language
22 that the signer can reasonably be expected to understand. Pertinent
23 information shall include, but 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. the probable degree of improvement expected from the recommended administration of the drug,
- d. risks and likely side effects associated with administration of the drug,
- e. the resident's or resident's legal representative's right to refuse the administration of the antipsychotic drug and the medical consequences of such refusal, and
- f. an explanation of care alternatives to the administration of antipsychotic drugs and the resident's right to choose such alternatives; and

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

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

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

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

17 E. 1. No long-term care facility shall deny admission or
18 continued residency to a person on the basis of the person's or
19 their legal representative's refusal to the administration of
20 antipsychotic drugs, unless the prescribing clinician or care
21 facility can demonstrate that the resident's refusal would place the
22 health and safety of the resident, the facility staff, other
23 residents or visitors at risk.
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1 2. Any care facility that alleges that the resident's refusal
2 to consent to the administration of antipsychotic drugs will place
3 the health and safety of the resident, the facility staff, other
4 residents or visitors at risk shall document the alleged risk in
5 detail, and shall present this documentation to the resident or the
6 resident's legal representative, to the State Department of Health
7 and to the Long-Term Care Ombudsman; and shall inform the resident
8 or their legal representative of the resident's or legal
9 representative's right to appeal to the Long-Term Care Ombudsman.
10 The documentation of the alleged risk shall include a description of
11 all nonpharmacological or alternative care options attempted and why
12 they were unsuccessful.

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

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