

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB142 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Tammy West

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

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

By: Bice of the Senate

and

West (Tammy) of the House

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8
9 PROPOSED COMMITTEE SUBSTITUTE

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

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

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

23 A. As used in this section:

24 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 this title; and

14 5. "Prescribing clinician" means:

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

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

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

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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:

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

19 2. Except in the case of an emergency as provided for in
20 subsection B of this section, the prescribing clinician shall inform
21 the resident or the representative of the resident of the existence
22 of the long-term care facility's policies and procedures for
23 compliance with informed consent requirements. The facility shall
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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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22 57-1-8697 SH 04/08/19

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