

## **BILL ANALYSIS**

Senate Research Center  
77R7891 JAT-D

C.S.S.B. 355  
By: Lindsay  
Health & Human Services  
3/30/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, the Texas Health and Safety Code contains provisions that govern informed consent to psychiatric drugs for individuals in inpatient psychiatric settings, but none that apply to the residents of nursing homes. C.S.S.B. 355 proposes to correct this inequity in the law by extending the informed consent laws to residents of nursing homes.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 242.501 (a), Health and Safety Code, to add language regarding a nursing home's resident's statement of rights to include the resident's right to have a physician explain to the resident recommended treatments and expected results, including any expected effects, clinically possible side effects, and risks associated with psychoactive medications, and to include the resident's right to receive information about prescribed psychoactive medication from a treating physician and pharmacist, to have any psychoactive medications prescribed and administered in a responsible manner, as mandated by Section 242.505, and to refuse to consent to the prescription of such drugs.

SECTION 2. Amends Chapter 242L, Health and Safety Code, by adding Section 242.505, as follows:

Sec. 242.505. PRESCRIPTION OF PSYCHOACTIVE MEDICATION. (a) Defines "medication-related emergency" and "psychoactive medication."

(b) Prohibits a person from prescribing a psychoactive medication to a resident who does not consent to the prescription unless the patient is having a medication-related emergency or the person authorized by law to consent on behalf of the resident has consented to the prescription.

(c) Provides that consent to the prescription of psychoactive medication given by a resident or by a person authorized by law to consent on behalf of the resident is only valid under certain conditions.

(d) Provides that if the treating physician designates another person to provide the information under Subsection (c), not later than two working days after that person provides the information, excluding weekends and legal holidays, the physician is required to meet with the resident and, if appropriate, the person authorized by law to consent on behalf of the resident, to review the information and answer any questions.

(e) Requires a resident's refusal to consent to receive psychoactive medication to be documented in the resident's clinical record.

(f) Requires a treating physician to prescribe, consistent with clinically appropriate medical care, the medication that has the fewest side effects or the least potential for adverse side effects, unless the class of medication has been demonstrated or justified not to be effective clinically, and administer the smallest therapeutically acceptable dosages of medication for the resident's condition.

(g) Provides that if a physician prescribed psychoactive medication without the resident's consent because of a medication-related emergency, a physician is required to document in the resident's clinical record in specific terms the necessity of the order and that the physician has evaluated but rejected other generally accepted, less intrusive forms of treatment, if any, and requires the treatment to be provided in the manner, consistent with clinically appropriate medical care, least restrictive of the resident's personal liberty.

SECTION 3. Effective date: upon passage or September 1, 2001.

### **SUMMARY OF COMMITTEE CHANGES**

Differs from original in SECTION 1 by changing references from "administration of psychoactive medications" to "prescription of psychoactive medications." Further differs from original in SECTION 2 by changing references from "the resident's representative authorized by law" to "the person authorized by law."