

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 47  
By: Zaffirini  
Health & Human Services  
4/6/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.S.B. 47 will eliminate the use of "pro re nata" (PRN) (i.e., "as needed") psychotropic medications via injection, except when required by a patient. This will not prohibit or limit a physician's ability to order emergency medications via injection, only limit the methods by which a physician may order PRN medications that the patient has the right to reject or consent to at will.

Currently, the Department of State Health Services allows staff to administer PRN medications by injection. According to the Section 415(b), Texas Administrative Code, PRN medication only may be used with the consent of the patient. Allowing psychotropic medications to be written as injectable, PRN in effect allows the medication to be used as an emergency medication, in the absence of an emergency, without the need for a corresponding doctor's order, in violation of state policy and constitutional law. This is documented in death investigation records.

Medications can be provided to patients on a standing order or on an as-needed basis as long as the patient consents to the medication. The prescribing of the PRN medication may not be substituted as an emergency medication, but instead can be administered only if appropriate consent is obtained. To ensure that patients are providing informed consent for medications, treatment professionals are required to present patients with verbal and written information for each medication prescribed. Each facility is required to be alert to behaviors signifying a patient's refusal of medications. Strict procedures apply when it becomes necessary to override a patient's objections to treatment. It only can be done in two situations: when there is a psychiatric emergency, or, after a hearing, when a court orders the administration of medication over the patient's refusal.

There currently is no ban on the use of PRN orders for psychotropic medications via injection. There is the potential for abuse of PRN medications by injection because they can be improperly used as emergency medications. Persons have the right to consent and refuse to take psychotropic medications. If a person willingly takes their medications there are no grounds for it to be ordered via injection unless there is a compelling medical reason. Allowing psychotropic medications to be administered PRN by injection makes it easy for staff to use this route of administration when the patient is not willing to consent to taking the medications orally, even though PRN medications only may be used with the consent of the patient.

Adult mental health recipients are protected from unwanted treatment, including treatment with psychotropic medications. If a physician issues an order to administer psychotropic medication to a patient without the patient's consent because of a psychiatric emergency, then the physician must document it in the patient's clinical record in specific medical or behavioral terms. These are emergency medication orders and are not addressed by this legislation.

C.S.S.B. 47 amends current law relating to the pro re nata administration of psychoactive medications in certain residential health care facilities.

## **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 576.0245, Health and Safety Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 576, Health and Safety Code, by adding Section 576.0245, as follows:

Sec. 576.0245. ADMINISTRATION OF PSYCHOACTIVE MEDICATIONS. (a) Defines "facility" in this section.

(b) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules to govern the pro re nata administration of psychoactive medications to facility residents for each health and human services agency that regulates the care or treatment of a resident at a facility.

(c) Requires that the rules:

(1) prohibit a health care practitioner authorized under the laws of this state to issue a prescription drug order from prescribing to a facility resident a standing psychoactive medication order to be administered pro re nata by injection;

(2) allow for the use of a psychoactive medication to be administered by injection in a psychiatric emergency, under a court order, or on a per request basis by a facility resident, subject to Subsection (e);

(3) require a practitioner who administers psychoactive medication in a psychiatric emergency to document in the resident's clinical record the administration using specific medical and behavioral terms;

(4) require a nurse licensed in this state and employed by a facility to attend, before administering psychoactive medication by injection in a psychiatric emergency, training on the criteria that must be met to administer pro re nata psychoactive medication in a psychiatric emergency; and

(5) require a person employed by a facility to attend training on a resident's consent to treatment and refusal of consent to treatment that includes information to instruct staff on identification of behaviors signifying a resident's refusal to consent to administration of medication, and information on effective intermediate measures to calm residents in distress by the use of methods other than control and intervention.

(d) Prohibits a nurse licensed in this state and employed by a facility from administering psychoactive medication by injection in a psychiatric emergency unless the nurse has attended the training required under Subsection (c)(4).

(e) Requires the facility, before a psychoactive medication is administered by injection on request by a facility resident, to first obtain from the resident a signed consent for the specific administration of the medication by injection. Authorizes a health care practitioner authorized under the laws of this state to issue the prescription drug order, to issue a prescription drug order that authorizes psychoactive medication to be administered by injection on request of a facility resident only if the order is limited to a single administration of the medication at the resident's request.

SECTION 2. (a) Requires the executive commissioner to adopt the rules required by Section 576.0245, Health and Safety Code, as added by this Act, not later than January 1, 2012.

(b) Provides that a health care practitioner subject to Section 576.0245, Health and Safety Code, as added by this Act, is not required to comply with that section until January 1, 2012.

SECTION 3. Effective date: September 1, 2011.