

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 142 By: Bice of the Senate  
3 and  
4 West (Tammy) of the House  
5  
6

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

14 AUTHORS: Add the following House Coauthors: Bush, Stark, Blancett,  
15 Munson, Grego, Dills, Provenzano, Luttrell, Hill, Goodwin  
and West (Josh)

16 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill  
17 and replace with:

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

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

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

5 A. As used in this section:

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

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

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

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

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

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

19 4. "Representative of a resident" means a representative of a  
20 resident as defined by Section 1-1902 of Title 63 of the Oklahoma  
21 Statutes; and

22 5. "Prescribing clinician" means:

23 a. an allopathic or osteopathic physician licensed by and  
24 in good standing with the State Board of Medical

1                   Licensure and Supervision or the State Board of  
2                   Osteopathic Examiners, as appropriate,

3           b.     a physician assistant licensed by and in good standing  
4                   with the State Board of Medical Licensure and  
5                   Supervision, or

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

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

13           1.     The resident has been examined by the prescribing clinician  
14                  and diagnosed with a psychiatric condition and the prescribed drug  
15                  is approved by the United States Food and Drug Administration for  
16                  that condition or prescribed in accordance with generally accepted  
17                  clinical practices;

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

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

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

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

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

1           1. The prescribing clinician has confirmed that a signed,  
2 written affirmation has been obtained from the resident or the  
3 representative of the resident that the resident has been informed  
4 of all pertinent information concerning the administration of an  
5 antipsychotic drug in language that the signer can reasonably be  
6 expected to understand. Pertinent information shall include, but  
7 not be limited to:

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

3 2. Except in the case of an emergency as provided for in  
4 subsection B of this section, the prescribing clinician shall inform  
5 the resident or the representative of the resident of the existence  
6 of the long-term care facility's policies and procedures for  
7 compliance with informed consent requirements. The facility shall  
8 make these available to the resident or representative of the  
9 resident prior to administering any antipsychotic drug upon request.

10 D. 1. Antipsychotic drug prescriptions and administration  
11 shall be consistent with standards for dosage, duration and  
12 frequency of administration that are generally accepted for the  
13 resident's condition.

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

22 3. Any change in dosage or duration of the administration of an  
23 antipsychotic drug shall be justified by the prescribing clinician  
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1 with documentation on the resident's record of the clinical  
2 observations that warranted the change.

3 E. 1. No long-term care facility shall deny admission or  
4 continued residency to a person on the basis of the person's or his  
5 or her representative's refusal to the administration of  
6 antipsychotic drugs, unless the prescribing clinician or care  
7 facility can demonstrate that the resident's refusal would place the  
8 health and safety of the resident, the facility staff, other  
9 residents or visitors at risk.

10 2. Any care facility that alleges that the resident's refusal  
11 to consent to the administration of antipsychotic drugs will place  
12 the health and safety of the resident, the facility staff, other  
13 residents or visitors at risk shall document the alleged risk in  
14 detail and shall present this documentation to the resident or the  
15 representative of the resident, to the State Department of Health  
16 and to the Long-Term Care Ombudsman; and shall inform the resident  
17 or the representative of the resident of the resident's right to  
18 appeal to the State Department of Health. The documentation of the  
19 alleged risk shall include a description of all nonpharmacological  
20 or alternative care options attempted and why they were unsuccessful  
21 or why the prescribing clinician determined alternative treatments  
22 were not medically appropriate for the condition following a  
23 physical examination.

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F. The provisions of this section shall not apply to a hospice patient as defined in Section 1-860.2 of Title 63 of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2019."  
Passed the House of Representatives the 17th day of April, 2019.

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2019.

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Presiding Officer of the Senate



1 ENGROSSED SENATE  
2 BILL NO. 142

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4 West (Tammy) of the House  
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8 drugs to long-term care facility residents except  
9 under certain conditions; requiring informed consent;  
10 setting forth provisions related to prescriptions and  
11 administration; setting forth certain patient  
12 protections; specifying applicability of act;  
13 providing for codification; and providing an  
14 effective date.

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

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1-881 of Title 63, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. As used in this section:

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

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

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

- 1           b. a continuum of care facility as defined under the  
2           Continuum of Care and Assisted Living Act, or  
3           c. the nursing care component of a life care community as  
4           defined by the Long-term Care Insurance Act; and

5       3. "Prescribing clinician" means:

- 6           a. an allopathic or osteopathic physician licensed by and  
7           in good standing with the State Board of Medical  
8           Licensure and Supervision or the State Board of  
9           Osteopathic Examiners, as appropriate,  
10          b. a physician assistant licensed by and in good standing  
11          with the State Board of Medical Licensure and  
12          Supervision, or  
13          c. an Advanced Practice Registered Nurse licensed by and  
14          in good standing with the State Board of Nursing.

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

20       1. The resident has been examined by the prescribing clinician  
21 and diagnosed with a psychiatric condition and the prescribed drug  
22 is approved by the Food and Drug Administration for that condition  
23 or prescribed in accordance with generally accepted clinical  
24 practices;

1        2. The prescribing clinician, or a previous prescribing  
2 clinician, has unsuccessfully attempted to accomplish the drug's  
3 intended effect using contemporary and generally accepted  
4 nonpharmacological care options, and has documented those attempts  
5 and their results in the resident's medical record;

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

11       4. The prescribing clinician has confirmed that written,  
12 informed consent has been obtained from the resident or resident's  
13 legal representative that meets the requirements of subsection C of  
14 this section; and

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

20       C. The prescribing clinician shall confirm that written,  
21 voluntary informed consent to authorize the administration of an  
22 antipsychotic drug to a facility resident has been obtained from the  
23 resident or the resident's legal representative prior to the initial  
24

1 administration of the antipsychotic drug. Voluntary informed  
2 consent shall, at minimum, consist of the following:

3 1. The prescribing clinician has confirmed that a signed,  
4 written affirmation has been obtained from the resident or the  
5 resident's legal representative that the resident has been informed  
6 of all pertinent information concerning the administration of an  
7 antipsychotic drug in language that the signer can reasonably be  
8 expected to understand. Pertinent information shall include, but  
9 not be limited to:

- 10 a. the reason for the drug's prescription and the  
11 intended effect of the drug on the resident's  
12 condition,
- 13 b. the nature of the drug and the procedure for its  
14 administration, including dosage, administration  
15 schedule, method of delivery and expected duration for  
16 the drug to be administered,
- 17 c. the probable degree of improvement of the clinical  
18 condition expected from the recommended administration  
19 of the drug,
- 20 d. risks, common side effects and potential severe  
21 adverse reactions associated with the administration  
22 of the drug,
- 23 e. the resident's or resident's legal representative's  
24 right to refuse the administration of the

1 antipsychotic drug and the medical consequences of  
2 such refusal, and

3 f. an explanation of pharmacological and non-  
4 pharmacological alternatives to the administration of  
5 antipsychotic drugs and the resident's right to choose  
6 such alternatives; and

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

13 D. 1. Antipsychotic drug prescriptions and administration  
14 shall be consistent with standards for dosage, duration and  
15 frequency of administration that are generally accepted for the  
16 resident's condition.

17 2. Throughout the duration of the administration of an  
18 antipsychotic drug and at generally accepted intervals approved for  
19 the resident's condition, the prescribing clinician or designee  
20 shall monitor the resident's condition and evaluate drug performance  
21 with respect to the condition for which the drug was prescribed.  
22 The prescribing clinician shall provide documentation of the status  
23 of the resident's condition to the resident or the resident's legal  
24 representative upon request and without unreasonable delay.

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

5           E. 1. No long-term care facility shall deny admission or  
6 continued residency to a person on the basis of the person's or  
7 their legal representative's refusal to the administration of  
8 antipsychotic drugs, unless the prescribing clinician or care  
9 facility can demonstrate that the resident's refusal would place the  
10 health and safety of the resident, the facility staff, other  
11 residents or visitors at risk.

12           2. Any care facility that alleges that the resident's refusal  
13 to consent to the administration of antipsychotic drugs will place  
14 the health and safety of the resident, the facility staff, other  
15 residents or visitors at risk shall document the alleged risk in  
16 detail, and shall present this documentation to the resident or the  
17 resident's legal representative, to the State Department of Health  
18 and to the Long-Term Care Ombudsman; and shall inform the resident  
19 or their legal representative of the resident's or legal  
20 representative's right to appeal to the Long-Term Care Ombudsman.  
21 The documentation of the alleged risk shall include a description of  
22 all nonpharmacological or alternative care options attempted and why  
23 they were unsuccessful.

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1 F. The provisions of this section shall not apply to a hospice  
2 patient as defined in Section 1-860.2 of Title 63 of the Oklahoma  
3 Statutes.

4 SECTION 4. This act shall become effective November 1, 2019.

5 Passed the Senate the 19th day of February, 2019.

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\_\_\_\_\_  
Presiding Officer of the Senate

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9 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

10 2019.

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Presiding Officer of the House  
of Representatives

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