

- SUBJECT:** Requiring consent by nursing-home residents for psychoactive drugs
- COMMITTEE:** Human Services — favorable, without amendment
- VOTE:** 7 ayes — Naishtat, J. Davis, Ehrhardt, Noriega, Raymond, Villarreal, Wohlgemuth
- 0 nays
- 2 absent — Chavez, Telford
- SENATE VOTE:** On final passage, April 11 — 29-0
- WITNESSES:** For — John Breeding; Dr. Moira Dolan; Lauren Fecher, Citizen’s Commission on Human Rights; Laura Ann Wilson; *Registered but did not testify*: Randall Chapman, Legal Hotline for Older Texans; Beth Ferris, Texas Advocates for Nursing Home Residents; Aaryce Hayes, Advocacy, Inc.; Lisa McGiffert, Consumers Union; Amy McMurrough; Kim McPherson, The Mental Health Association in Texas; Amy Mizcles, National Alliance for the Mentally Ill of Texas; Abby Sandlin, Texas Watch; Lee Spiller, Citizen’s Commission on Human Rights; Marie Wisdom, Advocates for Nursing Home Reform
- Against — None
- BACKGROUND:** Under Health and Safety Code, sec. 242.501, the Texas Department of Human Services has adopted a statement of the rights of residents of convalescent homes, nursing homes, and related institutions. This statement includes a resident’s right to be fully informed in advance about care and treatment. Residents also have the right to refuse treatment.
- DIGEST:** SB 355 would prohibit the administration of a psychoactive medication to a resident of a convalescent home, nursing home, or related institution without that resident’s documented consent, unless the resident was having a medication-related emergency or the person authorized by law to consent on behalf of the resident had consented to the prescription. Consent would be valid only if:

- ! the consent was given voluntarily;
- ! the treating physician or a person designated by the physician informed the resident or the resident's guardian of the specific condition to be treated, the expected beneficial effects of the medication, and potential side effects and risks; and
- ! the resident and guardian were informed in writing that consent could be revoked.

If a physician prescribed a psychoactive medication to a resident without the resident's consent in response to a medication-related emergency, the physician would have to document the reasons for doing so.

The bill would define "psychoactive medication" as including antipsychotics or neuroleptics, antidepressants, agents for control of mania or depression, antianxiety agents, sedatives, hypnotics, or other sleep-promoting drugs, and psychomotor stimulants.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

SB 355 would provide greater protections for residents of convalescent homes, nursing homes, and related institutions by requiring their informed consent for the prescription of psychoactive drugs. About half of Texas' nursing-home residents receive these medications, which can leave them feeling lethargic or detached from family members, yet these facilities do not have to obtain residents' informed consent before prescribing these drugs. Although residents have the right to be fully informed about their care and treatment, the requirement of informed consent provides greater protection by specifying what information must be provided and by creating a process for explicitly gathering that consent. By requiring nursing homes and related institutions to obtain the same explicit informed consent before prescribing psychoactive drugs as the law requires for inpatient services, SB 355 would ensure that nursing-home residents receive the necessary information to make informed decisions about their health care.

A 2001 study by the U.S. Department of Health and Human Services found that more than one-third of psychiatric services, including prescriptions for

psychoactive medications, were inappropriate, primarily because they were medically unnecessary. Texas ranks as one of the worst states in terms of overprescribing psychotropic drugs for nursing-home residents in the absence of mental health conditions. Not only do these inappropriate services harm residents, they also cost the government for unnecessary Medicaid payments. By giving residents more information about these drugs and a clear right to refuse them, SB 355 could reduce the state's Medicaid costs by reducing the prescription of these drugs.

**OPPONENTS
SAY:**

SB 355 is unnecessary. Nursing-home residents already have the statutory right to be fully informed about their care and treatment. If nursing homes are violating this right, they should be sanctioned.

**OTHER
OPPONENTS
SAY:**

By allowing doctors to delegate the responsibility for informing patients about psychoactive medications, SB 355 could increase the responsibilities of nurses and take more of their time away from their patients.