SUBJECT: Consent for inpatient mental facility discharge and medication for minors

COMMITTEE: Public Health — favorable, without amendment

VOTE: 8 ayes — Delisi, Laubenberg, Coleman, Dawson, Jackson, McReynolds, Solis, Zedler

0 nays

1 absent — Truitt

WITNESSES: For — Karen Brown, Depression and Bipolar Support Alliance of Texas, Depression and Bipolar Support Alliance of Austin; Lana R. Castle, Depression and Bipolar Support Alliance of Texas, Depression and Bipolar Support Alliance of Austin; Kelley Chou; Joe Lovelace, National Alliance for the Mentally Ill (NAMI) Texas; Frank Rilling, Austin Area Mental Health Consumers; Kathi Seay; James Swinney, Depression and Bipolar Support Alliance of Texas, Mental Health Association of Tarrant County; Sarah E. Swinney, Depression and Bipolar Support Alliance of Texas; *(Registered but did not testify:* Diana Kern, NAMI Texas - National Alliance for the Mentally Ill; Armin Steege, Texas Hospital Association, Seton Shoal Creek Hospital)

Against — None

On — Harold K. Dudley, Jr., Department of State Health Services, State Hospital Section

BACKGROUND: The 78th Legislature in 2003 enacted HB 21 by Corte allowing parents of minors between the ages of 16 and 18 voluntarily to admit their children to inpatient mental health facilities. The bill also required that a parent be notified when the patient filed a request to be discharged.

To be admitted for inpatient mental health treatment, patients must be diagnosed with mental illness and there must be reason to believe they are a threat to themselves or others. An inpatient's case is reviewed on an ongoing basis to determine the proper course of treatment and when discharge is appropriate. A patient voluntarily admitted for mental health services may refuse the administration of psychoactive drugs unless that

patient falls under the exceptions provided by Health and Safety Code, sec. 576.025(a), which includes patients under 16 years of age.

DIGEST:

HB 224 would prevent minors between the ages of 16 and 18 who had been admitted for voluntary inpatient treatment by a parent, guardian or managing conservator from discharging themselves if the parent, guardian, or conservator objected in writing. The facility would have to consult with, rather than notify, the parent, guardian, or conservator of a minor patient requesting discharge. In addition, a patient admitted under these conditions could not refuse the administration of psychoactive medication if the guardian had given consent for it.

The 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, 2005.

SUPPORTERS SAY:

HB 224 would ensure that teenagers received the treatment they needed for mental illness by eliminating a revolving door situation. Because the only requirement for discharge of a minor patient is that the parent, guardian, or managing conservator receive notice, nothing prevents children from discharging themselves from inpatient mental health facilities shortly after they have been admitted by their parents. Teenagers discharged too early against the judgment of parents and doctors could miss out on crucial treatment that could prevent future complications.

The earlier patients receive proper treatment, the sooner they can learn to cope with and monitor their condition. In addition, proper mental health treatment can prevent both personal and social costs, such as falling victim to substance abuse or entering the criminal justice system.

While 16-year-olds may feel equipped to make determinations about their condition, people with mental illness often are unable to make objective judgments because in some cases a chemical imbalance may influence their judgment. While drugs are not the only method of treatment, proper medication often can alleviate problems, and a doctor is the best judge of which cases necessitate treatment involving psychoactive drugs. The use of these drugs is often necessitated by the conditions with which patients would have to be diagnosed to require inpatient treatment.

Concerns about children being dumped in facilities for behavioral problems are unfounded. Issues involving improper diagnosis for the

purpose of insurance fraud appeared before 1993, but reforms implemented during that year have prevented further such abuses. Patients are admitted only when they meet strict criteria, and their cases are reviewed consistently by health care professionals. Mental health facilities have no room for patients who do not present severe mental health problems.

OPPONENTS SAY:

Sixteen is a reasonable age at which individuals can start making sound decisions regarding their health care. Many general behavioral problems could resemble the symptoms of mental illness and result from environmental rather than biological factors. By age 16, people are the best judges of their own motivations and should never be forced into facilities based on a parent's misunderstanding of behavioral problems.

Some facilities could be willing to accept patients who do not have mental illness because they could benefit from the insurance payments. Although reforms have helped to prevent some of this systemic abuse, bad actors still could defraud the system at the cost of a child's freedom.

At 16, a patient also should have the right to determine whether or not to take psychoactive drugs. Drugs are not the proper treatment for every person, and 16-year-olds can understand their bodies well enough to make sound decisions about whether or not to take them. Doctors often are quick to prescribe drugs for children, yet many other treatment avenues are available, including engaging in positive life skills like regular eating and sleeping habits. Treatment with improper drugs actually could exacerbate a condition.

In addition, young people who have begun treatment with psychoactive medication could face greater problems when they leave facilities and suddenly stop taking certain drugs. This means that forcing administration of drugs at a facility could have a long-term impact on a person's lifestyle after discharge.