

BILL ANALYSIS

Senate Research Center

S.B. 1309
By: Patterson
Health & Human Services
4-21-97
As Filed

DIGEST

Currently, electroconvulsive therapy is permissible in Texas. Recent information regarding possible unscrupulous use of electroconvulsive treatment for those over 65 have suggested the possibility of the need to add increased protections for that population. This bill would create an additional consent procedure which ensures that those patients 65 or older will have all the information they need to make informed decisions.

PURPOSE

As proposed, S.B. 1309 revises the consent procedure for the use of electroconvulsive therapy on patients 65 or older.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Department of Mental Health and Mental Retardation in SECTION 1 (Section 578.003, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 578.001, 578.002, and 578.003, Health and Safety Code, as follows:

Sec. 578.001. APPLICATION. Provides that this chapter applies to the use of, among other therapies, psychosurgery, pre-frontal sonic sound treatment, or any other convulsive or coma-inducing therapy by any person. Defines "electroconvulsive therapy." Makes a conforming change.

Sec. 578.002. USE OF ELECTROCONVULSIVE THERAPY. Prohibits electroconvulsive therapy from being used on a person who is 65 years of age or older. Prohibits electroconvulsive therapy, unless the person consents to the use of the therapy in accordance with Section 578.003, from being used on a person who is 16 years of age or older but who is younger than 65 years of age and who is voluntarily receiving mental health services; or an involuntary patient who is 16 years of age or older but who is younger than 65 years of age and who has not been adjudicated by an appropriate court of law as incompetent to manage the patient's personal affairs. Makes conforming changes.

Sec. 578.003. CONSENT TO THERAPY. Requires the Texas Department of Mental Health and Mental Retardation (department), rather than the Texas Board of Mental Health and Mental Retardation (board), by rule, to adopt a standard written consent form to be used when electroconvulsive therapy is considered. Requires the written form to clearly state and explicitly state, among other items, the nature, degree, duration, and probability of the side effects and significant risks of the treatment commonly known by the medical profession, especially noting the possible degree and duration of memory loss, the possibility of permanent irrevocable memory loss, and the possibility, rather than remote possibility, of death; and that autopsies are required after all deaths following procedures listed in Section 578.001(a) when death occurs within 14 days after a procedure and state that consent for these procedures includes consent for an autopsy within that time period. Requires the hospital, facility, or physician administering the therapy, before a patient receives each electroconvulsive treatment, to ensure that, if multiple monitored electroconvulsive therapy

is to be used, the patient or the patient's guardian of the person has gained the agreement of two other concurring psychiatrists that the procedure is vital and necessary and has obtained the dated signatures of those psychiatrists at the bottom of the consent form; the patient or the patient's guardian of the person has received the opinion of a nonsurgical, nonpsychiatric doctor who is not involved in the administration of electroconvulsive therapy that the procedure will not cause significant injury or death to the patient; and the signed copy of the consent form is made a part of the patient's clinical record. Makes conforming changes.

SECTION 2. Amends Section 578.007(b), Health and Safety Code, to require a report for each quarter to state, among other items, the number of deaths following electroconvulsive therapy, or other therapies listed in Section 578.001(a), at 14 days, one month, and three months; and autopsy findings, with emphasis on brain tissue, if death followed within 14 days after the date of the administration of any of the procedures listed in Section 578.001(a). Makes conforming changes.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.