

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 583

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO CHILDREN; ENACTING A NEW SECTION OF THE CHILDREN'S
CODE TO ESTABLISH CERTAIN REQUIREMENTS, PROCEDURES AND NOTICE
RELATING TO THE PRESCRIPTION AND MONITORING OF PSYCHOTROPIC
MEDICATIONS FOR CHILDREN IN FOSTER CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Children's Code is
enacted to read:

"[NEW MATERIAL] CHILDREN IN DEPARTMENT CUSTODY--
PSYCHOTROPIC MEDICATIONS--REQUIRED PROCEDURES AND
REVIEW--NOTIFICATION.--

A. The secretary of children, youth and families
shall adopt and promulgate rules establishing procedures
relating to the following requirements for the prescribing and
use of psychotropic medications for children placed in

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1 department custody:

2 (1) before a child in department custody is
3 prescribed a psychotropic medication, a licensed health care
4 practitioner with experience in mental health shall conduct a
5 full evaluation, to include medical, mental health, social and
6 trauma histories, and shall document this evaluation in the
7 child's medical record, including:

8 (a) the medical rationale for the use of
9 a psychotropic medication; and

10 (b) the risks and benefits of each
11 proposed psychotropic medication;

12 (2) a foster parent shall notify the
13 department within one working day after receiving a new
14 prescription of a psychotropic medication for a child in
15 department custody placed with the foster parent;

16 (3) if a child is under fourteen years of age,
17 or with the consent of a child over fourteen years of age, the
18 department shall provide to the child's parent and the parent's
19 legal representative, if any, and the child's legal
20 representative a notice containing the following information:

21 (a) the prescribed psychotropic
22 medication;

23 (b) the amount of the dosage;

24 (c) the dosage recommended pursuant to a
25 medically accepted indication;

1 (d) the reason for prescribing the
2 psychotropic medication;

3 (e) an indication of the risks of
4 prescribing a psychotropic medication to the child;

5 (f) the possible side effects of the
6 psychotropic medication; and

7 (g) a list of all of the medications
8 that the child is prescribed; and

9 (4) the department and stakeholders, including
10 medical providers, third-party health care payers and the
11 courts, shall monitor the child's well-being while the child is
12 taking psychotropic medication, including an annual review of
13 medications by a licensed practitioner with training in
14 children's mental health, who is not the prescriber of the
15 psychotropic medication.

16 B. A psychotropic medication shall not be
17 prescribed for a child in department custody unless the
18 prescribed use of the psychotropic medication is for a
19 medically accepted indication that is age-appropriate and its
20 proposed beneficial properties outweigh any risks identified in
21 peer-reviewed medical literature relating to children's use of
22 the psychotropic medication.

23 C. Court reports for every judicial review shall
24 include a list of prescribed psychotropic medications, dosage,
25 reason, risks and side effects for a child under fourteen years

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1 of age or, with the child's consent, for a child over fourteen
2 years of age.

3 D. The legal representative of the child, the
4 child's parent, the child, if over fourteen years of age, or
5 the legal representative of the parent may file an objection to
6 the use of or the prescribed dosage of the psychotropic
7 medication and request a hearing. Pursuant to a hearing
8 requested pursuant to this subsection, the court may order:

9 (1) an independent evaluation of the need for
10 or the prescribed dosage of the psychotropic medication, which
11 evaluation may include a team treatment meeting that includes
12 the child's prescribing licensed practitioner, the child's
13 clinicians, consulting physicians and other supports that the
14 court deems relevant; and

15 (2) that administration of the psychotropic
16 medication be discontinued or the prescribed dosage be modified
17 upon a showing that either the prescribed medication or the
18 dosage is, or both are, inappropriate.

19 E. The human services department shall:

20 (1) coordinate with the children, youth and
21 families department to provide information, training, data and
22 support to monitor psychotropic medication trends and outliers;
23 and

24 (2) direct the medical assistance division of
25 the human services department to provide the children, youth

1 and families department with a quarterly report of each child
2 in protective custody, which report shall include the name,
3 number, dosage and type of psychotropic medication that the
4 child uses.

5 F. The children, youth and families department
6 shall analyze the report that the human services department
7 provides pursuant to Subsection E of this section and consult
8 with a licensed mental health professional regarding any child
9 who:

10 (1) is at least five years of age and has been
11 prescribed four or more psychotropic medications; and

12 (2) is under five years of age and has been
13 prescribed any psychotropic medication.

14 G. The human services department and the children,
15 youth and families department shall collaborate on training
16 prescribers on:

17 (1) psychotropic medication prescribing
18 standards;

19 (2) statistics on the overuse of psychotropic
20 medications prescribed for children who are in protective
21 custody; and

22 (3) mental health care best practices.

23 H. The human services department shall direct
24 medicaid managed care organizations to:

25 (1) create a registry of all psychotropic

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1 medications administered to, or self-administered by, children
2 in residential treatment centers, accredited residential
3 treatment centers, group homes and treatment foster care
4 facilities;

5 (2) collaborate regularly with the behavioral
6 health services division of the human services department and
7 the children, youth and families department to:

8 (a) review reports and trends relating
9 to psychotropic medications and children in protective custody;
10 and

11 (b) review the case files of children in
12 protective custody and address any concerns that may require
13 immediate correction or further oversight relating to the
14 prescription, administration or self-administration of
15 psychotropic medications to or by children in protective
16 custody; and

17 (3) alert the children, youth and families
18 department and the human services department when any child's
19 psychotropic medication regime exceeds the "medically accepted
20 indication" standard.

21 I. As used in this section:

22 (1) "licensed practitioner" means a licensed
23 health care professional who has been authorized under state
24 law to prescribe psychotropic medications;

25 (2) "medically accepted indication" means any

1 use for a covered outpatient drug that is approved pursuant to
2 federal law or the use of which is supported by one or more
3 citations included or approved for inclusion in any of the
4 following compendia:

5 (a) the American hospital formulary
6 service drug information;

7 (b) the United States pharmacopoeia drug
8 information or any successor publication;

9 (c) the DRUGDEX information system; or

10 (d) peer-reviewed medical literature;

11 and

12 (3) "psychotropic medication" means
13 medication, the prescribed intent of which is to affect or
14 alter thought processes, mood or behavior, including
15 antipsychotic, antidepressant and anxiolytic medication and
16 behavior medications; provided that the classification of a
17 medication depends upon its stated intended effect when
18 prescribed, because it may have many different effects."

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