TO: Health and Human Services Commission
Executive Council
DATE: May 31, 2018
FROM: Kristi Jordan, Director, Health Care Quality
Regulatory Services Division

AGENDA ITEM: 3.u

SUBJECT: Do Not Resuscitate Order Procedures and Requirements

BACKGROUND: □ Federal ☑ Legislative □ Other: Program Initiative

The proposed rule amendments to 25 TAC Chapter 133, regarding Hospital Licensing are required by Senate Bill 11, 85th Legislature, First Called Session, 2017 (S.B. 11), which defines Do Not Resuscitate (DNR) orders and sets out procedures and requirements for issuing DNR orders. This bill applies to DNR orders issued in a health care facility or hospital. It does not apply to out-of-hospital DNR orders. S.B. 11 describes the requirements for a physician to issue a DNR order at the direction of a patient, an advance directive, the patient’s legal guardian or known agent under a medical power of attorney, or a person authorized to make treatment decisions under Texas Health and Safety Code, §166.039. S.B. 11 requires the health care facility or hospital to notify the patient or person authorized to make treatment decisions of the issuance of the order and the facility’s policies and procedures for DNR orders. It also prescribes actions the physician or facility must take when the physician or facility and the patient are in disagreement about the execution of, or compliance with, a DNR order.

Proposed amendments to §133.2, regarding Definitions, add a definition for “Do Not Resuscitate (DNR) order” and renumber the paragraphs to account for the addition.

Proposed amendments to §133.41, regarding Hospital Functions and Services add language requiring a hospital’s governing body to adopt, implement, and enforce policies and procedures regarding DNR orders. The proposed amendments also require a physician to enter into the patient’s medical record if a DNR order is established or discontinued; require that procedures regarding DNR orders to be included in the medical staff bylaws; and require the nursing plan of care to indicate whether a physician has issued a DNR order for a patient.
ISSUES AND ALTERNATIVES:

The proposed rules have received considerable public interest.

The Texas Hospital Association (THA) and the Texas Medical Association (TMA), both associations would prefer further clarification about the different types of DNR orders, such as “DNR but continue with hydration and nutrition” and “DNR but can use medications but no mechanical ventilation”.

STAKEHOLDER INVOLVEMENT:

The proposed rule amendments were discussed with THA and TMA. Comments received from stakeholders were reviewed by staff and taken into consideration. The comments from THA and TMA asked HHSC for clarification about the different types of DNR orders that can be issued by physicians in a health care facility or special hospital. HHSC received the comments from THA on January 5, 2018, and TMA on February 22, 2018.

The proposed rule amendments were published in the April 20, 2018, issue of the Texas Register.

FISCAL IMPACT:

☒ None

SERVICES IMPACT STATEMENT:

The public will benefit from the rule amendments because the amendments will ensure that health care facilities and hospitals comply with the requirements for DNR orders enacted by the Legislature.

RULE DEVELOPMENT SCHEDULE:

April 20, 2018        Publish proposed rules in Texas Register
May 31, 2018         Present to HHSC Executive Council
June 2018            Publish adopted rules in Texas Register
June 2018            Effective date
PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes amendments to §133.2, concerning Hospital Licensing and §133.41, concerning Hospital Functions and Services.

BACKGROUND AND PURPOSE

The purpose of the amendments is to implement Senate Bill (SB) 11, 85th Legislature, Special Session, 2017, which added Subchapter E to Texas Health and Safety Code, Chapter 166. This subchapter defines Do Not Resuscitate (DNR) orders and sets out procedures and requirements for issuing DNR orders. SB 11 applies to DNR orders issued in a health care facility or hospital. It does not apply to an out-of-hospital DNR order. The bill describes the requirements for a physician to issue a DNR order at the direction of a patient, an advance directive, the patient’s legal guardian or known agent under a medical power of attorney, or a person authorized to make treatment decisions under Texas Health and Safety Code, §166.039. The bill also requires the health care facility or hospital to notify the patient or person authorized to make treatment decisions of the facility’s policies and procedures for DNR orders, to notify the patient or person authorized to make treatment decisions of the issuance of the DNR order, and to take certain actions when the physician or facility and the patient are in disagreement about the execution of, or compliance with, a DNR order.

SECTION-BY-SECTION SUMMARY

The proposed amendments to §133.2 add a definition for “Do Not Resuscitate (DNR) order” and update the paragraph numbers to account for the additional definition. The amendments also update the agency names for the “Texas Board of Nursing” and the “Texas Physician Assistant Board” and replace references to the commissioner of state health services with references to the executive commissioner of health and human services.

The proposed amendment to §133.41(f) requires the governing body to adopt, implement, and enforce policies and procedures regarding DNR orders and disagreements.

The proposed amendment to §133.41(j) requires that if a DNR order is established or revoked, it should be entered into the patient’s medical record.

The proposed amendment to §133.41(k) requires the facility to include in its medical staff bylaws procedures regarding a DNR order, the rights of the
patient and the person authorized to make treatment decisions based on the patient’s DNR order, and actions the physician and facility must take when the physician or facility and the patient are in disagreement about the execution of, or compliance with, a DNR order.

The proposed amendment to §133.41(o) requires that the nursing plan of care for each patient indicate whether a physician has issued a DNR order for the patient and to inform the patient or the person authorized to make treatment decisions.

The proposed amendment to §133.41(y) updates references to the Texas Commission for Environmental Quality rules concerning medical waste management.

FISCAL NOTE

Greta Rymal, HHSC Deputy Executive Commissioner for Financial Services, has determined that for each year of the first five years that the sections will be in effect, there will be no implications to costs or revenues of state or local governments as a result of enforcing and administering the sections as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the sections will be in effect, implementation of the proposed amended rules:

(1) will not create or eliminate a government program;

(2) will not affect the number of employee positions.

(3) will not require an increase or decrease in future legislative appropriations;

(4) will not affect fees paid to the agency;

(5) will not create new rules;

(6) will expand existing rules;

(7) will not change the number of individuals subject to the rules; and

(8) are unlikely to have a significant impact on the state’s economy.
SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Greta Rymal, HHSC Deputy Executive Commissioner for Financial Services, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

These rules will not affect DNR orders themselves. The proposal instead adds a requirement that DNR orders be documented, either electronically, or on paper in the patient’s medical record, included in the nursing plan of care, and communicated to the patient or the patient’s legal guardian, the person holding the patient’s medical power of attorney, or the patient’s spouse, adult child (if available), or parent (patient’s representative).

HHSC assumes that the doctor and the nursing staff will create required documentation during existing medical charting processes and communicate with the patient or the patient’s representative during regular doctor visits.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

There is no anticipated negative impact on local economies.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045, does not apply to these rules because the rules are necessary to implement legislation that does not specifically state that §2001.0045 applies to these rules.

PUBLIC BENEFIT

David Kostroun, HHSC Deputy Executive Commissioner for Regulatory Services, has determined that for each year of the first five years the amendments will be in effect, the expected public benefits from the proposed amendments are that hospitals will have rules defining DNR orders and setting out procedures and requirements for issuing DNR orders to comply with the statutory changes implemented by SB 11.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of
government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Written comments on the proposal may be submitted to the Health and Human Services Commission, Mail Code 1065, P.O. Box 13247, Austin, Texas 78711, or by email to SB11DNRrulecomments@hhsc.state.tx.us. Please specify "Comments on DNR Proposed Rules" in the subject line.

Comments are accepted for 30 days following publication of the proposal in the Texas Register. If the last day to submit comments falls on a weekend or a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted.

STATUTORY AUTHORITY

The proposed amendments are required by SB 11, 85th Legislature, Special Session, 2017, which defines a Do Not Resuscitate (DNR) order and sets out general procedures and requirements for health care facilities and hospitals regarding DNR orders in the Texas Health and Safety Code, Chapter 166. Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075 authorize the Executive Commissioner to adopt rules and policies necessary for the operation and provision of health and human services.


The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

For further information, please call: (512) 834-6651.
§133.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (16) (No change.)

(17) Do Not Resuscitate (DNR) order--An order instructing a health care professional not to attempt cardiopulmonary resuscitation on a patient whose circulatory or respiratory function ceases.

(18) Emergency medical condition--A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances or symptoms of substance abuse) such that the absence of immediate medical attention could reasonably be expected to result in one or all of the following:

(A) placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

(B) serious impairment to bodily functions;

(C) serious dysfunction of any bodily organ or part; or

(D) with respect to a pregnant woman who is having contractions:

   (i) that there is inadequate time to effect a safe transfer to another hospital before delivery; or

   (ii) that transfer may pose a threat to the health or safety of the woman or the unborn child.

(19) Freestanding emergency medical care facility--A facility that is structurally separate and distinct from a hospital and receives individuals for the provision of emergency care. The facility is owned and operated by the hospital, and is exempt from the licensing requirements of Texas Health and Safety Code, Chapter 254, under §254.052(7) or (8).

(20) General hospital--An establishment that:
(A) offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals requiring diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy; and

(B) regularly maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent.

(21) Governing body--The governing authority of a hospital which is responsible for a hospital's organization, management, control, and operation, including appointment of the medical staff; includes the owner or partners for hospitals owned or operated by an individual or partners.

(22) Governmental unit--A political subdivision of the state, including a hospital district, county, or municipality, and any department, division, board, or other agency of a political subdivision.

(23) Hospital--A general hospital or a special hospital.

(24) Hospital administration--Administrative body of a hospital headed by an individual who has the authority to represent the hospital and who is responsible for the operation of the hospital according to the policies and procedures of the hospital's governing body.

(25) Inpatient--An individual admitted for an intended length of stay of 24 hours or greater.

(26) Inpatient services--Services provided to an individual admitted to a hospital for an intended length of stay of 24 hours or greater.

(27) Intellectual Disability--Significantly sub-average general intellectual functioning that is concurrent with deficits in adaptive behavior and originates during the developmental period.

(28) Licensed vocational nurse (LVN)--A person who is currently licensed under the Nursing Practice Act by the Texas Board of Nursing [Board of Nurse Examiners] for the State of Texas as a licensed vocational nurse or who holds a valid vocational nursing license with multi-state licensure privilege from another compact state.

(29) Licensee--The person or governmental unit named in the application for issuance of a hospital license.
(30) [(29)] Medical staff--A physician or group of physicians and a podiatrist or group of podiatrists who by action of the governing body of a hospital are privileged to work in and use the facilities of a hospital for or in connection with the observation, care, diagnosis, or treatment of an individual who is, or may be, suffering from a mental or physical disease or disorder or a physical deformity or injury.

(31) [(30)] Mental health services--All services concerned with research, prevention, and detection of mental disorders and disabilities and all services necessary to treat, care for, supervise, and rehabilitate persons who have a mental disorder or disability, including persons whose mental disorders or disabilities result from alcoholism or drug addiction.

(32) [(31)] Niche hospital--A hospital that:

(A) classifies at least two-thirds of the hospital's Medicare patients or, if data is available, all patients:

(i) in not more than two major diagnosis-related groups; or

(ii) in surgical diagnosis-related groups.

(B) specializes in one or more of the following areas:

(i) cardiac;

(ii) orthopedics;

(iii) surgery; or

(iv) women's health; and

(C) is not:

(i) a public hospital;

(ii) a hospital for which the majority of inpatient claims are for major diagnosis-related groups relating to rehabilitation, psychiatry, alcohol and drug treatment, or children or newborns; or

(iii) a hospital with fewer than 10 claims per bed per year.

(33) [(32)] Nurse--A registered, vocational, or advanced practice registered nurse licensed by the Texas Board of Nursing or entitled to practice in this state under Occupations Code, Chapters 301, 304, or 305.
(34) Outpatient--An individual who presents for diagnostic or treatment services for an intended length of stay of less than 24 hours; provided, however, that an individual who requires continued observation may be considered as an outpatient for a period of time not to exceed a total of 48 hours.

(35) Outpatient services--Services provided to patients whose medical needs can be met in less than 24 hours and are provided within the hospital; provided, however, that services that require continued observation may be considered as outpatient services for a period of time not to exceed a total of 48 hours.

(36) Owner--One of the following persons or governmental unit which will hold or does hold a license issued under the statute in the person's name or the person's assumed name:

(A) a corporation;

(B) a governmental unit;

(C) a limited liability company;

(D) an individual;

(E) a partnership if a partnership name is stated in a written partnership agreement or an assumed name certificate;

(F) all partners in a partnership if a partnership name is not stated in a written partnership agreement or an assumed name certificate; or

(G) all co-owners under any other business arrangement.

(37) Patient--An individual who presents for diagnosis or treatment.

(38) Pediatric and adolescent hospital--A general hospital that specializes in providing services to children and adolescents, including surgery and related ancillary services.

(39) Person--An individual, firm, partnership, corporation, association, or joint stock company, and includes a receiver, trustee, assignee, or other similar representative of those entities.

(40) Physician--A physician licensed by the Texas Medical Board.
(41) [(40)] Physician assistant--A person licensed as a physician assistant by the Texas Physician Assistant Board [Texas State Board of Physician Assistant Examiners].

(42) [(41)] Podiatrist--A podiatrist licensed by the Texas State Board of Podiatric Medical Examiners.

(43) [(42)] Practitioner--A health care professional licensed in the State of Texas, other than a physician, podiatrist, or dentist. A practitioner shall practice in a manner consistent with their underlying practice act.

(44) [(43)] Premises--A premises may be any of the following:

(A) a single building where inpatients receive hospital services; or

(B) multiple buildings where inpatients receive hospital services provided that the following criteria are met:

(i) all buildings in which inpatients receive hospital services are subject to the control and direction of the same governing body;

(ii) all buildings in which inpatients receive hospital services are within a 30-mile radius of the primary hospital location;

(iii) there is integration of the organized medical staff of each of the hospital locations to be included under the single license;

(iv) there is a single chief executive officer for all of the hospital locations included under the license who reports directly to the governing body and through whom all administrative authority flows and who exercises control and surveillance over all administrative activities of the hospital;

(v) there is a single chief medical officer for all of the hospital locations under the license who reports directly to the governing body and who is responsible for all medical staff activities of the hospital;

(vi) each hospital location to be included under the license that is geographically separate from the other hospital locations contains at least one nursing unit for inpatients which is staffed and maintains an active inpatient census, unless providing only diagnostic or laboratory services, or a combination of diagnostic or laboratory services, in the building for hospital inpatients; and
(vii) each hospital that is to be included in the license complies with the emergency services standards:

(I) for a general hospital, if the hospital provides surgery or obstetrical care or both; or

(II) for a special hospital, if the hospital does not provide surgery or obstetrical care.

(45) [(44)] Presurvey conference--A conference held with department staff and the applicant or the applicant's representative to review licensure rules and survey documents and provide consultation prior to the on-site licensure inspection.

(46) [(45)] Psychiatric disorder--A clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is typically associated with either a painful syndrome (distress) or impairment in one or more important areas of behavioral, psychological, or biological function and is more than a disturbance in the relationship between the individual and society.

(47) [(46)] Quality improvement--A method of evaluating and improving processes of patient care which emphasizes a multidisciplinary approach to problem solving, and focuses not on individuals, but systems of patient care which might be the cause of variations.

(48) [(47)] Registered nurse (RN)--A person who is currently licensed by the Texas Board of Nursing for the State of Texas as a registered nurse or who holds a valid registered nursing license with multi-state licensure privilege from another compact state.

(49) [(48)] Special hospital--An establishment that:

(A) offers services, facilities, and beds for use for more than 24 hours for two or more unrelated individuals who are regularly admitted, treated, and discharged and who require services more intensive than room, board, personal services, and general nursing care;

(B) has clinical laboratory facilities, diagnostic X-ray facilities, treatment facilities, or other definitive medical treatment;

(C) has a medical staff in regular attendance; and

(D) maintains records of the clinical work performed for each patient.
(50) [(49)] Stabilize--With respect to an emergency medical condition, to provide such medical treatment of the condition necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility, or that the woman has delivered the child and the placenta.

(51) [(50)] Surgical technologist--A person who practices surgical technology as defined in Health and Safety Code, Chapter 259.

(52) [(51)] Transfer--The movement (including the discharge) of an individual outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of an individual who has been declared dead, or leaves the facility without the permission of any such person.

(53) [(52)] Universal precautions--Procedures for disinfection and sterilization of reusable medical devices and the appropriate use of infection control, including hand washing, the use of protective barriers, and the use and disposal of needles and other sharp instruments as those procedures are defined by the Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services. This term includes standard precautions as defined by CDC which are designed to reduce the risk of transmission of blood borne and other pathogens in hospitals.

(54) [(53)] Violation--Failure to comply with the licensing statute, a rule or standard, special license provision, or an order issued by the executive commissioner of health and human services [commissioner of state health services] (executive commissioner) or the executive commissioner's designee, adopted or enforced under the licensing statute. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.
§133.41. Hospital Functions and Services.

(a) - (e) (No change.)

(f) Governing body.

(1) - (5) (No change.)

(6) Patient care. In accordance with hospital policy adopted, implemented and enforced, the governing body shall ensure that:

(A) - (E) (No change.)

(F) the governing body shall adopt, implement, and enforce a policy and procedure regarding the removal of personal wrist bands and bracelets as well as a patient's right to refuse to wear condition alert wrist bands;

and[.]

(G) the governing body shall adopt, implement, and enforce policies and procedures regarding DNR orders issued in the facility, the rights of the patient and person authorized to make treatment decisions regarding the patient's DNR status, and actions the physician and facility must take when the physician or facility and the patient are in disagreement about the execution of, or compliance with, a DNR order.

(7) - (9) (No change.)

(g) - (i) (No change.)

(j) Medical record services. The hospital shall have a medical record service that has administrative responsibility for medical records. A medical record shall be maintained for every individual who presents to the hospital for evaluation or treatment.

(1) - (4) (No change.)

(5) If a physician establishes a DNR order for a patient, that order must be entered into the patient medical record as soon as practicable. In the
event a physician revokes a DNR order, that revocation order shall also be
entered in the patient medical record as soon as practicable.

(6) [(5)] Medical record entries must be legible, complete, dated, timed,
and authenticated in written or electronic form by the person responsible for
providing or evaluating the service provided, consistent with hospital policies
and procedures.

(7) [(6)] All orders (except verbal orders) must be dated, timed, and
authenticated the next time the prescriber or another practitioner who is
responsible for the care of the patient and has been credentialed by the
medical staff and granted privileges which are consistent with the written
orders provides care to the patient, assesses the patient, or documents
information in the patient's medical record.

(8) [(7)] All verbal orders must be dated, timed, and authenticated within
96 hours by the prescriber or another practitioner who is responsible for the
care of the patient and has been credentialed by the medical staff and
granted privileges which are consistent with the written orders.

(A) Use of signature stamps by physicians and other licensed
practitioners credentialed by the medical staff may be allowed in hospitals
when the signature stamp is authorized by the individual whose signature
the stamp represents. The administrative offices of the hospital shall have
on file a signed statement to the effect that he or she is the only one who
has the stamp and uses it. The use of a signature stamp by any other person
is prohibited.

(B) A list of computer codes and written signatures shall be readily
available and shall be maintained under adequate safeguards.

(C) Signatures by facsimile shall be acceptable. If received on a
thermal machine, the facsimile document shall be copied onto regular paper.

(9) [(8)] Medical records (reports and printouts) shall be retained by the
hospital in their original or legally reproduced form for a period of at least
ten years. A legally reproduced form is a medical record retained in hard
copy, microform (microfilm or microfiche), or other electronic medium.
Films, scans, and other image records shall be retained for a period of at
least five years. For retention purposes, medical records that shall be
preserved for ten years include:

(A) identification data;
(B) the medical history of the patient;

(C) evidence of a physical examination, including a health history, performed no more than 30 days prior to admission or within 24 hours after admission. The medical history and physical examination shall be placed in the patient's medical record within 24 hours after admission;

(D) an updated medical record entry documenting an examination for any changes in the patient's condition when the medical history and physical examination are completed within 30 days before admission. This updated examination shall be completed and documented in the patient's medical record within 24 hours after admission;

(E) admitting diagnosis;

(F) diagnostic and therapeutic orders;

(G) properly executed informed consent forms for procedures and treatments specified by the medical staff, or by federal or state laws if applicable, to require written patient consent;

(H) clinical observations, including the results of therapy and treatment, all orders, nursing notes, medication records, vital signs, and other information necessary to monitor the patient's condition;

(I) reports of procedures, tests, and their results, including laboratory, pathology, and radiology reports;

(J) results of all consultative evaluations of the patient and appropriate findings by clinical and other staff involved in the care of the patient;

(K) discharge summary with outcome of hospitalization, disposition of care, and provisions for follow-up care; and

(L) final diagnosis with completion of medical records within 30 calendar days following discharge.

(10) [(9)] If a patient was less than 18 years of age at the time he was last treated, the hospital may authorize the disposal of those medical records relating to the patient on or after the date of his 20th birthday or on or after the 10th anniversary of the date on which he was last treated, whichever date is later.
(11) [(10)] The hospital shall not destroy medical records that relate to any matter that is involved in litigation if the hospital knows the litigation has not been finally resolved.

(12) [(11)] The hospital shall provide written notice to a patient, or a patient's legally authorized representative, that the hospital may authorize the disposal of medical records relating to the patient on or after the periods specified in this section. The notice shall be provided to the patient or the patient's legally authorized representative not later than the date on which the patient who is or will be the subject of a medical record is treated, except in an emergency treatment situation. In an emergency treatment situation, the notice shall be provided to the patient or the patient's legally authorized representative as soon as is reasonably practicable following the emergency treatment situation.

(13) [(12)] If a licensed hospital should close, the hospital shall notify the department at the time of closure the disposition of the medical records, including the location of where the medical records will be stored and the identity and telephone number of the custodian of the records.

(k) Medical staff.

(1) - (2) (No change.)

(3) The medical staff shall adopt, implement, and enforce bylaws, rules, and regulations to carry out its responsibilities. The bylaws shall:

(A) - (D) (No change.)

(E) include criteria for determining the privileges to be granted and a procedure for applying the criteria to individuals requesting privileges; [and]

(F) include a requirement that a physical examination and medical history be done no more than 30 days before or 24 hours after an admission for each patient by a physician or other qualified practitioner who has been granted these privileges by the medical staff. The medical history and physical examination shall be placed in the patient's medical record within 24 hours after admission. When the medical history and physical examination are completed within the 30 days before admission, an updated examination for any changes in the patient's condition must be completed and documented in the patient's medical record within 24 hours after admission; and[.]
(G) include procedures regarding DNR orders, the rights of the patient and person authorized to make treatment decisions regarding the patient’s DNR status, and procedures to ensure that the physician establishing a DNR order informs the patient of the order’s issuance and documents the notification in the patient’s medical record. The procedures shall ensure that if the patient is incompetent the physician shall inform the patient’s known agent under a medical power of attorney or legal guardian or, if a patient does not have a medical power of attorney or legal guardian, a person described by Health and Safety Code, §166.039(b)(1), (2), or (3), of the DNR order’s issuance. The procedures shall include the actions the physician and facility must take when the physician or facility and the patient are in disagreement about the execution of, or compliance with, a DNR order.

(l) - (n) (No change.)

(o) Nursing services. The hospital shall have an organized nursing service that provides 24-hour nursing services as needed.

(1) (No change.)

(2) Staffing and delivery of care.

(A) - (D) (No change.)

(E) The nursing staff shall develop and keep current a nursing plan of care for each patient which addresses the patient's needs. The plan shall indicate whether the patient’s attending physician has issued a DNR order for the patient. The nursing staff shall inform the patient of the DNR order; or if the patient is incompetent, the nursing staff shall inform the patient’s known agent under a medical power of attorney or legal guardian or, if a patient does not have a medical power of attorney or legal guardian, a person described by Health and Safety Code, §166.039(b)(1), (2), or (3) of the DNR order.

(F) - (I) (No change.)

(3) - (8) (No change.)

(p) - (x) (No change.)

(y) Waste and waste disposal.

(1) Special waste and liquid/sewage waste management.
(A) The hospital shall comply with the requirements set forth by the department in §§1.131 - 1.137 of this title (relating to Definition, Treatment, and Disposition of Special Waste from Health Care-Related Facilities) and the TCEQ requirements in 30 TAC Chapter 326, Medical Waste Management, §326.17, §326.19, §326.21, and §326.23 (relating to Packaging, Labeling and Shipping Requirements) and §326.31 (relating to Exempt Medical Waste Operations) [§330.1207 (relating to Generators of Medical Waste)].

(B) (No change.)

(2) (No change.)