The existing rules in Texas Administrative Code (TAC) [Title 25, Part 1, Chapter 411, Subchapter J](https://texreg.sos.state.tx.us/public/readtac%24ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=411&sch=J), relating to Standards of Care and Treatment in Psychiatric Hospitals, are being repealed and updated new rules, relating to Standards of Care and Treatment in Psychiatric Hospitals, are being proposed in 26 TAC new Chapter 568.

# TITLE 26 HEALTH AND HUMAN SERVICES

# PART 1 HEALTH AND HUMAN SERVICES COMMISSION

# CHAPTER 568 STANDARDS OF CARE AND TREATMENT IN PSYCHIATRIC HOSPITALS

# SUBCHAPTER A GENERAL REQUIREMENTS

§568.451. Purpose.

The purpose of this subchapter is to describe standards to ensure the proper care and treatment of prospective patients and patients in private psychiatric hospitals licensed under Texas Health and Safety Code, Chapter 577, and Chapter 510 of this title (relating to Private Psychiatric Hospitals and Crisis Stabilization Units Licensing), and in identifiable mental health services units in hospitals licensed under Texas Health and Safety Code, Chapter 241, and 25 TAC, Chapter 133 (relating to Hospital Licensing).

§568.452. Application.

This subchapter applies to:

 (1) private psychiatric hospitals licensed under Texas Health and Safety Code, Chapter 577 and Chapter 510 of this title (relating to Private Psychiatric Hospitals and Crisis Stabilization Units Licensing); and

 (2) identifiable mental health services units in hospitals licensed under Texas Health and Safety Code, Chapter 241, and 25 TAC, Chapter 133 (relating to Hospital Licensing).

§568.453. Definitions.

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

 (1) Administrator--The individual, appointed by a governing body, who has authority to represent the hospital and, as delegated by the governing body, has responsibility for operating the hospital in accordance with the hospital's written policies and procedures.

 (2) Administrator's designee--An individual designated in a hospital's written policies and procedures to act for a specified purpose on behalf of the administrator.

 (3) Admission--The acceptance of an individual to a hospital's custody and care for inpatient mental health treatment based on:

 (A) a physician's order issued in accordance with §568.461(d)(2)(B) of this chapter (relating to Voluntary Admission);

 (B) a physician's order issued in accordance with §568.462(c)(3) of this chapter (relating to Emergency Detention);

 (C) a protective custody order issued in accordance with Texas Health and Safety Code, §574.022;

 (D) an order for temporary inpatient mental health services issued in accordance with Texas Health and Safety Code, §574.034;

 (E) an order for extended inpatient mental health services issued in accordance with Texas Health and Safety Code, §574.035;

 (F) an order for commitment issued in accordance with the Texas Code of Criminal Procedure, Article 46B.073(d); or

 (G) an order for placement in accordance with Texas Family Code, §55.33(a)(1)(B) or §55.52(a)(1)(B).

 (4) Adult--An individual 18 years of age and older or an individual who is under 18 years of age and is or has been married or who has had the disabilities of minority removed for general purposes.

 (5) Advanced practice nurse (APN)--A registered nurse (RN) approved by the Texas Board of Nursing to practice as an advanced practice nurse, in accordance with Texas Occupations Code, Chapter 301. The term is synonymous with "advanced nurse practitioner."

 (6) Business day--Any day except a Saturday, Sunday, or legal holiday.

 (7) CFR--The Code of Federal Regulations.

 (8) Co-occurring psychiatric and substance use disorders (COPSD)--A diagnosis of both a mental illness and a substance use disorder.

 (9) Council on Social Work Education--The national organization that is primarily responsible for the accreditation of schools of social work in the United States.

 (10) Day--Calendar day.

 (11) Discharge--The release by a hospital of a patient from the custody and care of the hospital.

 (12) DSM--The current edition of the *Diagnostic Statistical Manual of Mental Disorders* published by the American Psychiatric Association.

 (13) 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:

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

 (B) serious impairment to bodily functions;

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

 (D) in the case of 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.

 (14) Governing body--The governing authority of a hospital that is responsible for the hospital's organization, management, control and operation, including appointment of the administrator.

 (15) HHSC--The Texas Health and Human Services Commission.

 (16) Hospital--

 (A) A private psychiatric hospital licensed under Texas Health and Safety Code, Chapter 577, and Chapter 510 of this title (relating to Private Psychiatric Hospitals and Crisis Stabilization Units Licensing); or

 (B) an identifiable inpatient mental health services unit in a hospital licensed under Texas Health and Safety Code, Chapter 241, and 25 TAC, Chapter 133 (relating to Hospital Licensing).

 (17) Interdisciplinary treatment team (IDT)--A group of individuals who possess the knowledge, skills and expertise to develop and implement a patient's treatment plan and includes:

 (A) the patient's treating physician;

 (B) the patient and the patient's legally authorized representative (LAR), if any;

 (C) the staff members identified in the treatment plan as responsible for providing or ensuring the provision of each treatment in accordance with §568.471(c)(1)(E)(iii) of this chapter (relating to Inpatient Mental Health Treatment and Treatment Planning);

 (D) any individual identified by the patient or the patient's LAR, unless clinically contraindicated; and

 (E) other staff members as clinically appropriate.

 (18) Inpatient mental health treatment--Residential care provided in a hospital for a patient with a mental illness and a substance use disorder, if any, which includes:

 (A) medical services;

 (B) nursing services;

 (C) social services;

 (D) therapeutic activities, if ordered by the treating physician; and

 (E) psychological services, if ordered by the treating physician.

 (19) Involuntary patient--A patient who is receiving inpatient mental health treatment based on an admission made in accordance with:

 (A) §568.462 of this chapter (relating to Emergency Detention); or

 (B) §568.463 of this chapter (relating to Admission of an Individual Under Protective Custody Order for Court-ordered Inpatient Mental Health Services, or Under Order for Commitment or Order for Placement).

 (20) Legally authorized representative (LAR)--An individual authorized by law to act on behalf of an individual regarding a matter described in this subchapter, and may be a parent, guardian, or managing conservator of a minor, or the guardian of an adult.

 (21) Legal holiday--A holiday listed in Texas Government Code, §662.021 and an officially designated county holiday applicable to a court in which proceedings are held under the Texas Mental Health Code.

 (22) Licensed marriage and family therapist--An individual who is licensed as a marriage and family therapist by the Texas State Board of Examiners of Marriage and Family Therapists in accordance with Texas Occupations Code, Chapter 502.

 (23) Licensed master social worker--An individual who is licensed as a master social worker by the Texas State Board of Social Work Examiners in accordance with Texas Occupations Code, Chapter 505.

 (24) Licensed professional counselor--An individual who is licensed as a professional counselor by the Texas State Board of Examiners of Professional Counselors in accordance with Texas Occupations Code, Chapter 503.

 (25) Licensed psychologist--An individual who is licensed as a psychologist by the Texas State Board of Examiners of Psychologists in accordance with Texas Occupations Code, Chapter 501.

 (26) Licensed social worker--An individual who is licensed as a social worker by the Texas State Board of Social Work Examiners in accordance with Texas Occupations Code, Chapter 505.

 (27) Licensed vocational nurse (LVN)--An LVN is an individual who is licensed as a vocational nurse by the Texas Board of Nursing in accordance with Texas Occupations Code, Chapter 301.

 (28) Mandatory overtime--The time, other than on-call time, a nursing staff member is required to work at a hospital beyond the hours or days that were scheduled for the staff member. Neither the length of the shift (whether 4, 8, 12, or 16 hours) nor the number of shifts scheduled to work per week (whether 4, 5, or 6 per week) is the determinative factor in deciding whether time is mandatory overtime.

 (29) Medical services--Services provided or delegated by a physician acting within the scope of the physician’s practice, as described in Texas Occupations Code, Chapter 155.

 (30) Mental illness--An illness, disease, or condition (other than epilepsy, dementia, substance use disorder, or intellectual disability) that:

 (A) substantially impairs an individual's thought, perception of reality, emotional process, or judgment; or

 (B) grossly impairs an individual's behavior as demonstrated by recent disturbed behavior.

 (31) Minor--An individual under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.

 (32) Monitoring--One or more staff members observing a patient on a continual basis or at pre-determined intervals and intervening when necessary to protect the patient from harming self or others.

 (33) National League for Nursing--The national organization that is primarily responsible for the accreditation of nursing education programs in the United States.

 (34) Neurological screening--A screening to assess an individual's neurological functioning.

 (35) Nosocomial infection--A hospital-acquired infection of a patient.

 (36) Nursing services--Services provided, assigned to an LVN, or delegated to unlicensed assistive personnel (UAP) by an RN acting within the scope of the RN’s practice, as described in Texas Occupations Code, Chapter 301.

 (37) Nursing staff--Staff members of a hospital who are registered nurses, licensed vocational nurses or UAP.

 (38) Occupational therapist--An individual who is licensed as an occupational therapist by the Texas Board of Occupational Therapy Examiners in accordance with Texas Occupations Code, Chapter 454.

 (39) Pre-admission screening professional (PASP)--A staff member whose responsibilities include conducting a pre-admission screening and who is:

 (A) a physician;

 (B) a physician assistant;

 (C) a registered nurse;

 (D) a licensed psychologist;

 (E) a psychological associate;

 (F) a licensed social worker;

 (G) a licensed professional counselor; or

 (H) a licensed marriage and family therapist.

 (40) Patient--An individual who has been admitted to a hospital and has not been discharged.

 (41) Physician--An individual who is:

 (A) licensed as a physician by the Texas State Board of Medical Examiners in accordance with Texas Occupations Code, Chapter 155; or

 (B) authorized to perform medical acts under an institutional permit at a Texas postgraduate training program approved by the Accreditation Council on Graduate Medical Education, the American Osteopathic Association, or the Texas State Board of Medical Examiners.

 (42) Physician assistant--An individual who is licensed as a physician assistant by the Texas State Board of Physician Assistant Examiners in accordance with Texas Occupations Code, Chapter 204.

 (43) Pre-admission screening--The clinical process used to gather information from a prospective patient, including a medical history, any history of substance use, and the problem for which the prospective patient is seeking treatment, to determine if a physician should conduct an admission examination.

 (44) Prospective patient--An individual:

 (A) for whom a request for voluntary admission has been made, in accordance with §568.461(a) of this chapter (relating to Voluntary Admission); or

 (B) who has been accepted by a hospital for a preliminary examination, in accordance with §568.462(a) of this chapter (relating to Emergency Detention).

 (45) Psychological associate--An individual who is licensed as a psychological associate by the Texas State Board of Examiners of Psychologists in accordance with Texas Occupations Code, Chapter 501.

 (46) Psychological services--Services provided by a psychologist or psychological associate acting within the scope of the psychologist’s practice, as described in Texas Occupations Code, Chapter 501.

 (47) Psychologist--An individual who is licensed as a psychologist by the Texas State Board of Examiners of Psychologists in accordance with Texas Occupations Code, Chapter 501.

 (48) Registered nurse (RN)--An individual who is licensed as an RN by the Texas Board of Nursing in accordance with Texas Occupations Code, Chapter 301.

 (49) Sentinel event--Any of the following occurrences that is unexpected:

 (A) the death of a patient;

 (B) the serious physical injury of a patient;

 (C) the serious psychological injury of a patient; or

 (D) circumstances that present the imminent risk of death, serious physical injury, or serious psychological injury of a patient.

 (50) Social services--Services provided by:

 (A) a licensed master social worker or licensed social worker acting within the scope of the social worker’s practice, as described in Texas Occupations Code, Chapter 505; or

 (B) a licensed professional counselor acting within the scope of the professional counselor’s practice, as described in Texas Occupations Code, Chapter 503.

 (51) Stabilize--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 hospital or, if the emergency medical condition for a woman is that she is in labor, that the woman has delivered the child and the placenta.

 (52) Staff members--All personnel of a hospital including full-time and part-time employees, contractors, students, volunteers, and professionals granted privileges by the hospital.

 (53) Substance related disorder--The use of one or more drugs, including alcohol, which significantly and negatively impacts one or more major areas of life functioning and which currently meets the criteria for substance abuse or substance dependence as described in the DSM.

 (54) TAC--The Texas Administrative Code.

 (55) Therapeutic activities--Structured activities designed to develop, restore or maintain a patient's optimal level of physical and psychosocial functioning limited to:

 (A) recreational therapy provided by a therapeutic recreation specialist;

 (B) physical therapy, speech therapy, or occupational therapy, provided by a licensed staff member acting within the scope of the staff member's practice;

 (C) art therapy provided by a staff member who is a Board Certified Art Therapist (ATR-BC);

 (D) music therapy provided by a staff member who is a Board Certified Music Therapist (MT-BC); or

 (E) psychosocial or leisure activities provided by qualified staff members.

 (56) Therapeutic recreation specialist--An individual who is certified as a therapeutic recreation specialist by the Texas Consortium for Therapeutic Recreation/Activities Certification or a certified therapeutic recreation specialist by the National Council for Therapeutic Recreation Certification.

 (57) Treating physician--A physician who coordinates and oversees the implementation of a patient's treatment plan.

 (58) Unit--A discrete and identifiable area of a hospital that includes patients' rooms or other patient living areas and is separated from another similar area:

 (A) by a locked door;

 (B) by a floor; or

 (C) because the other similar area is in a different building.

 (59) Unlicensed assistive personnel (UAP)--An individual, not licensed as a health care provider, who provides certain health related tasks or functions in a complementary or assistive role to a registered nurse in providing direct patient care or carrying out common nursing functions.

 (60) Voluntary patient--A patient who is receiving inpatient mental health treatment based on an admission made in accordance with:

 (A) §568.461 of this chapter (relating to Voluntary Admission); or

 (B) §568.465 of this chapter (relating to Voluntary Treatment Following Involuntary Admission).

§568.454. General Provisions.

(a) Written policies and procedures. A hospital shall develop written policies and procedures that ensure compliance with this subchapter.

(b) Compliance by staff. All staff members shall comply with this subchapter and the policies and procedures of the hospital required by subsection (a) of this section.

(c) Responsibility of hospital. A hospital shall be responsible for a staff member's compliance with this subchapter and the policies and procedures required by subsection (a) of this section.

(d) Enforcement of policies and procedures. A hospital shall take appropriate measures to ensure a staff member's compliance with this subchapter and the policies and procedures required by subsection (a) of this section.

(e) Implementation of physician orders. A hospital shall implement all orders issued by a physician for a patient or provide adequate written justification for failing to implement the orders.

(f) Physician delegation. Except as provided by §568.461(f)(3) of this chapter (relating to Voluntary Admission), or other state law as applicable, a physician may delegate any medical service described in this subchapter in accordance with Texas Occupations Code, §157.001.

(g) Compliance with rules. A hospital shall comply with the following Texas Health and Human Services Commission rules:

 (1) 25 TAC, Chapter 404, Subchapter E (relating to Rights of Persons Receiving Mental Health Services);

 (2) 25 TAC, Chapter 405, Subchapter E (relating to Electroconvulsive Therapy (ECT));

 (3) 25 TAC, Chapter 415, Subchapter F (relating to Interventions in Mental Health Programs); and

 (4) 25 TAC, Chapter 405, Subchapter FF (relating to Consent to Treatment with Psychoactive Medication).

(h) Compliance with Treatment Facilities Marketing Practices Act. A hospital shall comply with Texas Health and Safety Code, Chapter 164, unless the hospital is an exemption described in Texas Health and Safety Code, §164.004.

(i) Compliance with the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) standards. A hospital shall be in substantial compliance with inpatient standards set forth by JCAHO; that is, the standards for inpatient care in the current edition of the Comprehensive Accreditation Manual for Hospitals. When federal or state law, rule, or regulation conflicts with inpatient standards, the federal or state law, rule, or regulation prevails.

§568.455. Individuals with a Sole Diagnosis of a Substance Use Disorder.

A hospital shall comply with 25, TAC, Chapter 448 (relating to Standard of Care) in admitting, treating, and discharging an individual with a sole diagnosis of a substance use disorder.

# TITLE 26 HEALTH AND HUMAN SERVICES

# PART 1 HEALTH AND HUMAN SERVICES COMMISSION

# CHAPTER 568 STANDARDS OF CARE AND TREATMENT IN PSYCHIATRIC HOSPITALS

# SUBCHAPTER B ADMISSION

§568.459. Admission Criteria.

A hospital shall develop and implement written admission criteria that:

 (1) uniformly apply to all prospective patients;

 (2) permit the admission of a prospective patient only if the patient has a mental illness of sufficient severity to require inpatient mental health treatment; and

 (3) prevent the admission of a prospective patient who:

 (A) requires specialized care not available at the hospital; or

 (B) has a physical medical condition that is unstable and could reasonably be expected to require inpatient treatment for the condition.

§568.461. Voluntary Admission.

(a) Request for voluntary admission.

 (1) In accordance with Texas Health and Safety Code §572.001(a) and (c), a request for voluntary admission of a prospective patient may only be made by:

 (A) the prospective patient, if:

 (i) the patient is at least 16 years of age or older; or

 (ii) the patient is younger than 16 years of age and is or has been married; or

 (B) the parent, managing conservator, or guardian of the prospective patient, if the prospective patient is younger than 18 years of age and is not and has not been married, except that a guardian or managing conservator acting as an employee or agent of the state or a political subdivision of the state may request admission of the prospective patient only with the prospective patient's consent.

 (2) In accordance with Texas Health and Safety Code §572.001(b) and (e), a request for admission shall:

 (A) be in writing and signed by the individual making the request; and

 (B) include a statement that the individual making the request:

 (i) agrees that the prospective patient will remain in the hospital until discharged; and

 (ii) consents to diagnosis, observation, care and treatment of the prospective patient until the earlier of one of the following occurrences:

 (I) the discharge of the prospective patient; or

 (II) the prospective patient is entitled to leave the hospital, in accordance with Texas Health and Safety Code §572.004, after a request for discharge is made.

 (3) The consent given under paragraph (2)(B)(ii) of this subsection does not waive a patient's rights described in the rules listed under §568.454(g) of this chapter (relating to General Provisions).

(b) Capacity to consent. If a prospective patient does not have the capacity to consent to diagnosis, observation, care and treatment, as determined by a physician, then the hospital may not admit the prospective patient on a voluntary basis. When appropriate, the hospital may initiate an emergency detention proceeding in accordance with Texas Health and Safety Code, Chapter 573, or file an application for court-ordered inpatient mental health services in accordance with Texas Health and Safety Code, Chapter 574.

(c) Pre-admission screening.

 (1) Before voluntary admission of a prospective patient, pre-admission screening personnel (PASP) shall conduct a pre-admission screening of the prospective patient.

 (2) If the PASP determines that the prospective patient does not need an admission examination, the hospital may not admit the prospective patient and shall refer the prospective patient to alternative services. If the PASP determines the prospective patient needs an admission examination, a physician shall conduct an admission examination of the prospective patient.

 (3) If the pre-admission screening is conducted by a physician, the physician may conduct the pre-admission screening as part of the admission examination referenced in subsection (d)(2)(A) of this section.

(d) Requirements for voluntary admission. A hospital may voluntarily admit a prospective patient only if:

 (1) a request for admission is made is accordance with subsection (a) of this section;

 (2) a physician has, in accordance with Texas Health and Safety Code §572.0025:

 (A) conducted, or consulted with a physician who has conducted, either in person or through telemedicine medical services, an admission examination in accordance with subsection (f) of this section within 72 hours before or 24 hours after admission; and

 (B) issued an order admitting the prospective patient;

 (3) the prospective patient meets the hospital's admission criteria; and

 (4) in accordance with Texas Health and Safety Code §572.0025(f)(2), the administrator or administrator's designee has signed a written statement agreeing to admit the prospective patient.

(e) Intake. In accordance with Texas Health and Safety Code §572.0025(b), a hospital shall, before voluntary admission of a prospective patient, conduct an intake process, that includes:

 (1) obtaining relevant information about the prospective patient, including information about finances, insurance benefits and advance directives; and

 (2) explaining, orally and in writing, the prospective patient's rights described in 25 TAC, Chapter 404, Subchapter E (concerning Rights of Persons Receiving Mental Health Services), including:

 (A) the hospital's services and treatment as they relate to the prospective patient; and

 (B) the existence, purpose, telephone number, and address of the protection and advocacy system established in Texas, which is Advocacy, Inc., as required by Texas Health and Safety Code §576.008.

(f) Admission examination.

 (1) The admission examination referenced in subsection (d)(2)(A) of this section shall be conducted by a physician in accordance with Texas Health and Safety Code, Chapter 572 and include a physical and psychiatric examination conducted in the physical presence of the patient or by using audiovisual telecommunications.

 (2) The physical examination may consist of an assessment for medical stability.

 (3) The physician may not delegate conducting the admission examination to a non-physician.

(g) Documentation of admission order. In accordance with Texas Health and Safety Code §572.0025(f)(1), the order described in subsection (d)(2)(B) of this section shall:

 (1) be issued in writing and signed by the issuing physician; or

 (2) be issued orally or electronically if, within 24 hours after its issuance, the hospital has a written order signed by the issuing physician.

§568.462. Emergency Detention.

(a) Acceptance for preliminary examination. In accordance with Texas Health and Safety Code §573.022, a hospital may accept for a preliminary examination:

 (1) an individual who has been apprehended and transported to a hospital by a peace officer in accordance with Texas Health and Safety Code §573.001 or §573.012; or

 (2) an individual who is at least 18 years of age or older and who has been transported to the hospital by the individual's guardian of the person in accordance with Texas Health and Safety Code §573.003.

(b) Preliminary examination.

 (1) A physician shall conduct a preliminary examination of the individual as soon as possible but not more than 12 hours after the individual was apprehended by the peace officer or arrived at the hospital after being transported by the individual’s guardian for emergency detention, in accordance with Texas Health and Safety Code §573.021.

 (2) The preliminary examination shall include:

 (A) an assessment for medical stability; and

 (B) a psychiatric examination to determine if the individual meets the criteria described in subsection (c)(1) of this section.

(c) Requirements for emergency detention. A hospital may admit a prospective patient for emergency detention only if:

 (1) in accordance with Texas Health and Safety Code §573.022(a)(2), a physician determines from the preliminary examination that:

 (A) the prospective patient has a mental illness;

 (B) the prospective patient evidences a substantial risk of serious harm to self or others;

 (C) the described risk of harm is imminent unless the prospective patient is immediately detained; and

 (D) emergency detention is the least restrictive means by which the necessary detention may be accomplished;

 (2) in accordance with Texas Health and Safety Code §573.022(a)(3), a physician makes a written statement:

 (A) documenting the determination described in paragraph (1) of this subsection; and

 (B) describing:

 (i) the nature of the prospective patient's mental illness;

 (ii) the risk of harm the individual evidences, demonstrated either by the prospective patient's behavior or by evidence of severe emotional distress and deterioration in the prospective patient's mental condition to the extent that the prospective patient cannot remain at liberty; and

 (iii) the detailed information on which the physician based the determination described in paragraph (1) of this subsection;

 (3) based on the determination described in paragraph (1) of this subsection, the physician issues an order admitting the prospective patient for emergency detention; and

 (4) the prospective patient meets the hospital's admission criteria, as required by §568.459 of this chapter (relating to Admission Criteria).

(d) Release.

 (1) A hospital shall release a prospective patient accepted for a preliminary examination if:

 (A) a preliminary examination of the prospective patient has not been conducted within the time frame described in subsection (b)(1) of this section; or

 (B) in accordance with Texas Health and Safety Code §573.023(a), the prospective patient is not admitted for emergency detention in accordance with subsection (c) of this section on completion of the preliminary examination.

 (2) In accordance with Texas Health and Safety Code §576.007, before releasing a prospective patient who is at least 18 years of age or older, a hospital shall make a reasonable effort to notify the prospective patient's family of the release if the prospective patient grants permission for the notification.

 (3) Before releasing a patient who is younger than 16 years of age and who is not or has not been married, a hospital shall notify the patient's legally authorized representative (LAR) or the LAR's designee of the release.

 (4) Upon release, the hospital may release a minor younger than 16 years of age only to the minor's LAR or the LAR's designee.

(e) Intake. A hospital shall conduct an intake process as soon as possible, but not later than 24 hours after the time a patient is admitted for emergency detention.

 (1) The intake process shall include:

 (A) obtaining, as much as possible, relevant information about the patient, including information about finances, insurance benefits and advance directives; and

 (B) explaining, orally and in writing, the patient's rights described in 25 TAC, Chapter 404, Subchapter E (concerning Rights of Persons Receiving Mental Health Services), including:

 (i) the hospital's services and treatment as they relate to the patient; and

 (ii) the existence, purpose, telephone number, and address of the protection and advocacy system established in Texas, which is Advocacy, Inc., as required by Texas Health and Safety Code §576.008.

 (2) The hospital shall determine whether the patient comprehends the information provided in accordance with paragraph (1)(B) of this subsection. If the hospital determines that the patient comprehends the information, the hospital shall document in the patient's medical record the reasons for such determination. If the hospital determines that the patient does not comprehend the information, the hospital shall:

 (A) repeat the explanation to the patient at reasonable intervals until the patient demonstrates comprehension of the information or is discharged, whichever occurs first; and

 (B) document in the patient's medical record the patient's response to each explanation and whether the patient demonstrated comprehension of the information.

§568.463. Admission of an Individual under Protective Custody Order, for Court-ordered Inpatient Mental Health Services, or Under Order for Commitment or Order for Placement.

(a) Requirements for admission under court order. A hospital may admit an individual:

 (1) under a protective custody order only if a court has issued a protective custody order in accordance with Texas Health and Safety Code §574.022;

 (2) for court-ordered inpatient mental health services only if a court has issued:

 (A) an order for temporary inpatient mental health services in accordance with Texas Health and Safety Code §574.034; or

 (B) an order for extended inpatient mental health services in accordance with Texas Health and Safety Code §574.035;

 (3) under an order for commitment issued in accordance with the Texas Code of Criminal Procedure, Article 46B.073(d); or

 (4) under an order for placement issued in accordance with Texas Family Code §55.33(a)(1)(B) or §55.52(a)(1)(B).

(b) Intake. A hospital shall conduct an intake process as soon as possible, but not later than 24 hours after the time a patient is admitted under one of the orders described in subsection (a) of this section.

 (1) The intake process shall include:

 (A) obtaining, as much as possible, relevant information about the patient, including information about finances, insurance benefits and advance directives; and

 (B) explaining, orally and in writing, the patient's rights described in 25 TAC, Chapter 404, Subchapter E (concerning Rights of Persons Receiving Mental Health Services), including:

 (i) the hospital's services and treatment as they relate to the patient; and

 (ii) the existence, purpose, telephone number, and address of the protection and advocacy system established in Texas, which is Advocacy, Inc., as required by Texas Health and Safety Code §576.008.

 (2) The hospital shall determine whether the patient comprehends the information provided in accordance with paragraph (1)(B) of this subsection. If the hospital determines that the patient comprehends the information, the hospital shall document in the patient's medical record the reasons for such determination. If the hospital determines that the patient does not comprehend the information, the hospital shall:

 (A) repeat the explanation to the patient at reasonable intervals until the patient demonstrates comprehension of the information or is discharged, whichever occurs first; and

 (B) document in the patient's medical record the patient's response to each explanation and whether the patient demonstrated comprehension of the information.

§568.464. Monitoring Upon Admission.

At the time a patient is admitted, a hospital shall assign and implement one of the levels of monitoring identified by the hospital in accordance with §568.477(b) of this chapter (relating to Protection of a Patient), based on the patient's needs.

§568.465. Voluntary Treatment Following Involuntary Admission.

A hospital may provide inpatient mental health treatment to an involuntary patient after the patient is eligible for discharge, as described in §568.485 of this chapter (relating to Discharge of an Involuntary Patient), if before the provision of such treatment:

 (1) the hospital obtains written consent for voluntary inpatient mental health treatment that meets the requirements of a request for voluntary admission, as described in §568.461(a) of this chapter (relating to Voluntary Admission); and

 (2) the patient's treating physician:

 (A) examines the patient; and

 (B) based on that examination, issues an order for voluntary inpatient mental health treatment that meets the requirements of §568.461(g) of this chapter.

# TITLE 26 HEALTH AND HUMAN SERVICES

# PART 1 HEALTH AND HUMAN SERVICES COMMISSION

# CHAPTER 568 STANDARDS OF CARE AND TREATMENT IN PSYCHIATRIC HOSPITALS

# SUBCHAPTER C EMERGENCY TREATMENT

§568.468. Responding to an Emergency Medical Condition of a Patient, Prospective Patient, or Individual Who Arrives on Hospital Property Requesting Examination or Treatment.

(a) Planning responses to emergency medical conditions. A hospital shall:

 (1) identify potential emergency medical conditions of:

 (A) a patient;

 (B) a prospective patient; and

 (C) an individual who arrives on hospital property, as defined in 42 CFR §489.24(b), requesting examination or treatment for a medical condition; and

 (2) develop a written plan describing the specific and appropriate action to be taken by the hospital to evaluate for and stabilize each identified potential emergency medical condition, which shall include:

 (A) the administration of first aid and basic life support when clinically indicated; and

 (B) the use of the supplies and equipment described in subsection (f)(2) of this section.

(b) Written record of evaluations. The hospital shall keep a written record of all evaluations of individuals who arrive on hospital property, as defined in 42 CFR §489.24(b), requesting examination or treatment for a medical condition. The written record shall include the following information:

 (1) demographic data regarding the individual evaluated, including the name, age, and sex of the individual;

 (2) a description of the individual's complaint or symptoms;

 (3) whether the hospital determined that the individual had an emergency medical condition and, if so, a description of the condition;

 (4) whether the hospital treated or refused to treat the individual;

 (5) whether the individual refused or consented to treatment or transfer;

 (6) whether the hospital stabilized the emergency medical condition;

 (7) whether the hospital admitted or released the individual; and

 (8) whether the hospital transferred the individual and, if so, the individual's destination, time of transfer and mode of transportation.

(c) Availability of physicians. At least one physician shall always:

 (1) be physically present at the hospital to respond to an emergency medical condition of a patient; or

 (2) be available to staff members by telephone, radio, or audiovisual telecommunication to provide medical consultation.

(d) Response to emergency medical conditions. If a hospital determines that a patient, prospective patient, or an individual who arrives on hospital property requesting examination or treatment for a medical condition has an emergency medical condition, the hospital shall:

 (1) act to stabilize the emergency medical condition in accordance with the plan required by subsection (a)(2) of this section; and

 (2) if appropriate, transfer the individual in accordance with the following, as applicable:

 (A) §510.43 of this title (relating to Patient Transfer Policy), or a transfer agreement made in accordance with §510.61 of this title (relating to Patient Transfer Agreements); or

 (B) 25 TAC §133.44 (relating to Hospital Patient Transfer Policy), or a transfer agreement made in accordance with 25 TAC §133.61 (relating to Hospital Patient Transfer Agreements).

(e) Qualified staff members. The hospital shall have an adequate number of staff members who are qualified and available to evaluate for and respond to emergency medical conditions in accordance with the plan required by subsection (a)(2) of this section.

(f) Supplies and equipment.

 (1) The hospital shall have an adequate amount of appropriate supplies and equipment immediately available and fully operational at the hospital to respond to emergency medical conditions in accordance with the plan required by subsection (a)(2) of this section.

 (2) The emergency supplies and equipment required by paragraph (1) of this subsection shall include, at a minimum:

 (A) oxygen;

 (B) airways, manual breathing bags, and masks; and

 (C) an automated external defibrillator.

 (3) If an identifiable inpatient mental health services unit in a hospital licensed under Texas Health and Safety Code, Chapter 241, and 25 TAC, Chapter 133 (relating to Hospital Licensing) has immediate access to an automated external defibrillator located in another area, the identifiable inpatient mental health services unit is not required to comply with paragraph (2)(C) of this subsection.

# TITLE 26 HEALTH AND HUMAN SERVICES

# PART 1 HEALTH AND HUMAN SERVICES COMMISSION

# CHAPTER 568 STANDARDS OF CARE AND TREATMENT IN PSYCHIATRIC HOSPITALS

# SUBCHAPTER D SERVICE REQUIREMENTS

§568.471. Inpatient Mental Health Treatment and Treatment Planning.

(a) Inpatient mental health treatment. A hospital shall provide inpatient mental health treatment to a patient under the direction of a physician and in accordance with the patient's treatment plan and this subchapter. The treatment plan shall be appropriate to the needs and interests of the patient and be directed toward restoring and maintaining optimal levels of physical and psychological functioning.

(b) Treatment plan content within 24 hours. A hospital, in collaboration with the patient, shall develop and implement a written treatment plan within 24 hours after the patient's admission. If the patient is unable or unwilling to collaborate with the hospital, the circumstances of such inability or unwillingness shall be documented in the patient's medical record.

 (1) The treatment plan shall be based on the findings of:

 (A) the physical examination described in §568.472(e)(1)(A) or (B) of this chapter (relating to Medical Services);

 (B) the psychiatric evaluation described in §568.472(f) of this chapter (relating to Medical Services); and

 (C) the initial comprehensive nursing assessment described in §568.473(e) of this chapter (relating to Nursing Services).

 (2) The treatment plan shall contain:

 (A) a list of all diagnoses for the patient with notation as to which diagnoses will be treated at the hospital, including:

 (i) at least one mental illness diagnosis;

 (ii) any substance use disorder diagnoses; and

 (iii) any non-psychiatric conditions;

 (B) a list of problems and needs that are to be addressed during the patient's hospitalization;

 (C) a description of all treatment interventions intended to address the patient's problems and needs, including the medications prescribed and the symptoms each medication is intended to address;

 (D) identification of any additional assessments and evaluations to be conducted, which shall include the social assessment described in §568.474(d) of this chapter (relating to Social Services);

 (E) identification of the level of monitoring assigned to the patient; and

 (F) a description of the rationale for the treatment interventions described in accordance with subparagraph (C) of this paragraph.

(c) Treatment plan content within 72 hours.

 (1) Within 72 hours of the patient's admission the hospital shall:

 (A) establish an interdisciplinary treatment team (IDT) for a patient;

 (B) conduct the social assessment described in subsection (b)(2)(D) of this section;

 (C) initiate referrals for any additional assessments and evaluations identified in accordance with subsection (b)(2)(D) of this section;

 (D) review the content of the treatment plan required by subsection (b)(2) of this section, and revise the plan, if necessary, based on the findings of the social assessment or as otherwise clinically indicated; and

 (E) add to the treatment plan:

 (i) a description of the goals of the patient relating to the problems and needs listed in accordance with subsection (b)(2)(B) of this section;

 (ii) the specific treatment modalities for each treatment intervention by type and frequency;

 (iii) the IDT member responsible for providing or ensuring the provision of each treatment intervention;

 (iv) the time frames and measures to evaluate progress of the treatment plan toward meeting the goals of the patient;

 (v) a description of the clinical criteria for the patient to be discharged; and

 (vi) a description of the recommended services and supports needed by the patient after discharge as required by §568.482(a)(3)(A) of this chapter (relating to Discharge Planning).

 (2) The treatment plan shall be signed by all members of the IDT. If the patient is unable or unwilling to sign the treatment plan, the reason for or circumstances of such inability or unwillingness shall be documented in the patient's medical record.

(d) Treatment plan review. In addition to the review required by subsection (c)(1)(D) of this section, the treatment plan shall be reviewed and its effectiveness evaluated:

 (1) when there is a significant change in the patient's condition or diagnosis or as otherwise clinically indicated:

 (2) in accordance with the time frames and measures described in the treatment plan; and

 (3) upon request by the patient or the patient's legally authorized representative.

(e) Treatment plan revision. In addition to a revision required by subsection (c)(1)(D) of this section, the treatment plan shall be revised, if necessary, based on the findings of any assessment, reassessment, evaluation, or re-evaluation, or as otherwise clinically indicated.

(f) Documentation of treatment plan review and revisions. A treatment plan review and revision shall be signed by all members of the IDT. If the patient is unable or unwilling to sign the review or revision, the reason for or circumstances of such inability or unwillingness shall be documented in the patient's medical record.

§568.472. Medical Services.

(a) Medical services in treatment plan. A hospital shall provide medical services to a patient in accordance with a treatment plan developed in accordance with §568.471 of this chapter (relating to Inpatient Mental Health Treatment and Treatment Planning).

(b) Director of psychiatric services. A hospital shall have a director of psychiatric services who directs, monitors, and evaluates the psychiatric services provided.

(c) Qualifications of director of psychiatric services. In accordance with Texas Health and Safety Code §577.008, the director of psychiatric services shall be a physician who:

 (1) is certified in psychiatry by the American Board of Psychiatry and Neurology or by the American Osteopathic Board of Psychiatry and Neurology; or

 (2) has three years of experience as a physician in psychiatry in a "mental hospital" as defined in Texas Health and Safety Code §571.003.

(d) Treating physician. A hospital shall assign a treating physician to a patient and document such assignment in the patient's medical record at the time the patient is admitted.

(e) Physical examination.

 (1) A physician shall:

 (A) review written findings of a physical examination of the patient conducted by another physician no more than seven days before the patient's admission; or

 (B) conduct a physical examination of the patient.

 (2) The physical examinations described in paragraph (1) of this subsection shall include a neurological screening and, if indicated, a comprehensive neurological examination.

(f) Psychiatric evaluation. A physician shall conduct an initial psychiatric evaluation of a patient. The results of the initial evaluation shall include:

 (1) a description of the patient's medical history;

 (2) a determination of the patient's mental status;

 (3) a description of the onset of the patient's mental illness, any substance use disorder, and the circumstances leading to admission;

 (4) an estimation of the patient's intellectual functioning, memory functioning, and orientation;

 (5) a description of the patient's strengths and disabilities; and

 (6) the diagnoses of the patient's mental illness and, if applicable, any substance use disorders.

(g) Re-evaluation. A physician shall re-evaluate a patient:

 (1) once a day for five of the first seven days after the initial psychiatric evaluation described in subsection (f) of this section is conducted and once a week thereafter; and

 (2) as clinically indicated.

(h) Provision of medical services. A hospital shall provide:

 (1) medical services to a patient in response to an emergency medical condition in accordance with the plan required by §568.468 of this chapter (relating to Responding to an Emergency Medical Condition of a Patient, Prospective Patient or Individual Who Arrives on Hospital Property Requesting Examination or Treatment); and

 (2) other medical services, as needed by the patient, or transfer the patient to a health care entity that can provide the medical services in accordance with the following, as applicable:

 (A) §510.43 of this title (relating to Patient Transfer Policy), or a transfer agreement made in accordance with §510.61 of 26 TAC (relating to Patient Transfer Agreements); or

 (B) 25 TAC §133.44 (relating to Hospital Patient Transfer Policy), or a transfer agreement made in accordance with 25 TAC §133.61 (relating to Hospital Patient Transfer Agreements).

(i) Availability of physicians. At least one physician shall always:

 (1) be physically present at the hospital to provide medical services to a patient; or

 (2) be available to staff members by telephone, radio, or audiovisual telecommunication to provide medical consultation.

§568.473. Nursing Services.

(a) Nursing services in treatment plan. A hospital shall provide nursing services to a patient in accordance with a treatment plan developed in accordance with §568.471 of this chapter (relating to Inpatient Mental Health Treatment and Treatment Planning).

(b) Organization of nursing staff. The hospital shall have a written description of the organizational hierarchy and responsibilities of the nursing staff.

(c) Director of psychiatric nursing (DPN). A hospital shall have a DPN who:

 (1) has administrative authority over the nursing staff;

 (2) directs, monitors, and evaluates the nursing services provided;

 (3) for a hospital licensed under Texas Health and Safety Code, Chapter 577, and Chapter 510 of this title (relating to Private Psychiatric Hospitals and Crisis Stabilization Units Licensing), reports directly to the administrator; and

 (4) for an identifiable mental health services unit in a hospital licensed under Texas Health and Safety Code, Chapter 241, and 25 TAC, Chapter 133 (relating to Hospital Licensing), reports directly to the chief nursing officer as described in 25 TAC §133.41 (relating to Hospital Functions and Services) or reports directly to a registered nurse (RN) who reports directly to the chief nursing officer.

(d) Qualifications of DPN. The DPN shall be:

 (1) an RN with a master's degree in psychiatric-mental health from a nursing education program accredited by an organization recognized by the U.S. Commission of Education and Council for Higher Education Accreditation as an accreditation agency, such as the National League for Nursing or the Commission on Collegiate Nursing Education;

 (2) an RN with a bachelor's degree in nursing and a master's degree in a health-related field from an accredited college or university and have three years of experience as a full-time employee or contractor (or its equivalent as a part-time employee or contractor) as an RN in a hospital; or

 (3) an RN with a bachelor's degree in nursing and:

 (A) have three years of experience as a full-time employee or contractor (or its equivalent as a part-time employee or contractor) as an RN in a hospital; and

 (B) receive four hours per month of clinical consultation from an RN with:

 (i) a master's degree in psychiatric-mental health from a nursing education program accredited by an organization recognized by the U.S. Commission of Education and Council for Higher Education Accreditation as an accreditation agency, such as the National League for Nursing or the Commission on Collegiate Nursing Education; or

 (ii) a bachelor's degree in nursing and a master's degree in a health-related field from an accredited college or university.

(e) Assessment. An RN shall conduct and complete an initial comprehensive nursing assessment of a patient within eight hours of the patient's admission.

(f) Reassessment. An RN shall reassess a patient, based on the patient's needs, but at least every 12 hours after the initial comprehensive nursing assessment, required by subsection (e) of this section, is conducted.

(g) Staffing plan.

 (1) The DPN shall develop and implement a written staffing plan that:

 (A) describes the number of RNs, licensed vocational nurses (LVNs), and unlicensed assistive personnel (UAPs) on each unit for each shift;

 (B) provides for at least one RN to be physically present and on-duty at all times on each unit when a patient is present on the unit;

 (C) if the hospital has only one unit, in addition to the RN required by subparagraph (B) of this paragraph, provides for at least two staff members who provide direct patient care to be physically present and on-duty at all times on the unit when a patient is present on the unit; and

 (D) provides for an adequate number of registered nurses on each unit to supervise all UAPs.

 (2) The staffing plan described in paragraph (1) of this subsection shall be based on the following factors:

 (A) the number of patients;

 (B) the characteristics of the patients, including the intensity of the patient's emotional, mental, and medical needs;

 (C) the anticipated admissions, discharges and transfers;

 (D) the architecture of the unit, including geographic dispersion of patients, arrangement of the unit and surveillance and communication technology;

 (E) the expertise of the nursing staff;

 (F) the nursing staff's familiarity with the patients;

 (G) nursing staff continuity and cohesion;

 (H) the amount of time required by the nursing staff to perform administrative activities; and

 (I) recommendations of the advisory committee regarding the adequacy of the staffing plan made in accordance with §568.496(b)(3) of this chapter (relating to Advisory Committee for Nurse Staffing).

 (3) The DPN shall document the DPN’s determinations made about each factor described in paragraph (2) of this subsection, at the time the staffing plan is developed and when the staffing plan is revised based on a change in such factors.

 (4) A hospital shall retain the staffing plan and the documentation required by paragraph (3) of this subsection, for two years after such documentation is created.

 (5) The DPN shall revise the staffing plan, as necessary.

 (6) The DPN shall report to the advisory committee established in accordance with §568.496 of this chapter (relating to Advisory Committee for Nurse Staffing) any variance between the number of staff members specified in the staffing plan and the actual number of staff members on duty.

(h) Process for reporting concerns regarding staffing plan.

 (1) A hospital shall develop and implement a process for RNs and LVNs to report concerns regarding the adequacy of the staffing plan to the advisory committee established in accordance with §568.496 of this chapter.

 (2) A hospital shall not retaliate against a nurse for reporting a concern to the advisory committee.

(i) Orientation of nursing staff.

 (1) A hospital shall provide orientation to a nursing staff member when the staff member is initially assigned to a unit on either a temporary or long-term basis. The orientation shall include a review of:

 (A) the location of equipment and supplies on the unit;

 (B) the staff member's responsibilities on the unit;

 (C) relevant information about patients on the unit;

 (D) relevant schedules of staff members and patients; and

 (E) procedures for contacting the staff member's supervisor.

 (2) A hospital shall document the provision of orientation to nursing staff.

(j) Verification of licensure. A hospital shall verify that a member of the nursing staff, for whom a license is required, has a valid license at the time the staff member assumes responsibilities at the hospital and maintains the license throughout the staff member's employment or association with the hospital.

(k) Mandatory overtime. A hospital shall develop and implement a policy regarding the use of mandatory overtime by the nursing staff. The policy shall require:

 (1) documentation of the justification for the use of mandatory overtime;

 (2) monitoring and evaluation of the use of mandatory overtime; and

 (3) development of a plan to reduce or eliminate the use of mandatory overtime.

(l) The hospital shall establish a nursing peer review committee to conduct nursing peer review, as required by Texas Occupations Code, Chapter 303.

§568.474. Social Services.

(a) Social services in treatment plan. A hospital shall provide social services to a patient in accordance with a treatment plan developed in accordance with §568.471 of this chapter (relating to Inpatient Mental Health Treatment and Treatment Planning).

(b) Director of social services. A hospital shall have a director of social services who directs, monitors, and evaluates the social services provided.

(c) Qualifications of director of social services. The director of social services shall:

 (1) be a licensed master social worker; or

 (2) be a licensed social worker who is enrolled in a graduate program accredited by the Council on Social Work Education, receiving eight hours per month of clinical consultation from a licensed master social worker with three years of experience in the provision of psychiatric social work, and summarizing, in writing, the content of each consultation with the licensed master social worker including clinical issues discussed and recommendations made by the licensed master social worker regarding such issues.

(d) Assessment.

 (1) A licensed master social worker, licensed social worker, licensed professional counselor, licensed psychologist, psychological associate, or licensed marriage and family therapist shall conduct a social services assessment of a patient.

 (2) If a licensed social worker, licensed professional counselor, licensed psychologist, psychological associate, or licensed marriage and family therapist conducts the social services assessment, the results of the assessment shall be signed by the licensed master social worker evidencing approval of such results.

§568.475. Therapeutic Activities.

(a) Therapeutic activities in treatment plan. If ordered by the patient's treating physician, a hospital shall provide therapeutic activities to the patient in accordance with a treatment plan developed in accordance with §568.471 of this chapter (relating to Inpatient Mental Health Treatment and Treatment Planning).

(b) Assessment.

 (1) If ordered by the patient's treating physician, an occupational therapist, a therapeutic recreation specialist, or a staff member under the supervision of an occupational therapist or a therapeutic recreation specialist shall conduct a therapeutic activities assessment of the patient.

 (2) The assessment shall include an evaluation of the patient in the following domains:

 (A) sensory;

 (B) cognitive;

 (C) social;

 (D) physical;

 (E) emotional; and

 (F) leisure.

 (3) If a staff member under the supervision of an occupational therapist or a therapeutic recreation conducts the therapeutic activities assessment, the results of the assessment shall be signed by the occupational therapist or a therapeutic recreation evidencing approval of such results.

(c) Qualified staff members. A hospital shall have qualified staff members who are available to provide the therapeutic activities necessary to address the problems identified by a patient's therapeutic activities assessment.

§568.476. Psychological Services.

(a) Psychological services in treatment plan. If ordered by a patient's treating physician, a hospital shall provide psychological services to the patient in accordance with a treatment plan developed in accordance with §568.471 of this chapter (relating to Inpatient Mental Health Treatment and Treatment Planning).

(b) Assessment. If ordered by a patient's treating physician, a licensed psychologist shall conduct a psychological assessment of the patient.

§568.477. Protection of a Patient.

(a) Modifying the environment and monitoring the patient. A hospital shall protect a patient by taking the following measures:

 (1) modifying the hospital environment based on the patient's needs, including:

 (A) providing furnishings that do not present safety hazards to the patient;

 (B) securing or removing objects that are hazardous to the patient; and

 (C) installing any necessary safety devices;

 (2) monitoring the patient at the level of monitoring most recently specified in the patient's medical record; and

 (3) making roommate assignments and other decisions affecting the interaction of the patient with other patients, based on patient needs and vulnerabilities.

(b) Levels of monitoring. A hospital shall:

 (1) identify, in writing, the levels of monitoring of patients; and

 (2) define each of the levels of monitoring, in writing, including a description of the responsibilities of staff members for each level of monitoring identified.

(c) Separation of patients under 18 years of age. In accordance with Texas Health and Safety Code §321.002, a hospital shall keep patients who are under the age of 18 years separate from patients who are over the age of 18 years.

# TITLE 26 HEALTH AND HUMAN SERVICES

# PART 1 HEALTH AND HUMAN SERVICES COMMISSION

# CHAPTER 568 STANDARDS OF CARE AND TREATMENT IN PSYCHIATRIC HOSPITALS

# SUBCHAPTER E DISCHARGE

§568.482. Discharge Planning.

(a) Involvement of staff, patient, and legally authorized representative (LAR) in planning activities.

 (1) Following the admission of a patient to a hospital, the hospital shall conduct discharge planning for the patient.

 (2) Discharge planning shall involve the interdisciplinary treatment team (IDT), which includes the patient.

 (3) Discharge planning shall include, at a minimum, the following activities:

 (A) the patient's IDT recommending services and supports needed by the patient after discharge, including the placement after discharge;

 (B) qualified staff members arranging for the services and supports recommended by the patient's IDT;

 (C) qualified staff members counseling the patient, the patient's LAR, and as appropriate, the patient's caregivers, to prepare them for post-discharge care; and

 (D) Preadmission Screening and Resident Review (PASRR) as required by paragraph (4) of this subsection.

 (4) Screening and evaluation before patient discharge from hospital. In accordance with 42 CFR, Part 483, Subpart C (relating to Requirements for Long Term Care Facilities) and the rules set forth in Chapter 303 of this title (relating to Preadmission Screening and Resident Review (PASRR)), all patients who are being considered for discharge from the hospital to a nursing facility shall be screened, and if appropriate, evaluated, before discharge by the hospital and admission to the nursing facility to determine whether the patient may have a mental illness, intellectual disability, or developmental disability. If the screening indicates that the patient has a mental illness, intellectual disability, or developmental disability, the hospital shall contact and arrange for the local mental health authority designated pursuant to Texas Health and Safety Code §533.035, to conduct before hospital discharge an evaluation of the patient in accordance with the applicable provisions of the PASRR rules. The purpose of PASRR is:

 (A) to ensure that placement of the patient in a nursing facility, is necessary;

 (B) to identify alternate placement options, when applicable; and

 (C) to identify specialized services that may benefit the person with a diagnosis of mental illness, intellectual disability, or developmental disability.

(b) Discharge summary. The patient's treating physician shall prepare a written discharge summary that includes:

 (1) a description of the patient's treatment at the hospital and the response to that treatment;

 (2) a description of the patient's condition at discharge;

 (3) a description of the patient's placement after discharge;

 (4) a description of the services and supports the patient will receive after discharge;

 (5) a final diagnosis based on all five axes of the *Diagnostic Statistical Manual of Mental Disorders* (DSM);

 (6) a description of the amount of medication the patient will need until the patient is evaluated by a physician; and

 (7) in accordance with Texas Health and Safety Code §574.081(c) and (h), for involuntary patients admitted under an order described in §568.463(a)(2) of this chapter (related to Admission of an Individual Under Protective Custody Order, for Court-ordered Inpatient Mental Health Services, or Under Order for Commitment or Order for Placement), the name of the individual or entity responsible for providing and paying for the medication referenced in paragraph (6) of this subsection, which is not required to be the hospital.

(c) Documentation of refusal. If it is not feasible for any of the activities listed in subsection (a)(3) of this section to be performed because the patient, the patient's LAR, or the patient's caregivers refuse to participate in the discharge planning, the circumstances of the refusal shall be documented in the patient's medical record.

§568.483. Discharge Notices and Release of Minors.

(a) Discharge notice to family or legally authorized representative (LAR).

 (1) In accordance with Texas Health and Safety Code §576.007, before discharging a patient who is an adult, a hospital shall make a reasonable effort to notify the patient's family of the discharge, if the patient grants permission for the notification.

 (2) Except as provided by 42 CFR Part 2 and subsection (b) of this section, before discharging a patient who is at least 16 years of age and who is not or has not been married, a hospital shall make a reasonable effort to notify the patient's LAR of the discharge.

 (3) Except as provided by subsection (b) of this section, before discharging a patient who is younger than 16 years of age and who is not or has not been married, a hospital shall notify the patient's LAR of the discharge.

(b) Disclosure harmful to patient. As permitted by Texas Health and Safety Code §611.0045(b), a hospital may deny a patient's LAR access to any portion of the patient's record if the hospital determines that the disclosure of such portion would be harmful to the patient's physical, mental, or emotional health.

(c) Release of minors. Except as required by §568.485(e) of this chapter (relating to Discharge of an Involuntary Patient), upon discharge, the hospital may release a minor younger than 16 years of age only to the minor's LAR or the LAR's designee.

(d) Notice of protection and advocacy system. Upon discharge, the hospital shall provide the patient with written notification of the existence, purpose, telephone number, and address of the protection and advocacy system established in Texas, which is Advocacy, Inc., as required by Texas Health and Safety Code §576.008.

§568.484. Discharge of a Voluntary Patient Requesting Discharge.

(a) Request for discharge. If a hospital is informed that a voluntary patient desires to leave the hospital or a voluntary patient or the patient's legally authorized representative (LAR) requests that the patient be discharged, the hospital shall, in accordance with Texas Health and Safety Code §572.004:

 (1) inform the patient or the patient's LAR that the request must be in writing and signed, timed, and dated by the requestor; and

 (2) if necessary and as soon as possible, assist the patient in creating a written request for discharge and present it to the patient for the patient's signature.

(b) Responding to a written request for discharge. If a written request for discharge from a voluntary patient or the patient's LAR is made known to a hospital, the hospital shall:

 (1) within four hours after the request is made known to the hospital, notify the treating physician or, if the treating physician is not available during that time, notify another physician who is a hospital staff member of the request;

 (2) file the request in the patient's medical record; and

 (3) if the request is from a patient admitted under §568.461(a)(1)(B) of this chapter (relating to Voluntary Admission), notify the patient's LAR of the request, except as provided by 42 CFR Part 2.

(c) Discharge or examination. In accordance with Texas Health and Safety Code §572.004(c) and (d), if the physician who is notified in accordance with subsection (b)(1) of this section:

 (1) does not have reasonable cause to believe that the patient may meet the criteria for court-ordered inpatient mental health services or emergency detention, a hospital shall discharge the patient within the four-hour time described in subsection (b)(1) of this section; or

 (2) has reasonable cause to believe that the patient may meet the criteria for court-ordered inpatient mental health services or emergency detention, the physician shall examine the patient as soon as possible within 24 hours after the request for discharge is made known to the hospital.

(d) Discharge if not examined within 24 hours or if criteria not met.

 (1) If a patient, who a physician believes may meet the criteria for court-ordered inpatient mental health services or emergency services, is not examined within 24 hours after the request for discharge is made known to the hospital, the hospital shall discharge the patient.

 (2) In accordance with Texas Health and Safety Code §572.004(d), if the physician conducting the examination described in subsection (c)(2) of this section determines that the patient does not meet the criteria for court-ordered inpatient mental health services or emergency detention, the hospital shall discharge the patient upon completion of the examination.

(e) Discharge or filing application if criteria met. In accordance with Texas Health and Safety Code §572.004(d), if the physician conducting the examination described in subsection (c)(2) of this section determines that the patient meets the criteria for court-ordered inpatient mental health services or emergency detention, the hospital shall, by 4:00 p.m. on the next business day:

 (1) file an application for court-ordered inpatient mental health services or emergency detention and obtain a court order for further detention of the patient; or

 (2) discharge the patient.

(f) Notification by physician. In accordance with Texas Health and Safety Code §572.004(d), if the hospital intends to detain a patient to file an application and obtain a court order for further detention of the patient, a physician shall:

 (1) notify the patient of such intention; and

 (2) document the reasons for the decision to detain the patient in the patient's medical record.

(g) Withdrawal of request for discharge. In accordance with Texas Health and Safety Code §572.004(f), a hospital is not required to complete the discharge process described in this section if the patient makes a written statement to withdraw the request for discharge.

§568.485. Discharge of an Involuntary Patient.

(a) Discharge from emergency detention.

 (1) Except as provided by §568.465 of this chapter (relating to Voluntary Treatment Following Involuntary Admission), and in accordance with Texas Health and Safety Code §573.023(b) and §573.021(b), a hospital shall immediately discharge a patient under emergency detention if either of the following occurs:

 (A) the administrator or the administrator's designee determines, based on a physician's determination, that the patient no longer meets the criteria described in subsection §568.462(c)(1) of this chapter (relating to Emergency Detention); or

 (B) except as provided in paragraphs (2) and (3) of this subsection, 48 hours elapse from the time the patient was presented to the hospital and the hospital has not obtained a court order for further detention of the patient.

 (2) In accordance with Texas Health and Safety Code §573.021(b), if the 24-hour period described in paragraph (1)(B) of this subsection ends on a Saturday, Sunday, or legal holiday, or before 4:00 p.m. on the next business day after the patient was presented to the hospital, the patient may be detained until 4:00 p.m. on such business day.

 (3) In accordance with Texas Health and Safety Code, §573.021(b), the 24-hour period described in paragraph (1)(B) of this subsection does not include any time during which the patient is receiving necessary non-psychiatric medical care in the hospital's emergency room or non-psychiatric emergency care in another area of the hospital.

(b) Discharge under protective custody order. Except as provided by §568.465 of this chapter and in accordance with Texas Health and Safety Code §574.028, a hospital shall immediately discharge a patient under a protective custody order if any of the following occurs:

 (1) the administrator or the administrator's designee determines that, based on a physician's determination, the patient no longer meets the criteria described in Texas Health and Safety Code §574.022(a);

 (2) the administrator or the administrator's designee does not receive notice that the patient's continued detention is authorized after a probable cause hearing held within the time prescribed by Texas Health and Safety Code §574.025(b);

 (3) a final order for court-ordered inpatient mental health services has not been entered within the time prescribed by Texas Health and Safety Code §574.005; or

 (4) an order to release the patient is issued in accordance with Texas Health and Safety Code, §574.028(a).

(c) Discharge under court-ordered inpatient mental health services.

 (1) Except as provided by §568.465 of this chapter, and in accordance with Texas Health and Safety Code §574.085 and §574.086(a), a hospital shall immediately discharge a patient under a temporary or extended order for inpatient mental health services if either of the following occurs:

 (A) the order for inpatient mental health services expires; or

 (B) the administrator or the administrator's designee determines that, based on a physician's determination, the patient no longer meets the criteria for court-ordered inpatient mental health services.

 (2) In accordance with Texas Health and Safety Code §574.086(b), before discharging a patient in accordance with paragraph (1) of this subsection, the administrator or administrator's designee shall consider whether the patient should receive court-ordered outpatient mental health services in accordance with a modified order described in Texas Health and Safety Code §574.061.

(d) Discharge under Texas Code of Criminal Procedure order for commitment. A patient admitted under an order for commitment issued in accordance with the Texas Code of Criminal Procedure, Article 46B.073(d) shall be discharged in accordance with the Texas Code of Criminal Procedure, Chapter 46B, Subchapter D.

(e) Discharge under Texas Family Code order for placement. A patient admitted under an order for placement issued in accordance with Texas Family Code, §55.33(a)(1)(B) or §55.52(a)(1)(B) shall be discharged in accordance with the Texas Family Code, Chapter 55.

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# SUBCHAPTER F DOCUMENTATION

§568.488. Content of Medical Record.

(a) Medical record. A hospital shall maintain a medical record for a patient. The medical record shall include, at a minimum:

 (1) documentation of whether the patient is a voluntary patient, on emergency detention, or under a court order, including the physician or court order, as appropriate;

 (2) documentation of the reasons the patient, legally authorized representative (LAR), family members, or other caregivers state that the patient was admitted to the hospital;

 (3) justification for each mental illness diagnosis and any substance use disorder diagnosis;

 (4) the level of monitoring assigned and implemented in accordance with §568.464 of this chapter (relating to Monitoring Upon Admission) and any changes to such level before the implementation of the patient's treatment plan;

 (5) the patient's treatment plan;

 (6) the name of the patient's treating physician;

 (7) the names of the members of the patient's interdisciplinary treatment team (IDT), if required by the patient's length of stay;

 (8) written findings of the physical examination described in §568.472(e)(1)(A) or (B) of this chapter (relating to Medical Services);

 (9) written findings of:

 (A) the psychiatric evaluation described in §568.472(f) of this chapter; and

 (B) the assessments described in §568.473(e) of this chapter (relating to Nursing Services), §568.474(d) of this chapter (relating to Social Services), §568.475(b) of this chapter (relating to Therapeutic Activities), and §568.476(b) of this chapter (relating to Psychological Services); and

 (C) any other assessment of the patient conducted by a staff member;

 (10) the progress notes for the patient as described in subsection (b) of this section;

 (11) documentation of the monitoring of the patient by the staff members responsible for such monitoring, including observations of the patient at pre-determined intervals;

 (12) documentation of the discharge planning activities required by §568.482(a)(3) of this chapter (relating to Discharge Planning); and

 (13) the discharge summary as required by §568.482(b) of this chapter.

(b) Progress notes. The progress notes referenced in subsection (a)(10) of this section must be documented in accordance with this subsection.

 (1) The appropriate members of the patient's IDT shall make written notes of the patient's progress to include, at a minimum:

 (A) documentation of the patient's response to treatment provided under the treatment plan;

 (B) documentation of the patient's progress toward meeting the goals listed in the patient's treatment plan; and

 (C) documentation of the findings of any re-evaluation or reassessment conducted by a staff member.

 (2) Requirements regarding the frequency of making progress notes are as follows:

 (A) a physician shall document the findings of a re-evaluation described in §568.472(g) of this chapter at the time each re-evaluation is conducted; and

 (B) a registered nurse shall document the findings of a reassessment described in §568.473(f) of this chapter at the time each reassessment is conducted.

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# SUBCHAPTER G STAFF DEVELOPMENT

§568.490. Staff Member Training.

(a) Training of staff members. A hospital shall provide training to a staff member in accordance with the following:

 (1) All staff members shall receive face-to-face training in:

 (A) identifying, preventing, and reporting abuse and neglect of patients and unprofessional or unethical conduct in the hospital, as defined by Texas Health and Safety Code §161.131 (relating to Definitions);

 (B) identifying, preventing, and reporting abuse, neglect, and exploitation as follows, in accordance with Texas Health and Safety Code §161.133 (relating to Inservice Training):

 (i) residential staff must receive eight hours of training;

 (ii)training must be conducted in person, and not through teleconferencing, web-based video conferencing, or other technology;

 (iii) a hospital must ensure all new employees receive training on abuse, neglect, and exploitation; and

 (iv) a hospital may provide abuse, neglect, and exploitation training to staff or may choose to contract with an outside entity to provide the training.

 (C) preserving and protecting dignity and rights of a patient in accordance with 25 TAC, Chapter 404, Subchapter E (relating to Rights of Persons Receiving Mental Health Services); and

 (D) preserving and protecting confidentiality of a patient's information in accordance with Texas Health and Safety Code, Chapter 611 or Chapter 241, Subchapter G, as applicable, 42 CFR Part 2, and 45 CFR Parts 160 and 164.

 (3) A registered nurse (RN), licensed vocational nurse (LVN), and unlicensed assistive personnel (UAP) shall receive training in:

 (A) monitoring for patient safety in accordance with §568.477 of this chapter (relating to Protection of a Patient);

 (B) infection control in accordance with §510.41(d) of this title (relating to Facility Functions and Services); and

 (C) the hospital's mandatory overtime policy required by §568.473(k) of this chapter (relating to Nursing Services).

 (4) An RN and LVN shall receive training in the process for reporting concerns regarding the adequacy of the staffing plan, as described in §568.473(h) of this chapter (relating to Nursing Services).

 (5) A staff member routinely providing treatment to, working with, or providing consultation about a patient who is younger than 18 years of age shall receive training in the aspects of growth and development (including physical, emotional, cognitive, educational and social) and the treatment needs of patients in the following age groups:

 (A) early childhood (1-5 years of age);

 (B) late childhood (6-13 years of age); and

 (C) adolescent (14-17 years of age).

 (6) A staff member routinely providing treatment to, working with, or providing consultation about a patient diagnosed with co-occurring psychiatric and substance use disorders (COPSD) shall receive training in substance use disorders.

 (7) A staff member routinely providing treatment to, working with, or providing consultation about a geriatric patient shall receive training in the social, psychological and physiological changes associated with aging.

 (8) In accordance with Texas Health and Safety Code §572.0025(e), a pre-admission screening professional (PASP) shall receive at least eight hours of pre-admission screening and intake training, as described in subsection (c) of this section.

 (9) In accordance with Texas Health and Safety Code §572.0025(e), a staff member whose responsibilities include conducting the hospital's intake process for a patient shall receive at least eight hours of pre-admission screening and intake training, as described in subsection (c) of this section.

 (10) A staff member who may initiate an involuntary intervention shall receive training in and demonstrate competency in performing such interventions in accordance with 25 TAC Chapter 415, Subchapter F (relating to Interventions in Mental Health Programs).

(b) A staff member providing direct patient care shall maintain certification in a course, developed by the American Heart Association or the American Red Cross, in recognizing and caring for breathing and cardiac emergencies. The course shall teach the following skills appropriate to the age of the hospital's patients:

 (1) rescue breathing, with and without devices;

 (2) airway obstruction;

 (3) cardiopulmonary resuscitation; and

 (4) use of an automated external defibrillator.

(c) Pre-admission screening and intake training. The pre-admission screening and intake training required by subsections (a)(8) and (9) of this section shall provide instruction to staff members regarding:

 (1) assessing, interviewing, and diagnosing an individual with a mental illness and an individual diagnosed with COPSD;

 (2) obtaining relevant information about the patient, including information about finances, insurance benefits and advance directives;

 (3) explaining, orally and in writing, the patient's rights described in 25 TAC Chapter 404, Subchapter E (relating to Rights of Persons Receiving Mental Health Services);

 (4) explaining, orally and in writing, the hospital's services and treatment as they relate to the patient;

 (5) informing the patient in writing of the existence, telephone number, and address of the protection and advocacy system established in Texas, which is Advocacy, Inc.; and

 (6) determining whether the patient comprehends the information provided in accordance with paragraphs (3)-(5) of this subsection.

(d) Frequency of training. A hospital shall provide the training described in subsection (a) of this section, periodically, as follows:

 (1) A staff member shall receive the training required by subsection (a)(1)(C) of this section:

 (A) before assuming responsibilities at the hospital; and

 (B) annually throughout the staff member's employment or association with the hospital;

 (2) A staff member shall receive the training required by subsection (a)(1)(A) of this section annually throughout the staff member’s employment or association with the hospital, as set forth in Texas Health and Safety Code §161.133.

 (3) A staff member shall receive the training required by subsections (a)(1)(D) and (a)(3)-(6) of this section:

 (A) before assuming responsibilities at the hospital; and

 (B) at reasonable intervals throughout the staff member's employment or association with the hospital.

 (4) A staff member shall have the certification required by subsection (b) of this section:

 (A) before assuming responsibilities at the hospital; or

 (B) not later than 30 days after the staff member is hired by the hospital if another staff member who has such certification is physically present and on-duty on the same unit on which the uncertified staff member is on-duty.

 (5) A PASP shall receive the training required by subsection (a)(8) of this section:

 (A) before the PASP conducting a pre-admission screening; and

 (B) annually throughout the PASP's employment or association with the hospital.

 (6) A staff member shall receive the training required by subsection (a)(9) of this section:

 (A) before conducting the intake process; and

 (B) annually throughout the staff member's employment or association with the hospital.

 (7) A staff member shall receive the training required by subsection (a)(10) of this section at the intervals described in 25 TAC Chapter 415, Subchapter F .

(e) Documentation of training.

 (1) A hospital shall document that a staff member has successfully completed the training described in subsection (a) of this section including:

 (A) the date of the training;

 (B) the length of the training session; and

 (C) the name of the instructor.

 (2) A hospital shall maintain certification or other evidence issued by the American Heart Association or the American Red Cross that a staff member has successfully completed the training described in subsection (b) of this section.

(f) Performance in accordance with training. A staff member shall perform the staff member’s responsibilities in accordance with the training and certification required by this section.

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# SUBCHAPTER H PERFORMANCE IMPROVEMENT

§568.493. Quality Assessment and Performance Improvement Program.

(a) Scope and content of program. A hospital shall develop, implement, and maintain an effective, ongoing, hospital-wide, data-driven quality assessment and performance improvement program. The program shall:

 (1) reflect the complexity of the hospital's organization and services;

 (2) involve all the hospital's s and services;

 (3) specify the frequency and detail of data collected; and

 (4) focus on high-risk, high-volume, and problem-prone areas in the hospital.

(b) Approval by governing body. The hospital's quality assessment and performance improvement program shall be approved by the governing body.

(c) Staff member participation. The director of psychiatric nursing (DPN), the director of psychiatric services, and other appropriate staff members shall participate in the development and implementation of the quality assessment and performance improvement program.

(d) Quality assessment and performance improvement program activities.

 (1) As part of its quality assessment and performance improvement activities a hospital shall collect and aggregate data to:

 (A) monitor the effectiveness and safety of services and the quality of care; and

 (B) identify opportunities for improvement and changes that will lead to improvement.

 (2) The hospital shall collect and aggregate all data, on an ongoing basis, for each of the following performance indicators at a minimum:

 (A) sentinel events;

 (B) allegations of abuse and neglect, as defined in §510.46 of this title (relating to Abuse and Neglect Issues);

 (C) findings of abuse and neglect made by the Texas Health and Human Services Commission, in accordance with §510.46 of this title (relating to Abuse and Neglect Issues);

 (D) violations of patient rights described in 25 TAC Chapter 404, Subchapter E (relating to Rights of Persons Receiving Mental Health Services);

 (E) nosocomial infections;

 (F) injuries of patients;

 (G) medication errors;

 (H) unauthorized departures of patients;

 (I) deaths of patients;

 (J) surveys of patients, patient's families, and legally authorized representatives (LAR) regarding satisfaction with hospital services; and

 (K) complaints and grievances made by patients, and patient's families, and LAR.

 (3) The hospital shall analyze the aggregated data, at least quarterly, to assess the need for performance improvement.

 (4) When a need for performance improvement is identified, the hospital shall develop and implement an action plan to address the identified need.

 (5) The hospital shall evaluate the success of the action plan to determine if the positive outcomes are achieved and sustained.

 (6) If the hospital determines that the positive outcomes have not been achieved or sustained, the hospital shall modify the action plan and re-evaluate its implementation until the outcomes are achieved and sustained.

(e) Evidence of program. The hospital shall maintain and demonstrate evidence of the quality assessment and performance improvement program for review by an external review entity, including the Texas Health and Human Services Commission, the Centers for Medicare and Medicaid Services, and the Joint Commission on Accreditation of Healthcare Organizations.

§568.494. Reporting and Investigating Sentinel Events.

A hospital shall develop and implement written procedures to identify, report, and investigate sentinel events. The procedures shall include:

 (1) a description of the process by which a staff member reports a sentinel event, including a requirement that a sentinel event be reported by a staff member within at least one hour after a staff member becomes aware of the incident;

 (2) a requirement that, within 24 hours of a sentinel event being reported, the administrator designate a committee to investigate the sentinel event that includes a physician, a Registered Nurse (RN), and any other staff members determined appropriate by the administrator; and

 (3) a requirement that, within 45 days of the sentinel event being reported, the committee will determine and document:

 (A) the cause or causes of the sentinel event;

 (B) whether the cause or causes are random or a pattern of error in the hospital's processes or systems;

 (C) any improvements to the hospital's processes or systems that may reduce the occurrence of similar incidents in the future;

 (D) how such improvements will be implemented including a timeline for implementation;

 (E) the staff members responsible for such implementation; and

 (F) a method to determine whether the improvements identified were effective in reducing the occurrence of similar incidents.

§568.495. Response to External Reviews.

A hospital shall develop and implement a written plan to evaluate the effectiveness of any plan of correction the hospital submits to an external review entity, including the Texas Health and Human Services Commission, the Centers for Medicare and Medicaid Services, and the Joint Commission on Accreditation of Healthcare Organizations.

§568.496. Advisory Committee for Nurse Staffing.

(a) Advisory committee members.

 (1) A hospital shall establish an advisory committee that meets the requirements of Texas Health and Safety Code §§161.031 - 161.033.

 (2) At least one-third of the advisory committee shall be registered nurses (RNs) who provide direct patient care at least 50 percent of their work time and at least one of the RNs shall be from either infection control, quality assurance, or risk management.

 (3) For an identifiable mental health services unit in a hospital licensed under Texas Health and Safety Code, Chapter 241, and 25 TAC, Chapter 133 (relating to Hospital Licensing Rules), the advisory committee may be the advisory committee required by 25 TAC §133.41 (relating to Hospital Functions and Services).

(b) Advisory committee responsibilities. The advisory committee shall:

 (1) consider input from RNs and licensed vocational nurses (LVNs) regarding the adequacy of the staffing plan required by §568.473(g) of this chapter (relating to Nursing Services), including any concerns reported in accordance with the process required by §568.473(h) of this chapter (relating to Nursing Services);

 (2) consider variances between planned and actual numbers of staff members, as indicated by a report to the advisory committee by the director of psychiatric nursing (DPN) made in accordance with §568.473(g)(6) of this chapter;

 (3) make recommendations regarding the adequacy of the staffing plan required by §568.473(g) of this chapter;

 (4) evaluate, at least annually, the staffing plan required by §568.473(g) of this chapter including, in part, evaluating the aggregated data required by §568.493(d)(2) of this chapter (relating to Quality Assessment and Performance Improvement Program) to determine if such data has a relationship to the adequacy of the staffing plan; and

 (5) document in the minutes of its meetings the actions required in paragraphs (1) - (4) of this subsection.

(c) Confidentiality of advisory committee records. As provided by Texas Health and Safety Code §161.032, the records and proceedings of the advisory committee are confidential and not subject to disclosure under Texas Government Code, Chapter 552, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release.

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# SUBCHAPTER I REFERENCES AND DISTRIBUTION

§568.499. References.

The following federal and state statutes and rules are referenced in this subchapter:

 (1) Texas Health and Safety Code:

 (A) Chapters 164, 241, 572, 573, 574, 576, 577, and 611; and

 (B) §§161.031-161.033, §321.002, and §571.003;

 (2) Texas Family Code, Chapter 55;

 (3) Texas Government Code:

 (A) Chapter 552, and

 (B) §662.021;

 (4) Texas Occupations Code, Chapters 155, 204, 301, 302, 454, 501, 502, 503, and 505, and §157.001;

 (5) Texas Code of Criminal Procedure, Chapter 46B;

 (6) Code of Federal Regulations:

 (A) Title 42, Part 2 and Title 45, Parts 160 and 164; and

 (B) Title 42 §489.24;

 (7) 25 TAC, Chapter 448;

 (8) 25 TAC, Chapter 133;

 (9) 26 TAC, Chapter 510;

 (10) 25 TAC, Chapter 404, Subchapter E (relating to Rights of Persons Receiving Mental Health Services);

 (11) 25 TAC Chapter 405, Subchapter E (relating to Electroconvulsive Therapy (ECT));

 (12) 25 TAC Chapter 415, Subchapter F (relating to Interventions in Mental Health Programs); and

 (13) 25 TAC Chapter 405, Subchapter FF (relating to Consent to Treatment with Psychoactive Medication);

§568.500. Distribution.

(a) This subchapter will be distributed to:

 (1) appropriate executive, management, and program staff of the Texas Health and Human Services Commission; and

 (2) psychiatric hospitals.

(b) Each psychiatric hospital will ensure distribution of this subchapter to all appropriate staff.