

**Department of State Health Services
Council Agenda Memo for State Health Services Council
February 28 – March 1, 2013**

Agenda Item Title: Repeal of rules and an amendment to a rule concerning Preadmission Screening and Resident Review (PASRR) for state mental health facilities and local mental health authorities

Agenda Number: 4.a.i

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background:

The Mental Health and Substance Abuse (MHSA) Division, Program Services Section develops and implements programs concerning the provision of mental health community services. The Division develops standards to ensure that the 37 local mental health authorities (LMHAs) and one managed care organization (MCO) that contract directly with DSHS provide appropriate, adequate mental health services to the citizens of Texas.

The data reported by the LMHAs and MCO may include functioning, employment, school attendance, or involvement in the juvenile justice system. Regular assessments are performed as a part of treatment and the outcomes are compared to determine improvement in a consumer's mental health status. Funding for community services comes from the Mental Health Block Grant, General Revenue, and third-party payers such as Medicare, Medicaid, and private insurance.

The MHSA Division, State Hospitals Section provides guidance and direction in the provision of evidence-based healthcare treatment and services for ten state mental health hospitals and one infectious diseases hospital. Nine of the ten state mental health hospitals provide mental health services while the Rio Grande State Center (RGSC) provides mental health and intellectual development disability services, as well as public outpatient services. The outpatient clinic component of RGSC includes diagnosis, patient care, and education.

Services include those necessary to assess, treat, and promote recovery of persons as part of a disease management program for those persons admitted to state mental health hospitals for mental disorders as well as the management and treatment of infectious diseases for those persons admitted to the Texas Center for Infectious Diseases. Funding for entities come from General Revenue and third-party payers such as Medicare, Medicaid, and private insurance.

Summary:

PASRR is a federal requirement to ensure that placement of an individual in a nursing facility is necessary, to identify alternate placement options when applicable, and to identify specialized services that may benefit the individual with a diagnosis of mental illness, intellectual disability, or developmental disability. To promote a clear, consistent implementation of the federal requirement, the Department of Aging and Disability Services (DADS), who is responsible for administering the PASRR program in Texas, is promulgating detailed PASRR program rules.

The purpose of the amendment and repeals is to require LMHAs and state mental health facilities to comply with the federal PASRR procedures and DADS' PASRR rules.

The implementation of the PASRR process will ensure that individuals who have been referred for placement in Medicaid-certified nursing facilities and who have been identified as possibly having mental health needs are properly evaluated to determine if they require specialized services while in the facility or if an alternative placement in the community would better suit their needs. When specialized services such as mental health case management or rehabilitative services are indicated, those services will be provided.

Key Health Measures:

Implementation of the IT system that DADS is developing to track all PASRR activities is scheduled for spring of 2013. The number of assessments conducted, the number of individuals identified as needing specialized services, the number of individuals who are placed in the community instead of a nursing facility, and the number of individuals receiving specialized services will be tracked. Reports and data from this system will clearly demonstrate whether the goals of the PASRR program are being met.

For fiscal year 2012, state mental health facilities referred 221 individuals to nursing facilities. The LMHAs received referrals for 513 evaluations from state mental health facilities and private hospitals and 228 evaluations were completed. The resulting variance occurred because some individuals leave the facility before the evaluations could be completed or expire. Of the 513 individuals referred, 413 had Medicaid. Of the 228 individuals evaluated, 28 received specialized services and 3 received alternate placement.

Summary of Input from Stakeholder Groups:

The draft repeal and amendment were distributed for comment to the Executive Director, Texas Council of Community MHMR Centers; Executive Directors, Local Mental Health Authorities; Superintendents, State Mental Health Facilities; Executive Director, Disability Rights Texas; Members of the Local Area Network Advisory Committee; Members of the Council for Advising and Planning for the Prevention and Treatment of Mental Health and Substance Use Disorders, Texas Hospital Association; and other interested parties. One external stakeholder provided comments concerning the Texas community mental health system at large that cannot be resolved through the PASRR rule changes.

The proposed PASRR rules will be presented to the Medical Care Advisory Committee at the February 14, 2013, meeting.

The PASRR rules will be published as proposed in the February 22, 2013, issue of the *Texas Register* in order to coincide with DADS and Health and Human Services Commission rules and be effective by May 24, 2013.

Proposed Motion:

Motion to recommend that HHSC proceed with the rulemaking process for rules contained in agenda item #4.a.i.

Approved by Assistant Commissioner/Director: Mike Maples **Date:** 1/31/2013

Presenter: Perry Young **Program:** MHSA **Phone No.:** 206-5227

Approved by CCEA: Carolyn Bivens **Date:** 1/28/2013

Title 25. Health Services
Part 1. Department of State Health Services
Chapter 412. Local Mental Health Authority Responsibilities
Subchapter D. Mental Health Services--Admission, Continuity, and Discharge
Division 5. Discharge and ATP from SMHF
Amendment §412.202
Chapter 415. Provider Clinical Responsibilities--Mental Health Services
Subchapter J. Preadmission Screening and Resident Review (PASARR)--Mental Health Services
Repeal §§415.451 - 415.458

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes an amendment to §412.202, concerning the Mental Health Services--Admissions, Continuity, and Discharge, and the repeal of §§415.451 - 415.458, concerning Preadmission Screening and Resident Review (PASARR).

BACKGROUND AND PURPOSE

In accordance with 42 Code of Federal Regulations Part 483, Subpart C, concerning Preadmission Screening and Resident Review (PASRR), the amended section sets forth the requirements for state mental health facilities (SMHFs) and local mental health authorities (LMHAs) to perform PASRR screenings and evaluations of patients who are being considered for nursing home placement upon discharge.

The purpose of PASRR is to ensure that placement of the patient in a nursing facility is necessary, to identify alternate placement options when applicable, and to identify specialized services that may benefit the person with a diagnosis of mental illness, intellectual disability, or developmental disability. To promote a clear, consistent implementation of the PASRR Program, the Department of Aging and Disability Services (DADS), who is designated with the responsibility for administering the PASRR Program in Texas, is promulgating PASRR Program rules to which LMHAs and SMHFs must comply. The department is amending an applicable rule in Chapter 412, Subchapter D, §412.202, concerning admission, continuity, and discharge to require that LMHAs and SMHFs comply with federal regulations and the rules in 40 TAC Part 1, Chapter 17, concerning substantially the same matter. DADS' new PASRR rules, which are being published in the same issue of the *Texas Register* as the amendment and repeals in this preamble, may be found at 40 TAC Part 1, Chapter 17, and the existing DADS' PASRR rule at 40 TAC Chapter 19 is being repealed. The department rules in Chapter 415, Subchapter J, concerning PASARR are being repealed because they are no longer necessary.

Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Section 412.202 has been reviewed and the department has determined that the reasons for adopting the rule continue to exist. Sections 415.451 - 415.458 have been reviewed and are no longer necessary and are being repealed.

SECTION-BY-SECTION SUMMARY

Amendments to §412.202(b) cite the federal PASRR regulations; set forth the basic requirements for LMHAs and SMHFs in the conduct of preadmission screenings, evaluations, and resident reviews; and require compliance with federal regulations and DADS rules concerning PASRR in 40 TAC Part 1, Chapter 17. Also, amendments to subsection (b)(5)(D) corrected the legacy agency name from the “Texas Department of Human Services (TDHS)” to the “Department of Aging and Disability Services.”

Sections 415.451 - 415.458 concerning PASARR are being repealed because the PASRR Program requirements will be addressed in new DADS rules in 40 TAC Part 1, Chapter 17.

FISCAL NOTE

Mike Maples, Assistant Commissioner, Mental Health and Substance Abuse Division has determined that for each year of the first five years that the sections will be in effect, there will be no fiscal implications to the state or local governments as a result of enforcing and administering the sections as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Mr. Maples has also determined that the proposed rules will have no direct adverse economic impact on small businesses or micro-businesses. This was determined by interpretation that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections.

The rules have direct application only to local mental health authorities and state mental health facilities, neither of which meet the definition of small or micro-business under the Government Code, §2006.001. Therefore, an economic impact statement and regulatory flexibility analysis for small businesses are not required.

ECONOMIC COST TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There is no economic cost to persons who are required to comply with the section as proposed. There is no anticipated impact on local employment.

PUBLIC BENEFIT

Mr. Maples has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the sections is that individuals are appropriately discharged to the least restrictive setting that meets their needs and if a nursing facility is determined the least restrictive setting, ensure that individuals receive appropriate specialized services to address their diagnosis of mental illness, intellectual disability, or developmental disability.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined as a rule, the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Comments on the proposal may be submitted to Janet Fletcher, Department of State Health Service, P.O. Box 149347, Austin, TX 78714-9347, Mail Code 2018/552 or by email to mhsarules@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The amendments are authorized by Government Code, §531.0055(e), and Health and Safety Code, Chapter 35 and §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The amendments affect Government Code, Chapter 531, and Health and Safety Code, Chapters 35 and 1001. The review of the rules implement Government Code, §2001.039.

Sections for repeal.

§415.451. Purpose.

§415.452. Application.

§415.453. Definitions.

§415.454. PASARR Determination Process.

§415.455. Provision of Specialized Services and Alternate Placement Services.

§415.456. Assistance for Applicants Denied Nursing Facility Admission.
§415.457. References.
§415.458. Distribution.

Legend: (Proposed Amendment(s))

Single Underline = Proposed new language

[Bold, Print, and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§412.202. Special Considerations.

(a) (No change.)

(b) Preadmission Screening and Evaluation (PASRR). As described in 42 Code of Federal Regulations Part 483, Subpart C, all patients who are being considered for nursing home placement shall be screened prior to nursing facility admission. The purpose of the PASRR Level I Screening and PASRR Level II Evaluation is:

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

(2) to identify alternate placement options when applicable; and

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

(A) PASRR Level I Screening. The SMHF shall complete, and may collaborate with a nursing facility, a PASRR Level I Screening in accordance with the rules of the Department of Aging and Disability Services (DADS) set forth in the 40 Texas Administrative Code (TAC), Part 1, Chapter 17 (relating to Preadmission Screening and Resident Review (PASRR)).

(B) PASRR Level II Evaluation. If the PASRR Level I Screening indicates that the patient might have a mental illness, intellectual disability, or developmental disability, the SMHF shall arrange with LMHA who shall conduct a PASRR Level II Evaluation in accordance with 40 TAC Part 1, Chapter 17.

(C) Resident Review. The LMHA shall conduct PASRR Level II Evaluations as part of the resident review process required by 40 TAC Part 1, Chapter 17.

[(b) Nursing facilities.]

[(1) Information regarding alternate services and supports. Prior to a person being admitted to a nursing facility on absence for trial placement (ATP) or directly after discharge, the designated LMHA shall provide the person, the person's LAR, and, unless the LAR is a family member, at least one family member of the person, if possible, with information about alternative services and supports for which the person may be eligible.]

[(2) Preadmission screening. Prior to a person being admitted to a nursing facility on ATP or directly after discharge, the SMHF shall contact the Texas Department

of Human Services to conduct a preadmission screening as required by 40 TAC §19.2500 (relating to Preadmission Screening and Resident Review (PASARR)).]

(4) [(3)] ATP. If a patient is admitted to a nursing facility on ATP, then the designated LMHA shall conduct and document, including justification for its recommendations, the activities described in this paragraph.

(A) The designated LMHA shall make at least one face-to-face contact with the patient at the nursing facility. The contact shall include:

(i) a review of the patient's medical record at the nursing facility;
and

(ii) discussions with the patient and LAR, if any, the nursing facility staff, and other staff who provide care to the patient regarding:

(I) the needs of the patient and the care he/she is receiving;

(II) the ability of the nursing facility to provide the
appropriate care;

(III) the provision of mental health services, if needed by
the patient; and

(IV) the patient's adjustment to the nursing facility.

(B) Before the end of the initial ATP period as described in §412.206(b)(2) of this title (relating to Absence for Trial Placement (ATP)), the designated LMHA shall recommend to the SMHF one of the following:

(i) discharging the patient if the LMHA determines that:

(I) the nursing facility is capable of providing, and willing to provide, appropriate care to the patient after discharge;

(II) any mental health services needed by the patient are being provided to the patient while he/she is residing in the nursing facility; and

(III) the patient and LAR, if any, agrees to the nursing
facility placement;

(ii) extending the patient's ATP period in accordance with §412.206(b)(3) of this title;

(iii) returning the patient to the SMHF in accordance with §412.205(b)(2) of this title (relating to Absences From a SMHF); or

(iv) initiating involuntary admission to the SMHF in accordance with §412.205(a)(2) of this title.

(5) [(4)] Discharge. If a person is admitted to a nursing facility directly upon discharge, then the designated LMHA shall conduct and document the activities described in this paragraph.

(A) The designated LMHA shall make face-to-face contact with the person at the nursing facility within seven days after discharge to determine if the nursing facility is providing adequate and appropriate care to the person. The contact shall include:

(i) a review of the person's medical record at the nursing facility;
and

(ii) discussions with the person, or the person's LAR, if any, the nursing facility staff, and other staff who provide care to the person regarding:

(I) the needs of the person and the care he/she is receiving;

(II) the ability of the nursing facility to provide the appropriate care;

(III) the delivery of mental health services, if needed by the person; and

(IV) the person's adjustment to the nursing facility.

(B) If the designated LMHA determines from its contact that the nursing facility is not providing adequate and appropriate care to the person, then the LMHA shall make a reasonable effort to encourage the nursing facility to provide adequate and appropriate care.

(C) If the designated LMHA's efforts to encourage the nursing facility to provide adequate and appropriate care are unsuccessful and the LMHA determines that the nursing facility is unable or unwilling to provide adequate and appropriate care, then the LMHA shall:

(i) make recommendations to the person and the person's LAR, if any, regarding alternate residential placement; and

(ii) provide assistance in accessing alternate placement, if requested by the person or LAR to do so.

(D) If the designated LMHA identifies or suspects any instance of mistreatment, abuse or neglect, or injuries of unknown origin at the nursing facility, then the

LMHA shall make a report to the Department of Aging and Disability Services [**Texas Department of Human Services (TDHS)**] via its complaint hotline (1-800-458-9858).

(c) - (g) (No change.)

Proposed Repealed Language
~~Strikethrough= repealed text~~

~~§415.451. Purpose.~~

~~———— The purpose of this subchapter is to describe the responsibilities of local mental health and mental retardation authorities (MHMRAs) for providing specialized services and alternate placement services to nursing facility residents who have been identified through the Preadmission Screening and Resident Review (PASARR) process as needing such services.~~

~~§415.452. Application.~~

~~———— The provisions of this subchapter apply to MHMRAs.~~

~~§415.453. Definitions.~~

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

~~———— (1) Alternate placement services— Assistance provided to a nursing facility resident by an MHMRA service coordinator to locate and secure services chosen by the resident or LAR that meet the resident's basic needs in a setting other than a nursing facility. The services include the identification of specific services and supports available through alternate resources for which the resident may be eligible and an explanation of the possible consequences of selecting an alternate service.~~

~~———— (2) Basic needs— Adequate food, clothing, safe and sanitary shelter, support services, and medical services to sustain life.~~

~~———— (3) CFR (Code of Federal Regulations)— The compilation of federal agency regulations.~~

~~———— (4) Dementia— A degenerative disease of the central nervous system as diagnosed by a physician in accordance with the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM).~~

~~———— (5) IDT (interdisciplinary team)— The team described in 40 TAC §19.2500(e)(4).~~

~~———— (6) LAR (legally authorized representative)— A person authorized by law to act on behalf of a nursing facility resident with regard to a matter described in this subchapter, and may include a parent, guardian, or managing conservator of a minor, a guardian of an adult, and surrogate decision maker (SDM).~~

~~———— (7) Local mental health and mental retardation authority (MHMRA)— An entity to which the Texas Board of Mental Health and Mental Retardation delegates its authority and responsibility for planning, policy development, coordination and resource development and~~

allocation, and for supervising and ensuring the provision of mental health and mental retardation services in one or more local service areas.

~~———— (8) Mental illness — A current primary or secondary diagnosis of a major mental disorder (as defined in the Diagnostic and Statistical Manual of Mental Disorders, third edition, revised in 1987 (DSM-III-R). A major mental disorder is a schizophrenic, mood, paranoid, panic, or other severe anxiety disorder; somatoform disorder; personality disorder; other psychotic disorder; or another mental disorder that may lead to a chronic disability without a primary diagnosis of dementia (including Alzheimer's disease or a related disorder). The disorder results in functional limitations in major life activities within the past three to six months that would be appropriate to the individual's developmental stage. The individual typically has serious difficulty in at least one of the following areas on a continuing or intermittent basis: interpersonal functioning, and/or concentration, persistence, and pace; or adaptation to change. Within the past two years, the disorder has required psychiatric treatment more intensive than outpatient care and/or the individual has experienced an episode of significant disruption to the normal living situation for which supportive services were required to maintain functioning at home or in a residential treatment environment or which resulted in intervention by housing or law enforcement officials.~~

~~———— (9) Mental retardation — A diagnosis of mental retardation (mild, moderate, severe, or profound) as described in Classification in Mental Retardation, American Association on Mental Deficiency, 1983 Revision, i.e., mental retardation is significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.~~

~~———— (10) Nursing facility — A Medicaid certified facility that is licensed in accordance with Texas Health and Safety Code, Chapter 242.~~

~~———— (11) Preadmission Screening and Resident Review (PASARR) — The process of evaluating, reviewing, and establishing a person's need for nursing facility services and for specialized services by staff of the Texas Department of Human Services (TDHS) in accordance with 40 TAC §19.2500 (relating to Preadmission Screening and Resident Review (PASARR)).~~

~~———— (12) PASARR determination — A decision made by Texas Department of Human Services (TDHS) PASARR Determination Program professional staff to establish if a person requires the level of services provided in a nursing facility, as defined by medical necessity, and if the person has a need for specialized services for mental illness, mental retardation, and/or a related condition. The decisions are based on information included in the Level II PASARR Assessment.~~

~~———— (13) Related condition — A severe, chronic disability as defined in 42 CFR §435.1009, that:~~

~~———— (A) is attributable to:~~

~~———— (i) cerebral palsy or epilepsy; or~~

~~_____ (ii) any other condition including autism, but excluding mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation, and requires treatment or services similar to those required for these persons;~~

~~_____ (B) is manifested before the person reaches age 22;~~

~~_____ (C) is likely to continue indefinitely; and~~

~~_____ (D) results in substantial functional limitations in three or more of the following areas of major life activity:~~

~~_____ (i) self care;~~

~~_____ (ii) understanding and use of language;~~

~~_____ (iii) learning;~~

~~_____ (iv) mobility;~~

~~_____ (v) self direction; or~~

~~_____ (vi) capacity for independent living.~~

~~_____ (14) Service coordinator—A staff member of an MHMRA who ensures that a nursing facility resident eligible to receive specialized services or alternate placement services receives such services as chosen by the resident or LAR.~~

~~_____ (15) Specialized services—~~

~~_____ (A) For a person with mental illness, the implementation of an individualized plan of care developed under and supervised by an (IDT).~~

~~_____ (B) For a person with mental retardation or a related condition, the implementation of an aggressive, continuous, and individualized program of specialized and generic training, treatment, health services, and related services that is directed toward acquisition of the behaviors necessary for the person to function with as much self-determination and independence as possible and prevention or deceleration of regression or loss of current optimal functional status. It does not include services to maintain generally independent people who are able to function with little supervision or in the absence of a continuous program of specialized services.~~

~~_____ (16) Support services—Services which may include social, psychological, habilitative, rehabilitative, or other assistance appropriate to the person's needs as determined by the IDT.~~

~~————(17) TDHS—Texas Department of Human Services.~~

~~————(18) THSC (Texas Health and Safety Code)—Texas statutes relating to health and safety.~~

~~§415.454. PASARR Determination Process.~~

~~————A PASARR determination is a professional decision based upon written criteria and objective information and made in accordance with the rules of the Texas Department of Human Services at 40 TAC §19.2500 (relating to Preadmission Screening and Resident Review (PASARR)). The MHMRAs must provide specialized services to those residents determined through this process to need specialized services for mental illness, mental retardation, or a related condition.~~

~~§415.455. Provision of Specialized Services and Alternate Placement Services.~~

~~————(a) An MHMRA must provide specialized services and alternate placement services as described in the TDMHMR OBRA PASARR Policy and Procedure Manual for Specialized Services and Alternate Placement Services and in 40 TAC §19.2500(e) (relating to Preadmission Screening and Resident Review (PASARR)).~~

~~————(b) A nursing facility resident's service coordinator must convene an interdisciplinary team (IDT) meeting in accordance with 40 TAC §19.2500(e)(4) to develop a plan for specialized services and alternate placement services, if alternate placement services are requested by the resident or the resident's LAR.~~

~~————(1) Communication techniques and devices should be utilized as appropriate to facilitate the resident's participation in all aspects of service planning.~~

~~————(2) The resident or the resident's LAR may identify individuals to be invited to the meeting and indicate that certain members may not attend. However, written information will be received from and reviewed by all IDT members.~~

~~————(c) The service coordinator must:~~

~~————(1) provide a copy of the specialized services plan and any changes to the plan to the resident's nursing facility, as required by 40 TAC §19.2500(e)(8) (relating to Preadmission Screening and Resident Review);~~

~~————(2) inform the resident or the resident's LAR that the resident may request orally and the LAR may submit a written request to receive a copy of the specialized services plan and any changes to the plan; and~~

~~————(3) if the resident makes an oral request or the LAR a written request, provide a copy of the specialized services plan and any change to the plan to the resident or LAR.~~

~~————(d) The service coordinator must:~~

~~_____ (1) provide a monthly written report to the nursing facility and attending physician regarding the delivery of specialized services or alternate placement services as specified in 40 TAC §19.2500(e)(5) (relating to Preadmission Screening and Resident Review (PASARR));~~

~~_____ (2) inform the resident or the resident's LAR that the resident may request orally and the LAR may submit a written request to receive a copy of the monthly written report regarding the delivery of specialized services or alternate placement services; and~~

~~_____ (3) if the resident makes an oral request or the LAR a written request, provide a copy of the written report regarding the delivery of specialized services or alternate placement services to the resident or LAR monthly until the request is withdrawn orally by the resident or in writing by the LAR.~~

~~_____ (e) When the resident or the resident's LAR selects an alternate placement located by the service coordinator, the service coordinator must:~~

~~_____ (1) obtain written agreement for the specific alternate placement from the resident or the resident's LAR; or~~

~~_____ (2) if the resident who does not have an LAR is unable to provide written agreement, document the resident's oral agreement for the specific alternate placement.~~

~~_____ (f) An MRA must provide specialized services and alternate placement services in compliance with:~~

~~_____ (1) TDMHMR OBRA PASARR Policy and Procedure Manual;~~

~~_____ (2) Chapter 412, Subchapter J, of this title (relating to Service Coordination); and~~

~~_____ (3) Chapter 419, Subchapter L, of this title (relating to Medicaid Rehabilitative Services).~~

~~§415.456. Assistance for Applicants Denied Nursing Facility Admission~~

~~_____ If an applicant to a nursing facility is denied admission to the nursing facility based on a PASARR determination and the applicant or the applicant's LAR requests that the MHMRA provide assistance in locating alternate support services, the MHMRA must provide assistance to the applicant as it would to any other person seeking such services.~~

~~§415.457. References~~

~~_____ Reference is made in this subchapter to the following laws, regulations, standards, and manuals:~~

- ~~_____ (1) 42 CFR §435.1009;~~
- ~~_____ (2) Chapter 412, Subchapter J, of this title (relating to Service Coordination);~~
- ~~_____ (3) Chapter 419, Subchapter L, of this title (relating to Medicaid Rehabilitative Services);~~
- ~~_____ (4) 40 TAC §19.2500 (relating to Preadmission Screening and Resident Review (PASARR));~~
- ~~_____ (5) International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM);~~
- ~~_____ (6) Diagnostic and Statistical Manual of Mental Disorders, Third Edition, revised in 1987 (DSM III R);~~
- ~~_____ (7) Classification in Mental Retardation, American Association on Mental Deficiency, 1983 Revision; and~~
- ~~_____ (8) TDMHMR OBRA PASARR Policy and Procedure Manual for Specialized Services and Alternate Placement.~~

~~§415.458. Distribution~~

~~_____ This subchapter shall be distributed to:~~

- ~~_____ (1) members, Texas Mental Health and Mental Retardation Board;~~
- ~~_____ (2) management and program staff in TDMHMR Central Office;~~
- ~~_____ (3) superintendents/directors, state mental health and mental retardation facilities;~~
- ~~_____ (4) executive directors, local mental health and mental retardation authorities;~~
- ~~_____ (5) chairs, boards of trustees, local mental health and mental retardation authorities;~~
- ~~_____ (6) Texas Department of Human Services;~~
- ~~_____ (7) Texas Department of Health;~~
- ~~_____ (8) Texas Health and Human Services Commission; and~~
- ~~_____ (9) advocacy organizations and interested individuals.~~