



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

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September 3, 2014

TO: Executive Director, Texas Council of Community MHMR Centers
Executive Directors, Local Mental Health Authorities
Executive Director, Disability Rights Texas
Members of the Local Area Network Advisory Committee (LANAC)
Members of the Council on Advising and Planning (CAP) for the Prevention &
Treatment of Mental Health Planning & Substance Use Disorders

FROM: Ross Robinson, Director
Program Services Section, Mental Health and Substance Abuse Services

SUBJECT: Adoption of New Chapter 415, Subchapter F, concerning Interventions in
Mental Health Services

Effective July 22, 2014, the Department of State Health Services has adopted a new Chapter 415, Subchapter F concerning Interventions in Mental Health Services.

Notice of the proposed new Chapter 415, Subchapter F, was published in the January 3, 2014, issue of the *Texas Register* for public review and comment. Comments were received from Children's Hospital Association of Austin; Childress Regional Medical Center of Childress; CHRISTUS Health Plan of Dallas; Representative Garnet F. Coleman of District 147; Council for Advising and Planning for the Prevention and Treatment of Mental and Substance Use Disorders of Austin; Disability Rights Texas of Austin; Doctors Hospital at Renaissance of Edinburg; Harris Health System of Houston; Senator Juan "Chuy" Hinojosa of District 20; Mitchell County Hospital of Colorado City; Rolling Plains Memorial Hospital of Sweetwater; Texas Academy of Physician Assistants of Austin; Texas Hospital Association of Austin; Texas Medical Association of Austin; Texas College of Emergency Physicians of Austin; Texas Federation of Texas Psychiatry of Austin; Texas Organization of Rural & Community Hospitals of Austin; Representative Sylvester Turner of District 139; and Universal Health Services of Edinburg.

In June of 2014, the Executive Commissioner of the Health and Human Commission approved the adoption of the amendments to the subchapter with changes to the text as proposed. Notice of the adoption was published in the July 18, 2014, issue of the *Texas Register* and is available

electronically at the following Internet address:

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=415](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=415)

What is Different?

While the attached preamble and final rule text describe the new rules and repeals concerning the subchapter, be advised that in accordance with Chapter 412, §412.312(d) (Mental Health Community Services Standards) if an LMHA or a subcontractor uses restraint or seclusion, the LMHA or subcontractor is required to comply with the department's rules concerning interventions in mental health services found in Chapter 415, Subchapter F. Specifically, the department recommends reviewing the new and revised:

- staff member training requirements described in §415.257;
- requirements for conducting the one hour face-to-face evaluation described in §415.260(c); and
- reporting requirements described in §415.272.

Reason for the New Subchapter

The new rules describe the requirements for ensuring the safe, effective use of restraint and seclusion in certain types of facilities and programs in which mental health services are provided, consistent with the provisions of Health and Safety Code, Chapter 322, concerning Use of Restraint or Seclusion in Certain Health Care Facilities, as amended by Senate Bill (SB) 325, 79th Legislature, Regular Session, 2005, and as amended by SB 1842, 83rd Legislature, 2013. Additionally, the new subchapter as adopted incorporates changes in terminology and other changes in federal requirements governing the use of restraint and seclusion in hospitals, including psychiatric hospitals. These federal requirements are set forth in 42 Code of Federal Regulations (CFR) §482.13, Conditions of Participation: Patient's Rights (CMS COP's).

Questions

Please direct questions concerning the subchapter by mail to Janet Fletcher, Program Services Unit, P.O. Box 149347, Austin, TX 78714-9347, by telephoning 512-206-5044, or by emailing MHSARules@dshs.state.tx.us.