

HEALTH & SAFETY CODE
SUBTITLE B. STATE FACILITIES
CHAPTER 551. GENERAL PROVISIONS
SUBCHAPTER A. GENERAL POWERS AND DUTIES RELATING TO STATE
FACILITIES

Sec. 551.001. DEFINITIONS. In this subtitle:

(1) "Board" means the Texas Board of Mental Health and Mental Retardation.

(2) "Commissioner" means the commissioner of mental health and mental retardation.

(3) "Department" means the Texas Department of Mental Health and Mental Retardation.

(4) "Department facility" means a facility under the department's jurisdiction for persons with mental illness or mental retardation.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.002. PROHIBITION OF INTEREST. A member of the board, the superintendent of a department facility, or a person connected with a department facility may not:

(1) sell or have a concern in the sale of merchandise, supplies, or other items to a department facility; or

(2) have an interest in a contract with a department facility.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.003. DEPOSIT OF PATIENT OR CLIENT FUNDS. (a) The superintendent of a department facility is the custodian of the personal funds that belong to a facility patient or client and that are on deposit with the institution.

(b) The superintendent may deposit or invest those funds in:

(1) a bank in this state;

(2) federal bonds or obligations; or

(3) bonds or obligations for which the faith and credit of the United States are pledged.

(c) The superintendent may combine the funds of facility patients or clients only to deposit or invest the funds.

(d) The facility's business manager shall maintain records of the amount of funds on deposit for each facility patient or client.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.004. BENEFIT FUND. (a) The superintendent may deposit the interest or increment accruing from funds deposited or invested under Section 551.003 into a fund to be known as the benefit fund. The superintendent is the trustee of the fund.

(b) The superintendent may spend money from the benefit fund for:

(1) educating or entertaining the patients or clients;

(2) barber or cosmetology services for the patients or clients; and

(3) the actual expense incurred in maintaining the fund.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.005. DISBURSEMENT OF PATIENT FUNDS. Funds in the benefit fund or belonging to a facility patient or client may be disbursed only on the signatures of both the facility's superintendent and business manager.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.006. FACILITY STANDARDS BY DEPARTMENT OF HEALTH. (a) The Texas Department of Health by rule shall prescribe standards for department facilities relating to building safety and the number and quality of staff. The staff standards must provide that adequate staff exist to ensure a continuous plan of adequate medical, psychiatric, nursing, and social work services for patients and clients of a department facility.

(b) The Texas Department of Health shall approve department facilities that meet applicable standards and, when requested, shall certify the approval to the Texas Department of Human Services or the United States Health Care Financing Administration.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.007. BUILDING AND IMPROVEMENT PROGRAM. (a) The department shall design, construct, equip, furnish, and maintain buildings and improvements authorized by law at department facilities.

(b) The department may employ architects and engineers to prepare plans and specifications and to supervise construction of buildings and improvements. The department shall employ

professional, technical, and clerical personnel to carry out the design and construction functions prescribed by this section, subject to the General Appropriations Act and other applicable law.

(c) The board shall adopt rules in accordance with this section and other applicable law relating to awarding contracts for the construction of buildings and improvements. The department shall award contracts for the construction of buildings and improvements to the qualified bidder who makes the lowest and best bid.

(d) The department may not award a construction contract for an amount that exceeds the amount of funds available for the project.

(e) The department shall require each successful bidder to give a bond payable to the state in an amount equal to the amount of the bid and conditioned on the faithful performance of the contract.

(f) The department may reject any or all bids.

(g) The department may waive, suspend, or modify a provision of this section that might conflict with a federal statute, rule, regulation, or administrative procedure if the waiver, suspension, or modification is essential to the receipt of federal funds for a project. If a project is financed entirely from federal funds, a standard required by a federal statute, rule, or regulation controls.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.008. TRANSFER OF FACILITIES. (a) The department may transfer the South Campus of the Vernon State Hospital to the Texas Youth Commission contingent upon the agreement of the governing board of the department and the governing board of the Texas Youth Commission.

(b) In this section, "transfer" means to convey title to, lease, or otherwise convey the beneficial use of facilities, equipment, and land appurtenant to the facilities.

Added by Acts 1995, 74th Leg., ch. 312, Sec. 2, eff. June 5, 1995.

SUBCHAPTER B. PROVISIONS APPLICABLE TO FACILITY SUPERINTENDENT AND BUSINESS MANAGER

Sec. 551.022. POWERS AND DUTIES OF SUPERINTENDENT. (a) The superintendent of a department facility is the administrative head of that facility.

(b) The superintendent has the custody of and responsibility to care for the buildings, grounds, furniture, and other property relating to the facility.

(c) The superintendent shall:

(1) oversee the admission and discharge of patients and clients;

(2) keep a register of all patients and clients admitted to or discharged from the facility;

(3) supervise repairs and improvements to the facility;

(4) ensure that facility money is spent judiciously and economically;

(5) keep an accurate and detailed account of all money received and spent, stating the source of the money and to whom and the purpose for which the money is spent; and

(6) keep a full record of the facility's operations.

(d) In accordance with board rules and departmental operating procedures, the superintendent may:

(1) establish policy to govern the facility that the superintendent considers will best promote the patients' and clients' interest and welfare;

(2) appoint subordinate officers, teachers, and other employees and set their salaries, in the absence of other law; and

(3) remove an officer, teacher, or employee for good cause.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 821, Sec. 17, eff. Sept. 1, 1995.

Sec. 551.024. SUPERINTENDENT'S DUTY TO ADMIT COMMISSIONER AND BOARD MEMBERS. (a) The superintendent shall admit into every part of the department facility the commissioner and members of the board.

(b) The superintendent shall on request show any book, paper, or account relating to the department facility's business, management, discipline, or government to the commissioner or board member.

(c) The superintendent shall give to the commissioner or a board member any requested copy, abstract, or report.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.025. DUTY TO REPORT MISSING PATIENT OR CLIENT. If a person receiving inpatient mental retardation services or court-ordered inpatient mental health services in a department facility leaves the facility without notifying the facility or without the facility's consent, the facility superintendent shall immediately report the person as a missing person to an appropriate law enforcement agency in the area in which the facility is located.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.026. BUSINESS MANAGER. (a) The business manager is the chief disbursing officer of the department facility.

(b) The business manager is directly responsible to the superintendent.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

SUBCHAPTER C. POWERS AND DUTIES RELATING TO PATIENT CARE

Sec. 551.041. MEDICAL AND DENTAL TREATMENT. (a) The department shall provide or perform recognized medical and dental treatment or services to a person admitted or committed to the department's care. The department may perform this duty through an authorized agent.

(b) The department may contract for the support, maintenance, care, or medical or dental treatment or service with a municipal, county, or state hospital, a private physician, a licensed nursing home or hospital, or a hospital district. The authority to contract provided by this subsection is in addition to other contractual authority granted to the department. A contract entered into under this subsection may not assign a lien accruing to this state.

(c) If the department requests consent to perform medical or dental treatment or services from a person or the guardian of the person whose consent is considered necessary and a reply is not obtained immediately, or if there is no guardian or responsible relative of the person to whom a request can be made, the superintendent of a department facility shall order:

(1) medical treatment or services for the person on the advice and consent of three physicians licensed by the Texas State Board of Medical Examiners, at least one of whom is primarily engaged in the private practice of medicine; or

(2) dental treatment or services for the person on the advice and consent of a dentist licensed by the State Board of Dental Examiners and of two physicians licensed by the Texas State Board of Medical Examiners, at least one of whom is primarily engaged in the private practice of medicine.

(d) This section does not authorize the performance of an operation involving sexual sterilization or a frontal lobotomy.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.042. OUTPATIENT CLINICS. (a) If funds are available, the department may establish in locations the department considers necessary outpatient clinics to treat persons with mental illness.

(b) As necessary to establish and operate the clinics, the department may:

(1) acquire facilities;

(2) hire personnel;

(3) adopt rules; and

(4) contract with persons, corporations, and local, state, and federal agencies.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 551.043. MENTAL HYGIENE CLINIC SERVICE. (a) The department may establish a mental hygiene clinic service through its agents and facilities.

(b) The clinic service shall cooperate with the Texas Education Agency and local boards of education in studying the mental and physical health of children:

(1) with serious retardation in school progress or in mental development; or

(2) who have personality development problems.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.49, eff. Sept. 1, 1997.

Sec. 551.044. OCCUPATIONAL THERAPY PROGRAMS. (a) The department may provide equipment, materials, and merchandise for occupational therapy programs at department facilities.

(b) The superintendent of a department facility may, in accordance with department rules, contract for the provision of equipment, materials, and merchandise for occupational therapy programs. If the contractor retains the finished or semi-finished product, the contract shall provide for a fair and reasonable rental payment to the department by the contractor for the use of facility premises or equipment. The rental payment is determined by the amount of time the facility premises or equipment is used in making the products.

(c) The finished products made in an occupational therapy program may be sold and the proceeds placed in the patients' benefit fund, the patients' trust fund, or a revolving fund for use by the patients. A patient may keep the finished product if the patient purchases the material for the product from the state.

(d) The department may accept donations of money or materials for use in occupational therapy programs and may use a donation in the manner requested by the donor if not contrary to board policy.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.