

CHAPTER 903

S.B. No. 207

AN ACT

relating to the regulation of the provision of mental health and chemical dependency services and of billing for health services.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1

SECTION 1.01. Chapter 571, Health and Safety Code, is amended by adding Section 571.0065 to read as follows:

Sec. 571.0065. PRESCRIPTION MEDICATION INFORMATION. (a) The board by rule shall require a mental health facility that admits a patient under this subtitle to provide to the patient in the patient's primary language, if possible, information relating to prescription medications ordered by the patient's treating physician.

(b) At a minimum, the required information must:

(1) identify the major types of prescription medications; and

(2) specify for each major type:

(A) the conditions the medications are commonly used to treat;

(B) the beneficial effects on those conditions generally expected from the medications;

(C) side effects and risks associated with the medications;

(D) commonly used examples of medications of the major type; and

(E) sources of detailed information concerning a particular medication.

(c) The facility shall also provide the information to the patient's family on request, but only to the extent not otherwise prohibited by state or federal confidentiality laws.

SECTION 1.02. Subsection (b), Section 572.003, Health and Safety Code, is amended to read as follows:

(b) In addition to the rights provided by this subtitle [Sections ~~572.004, 576.001, 576.006, 576.007, 576.008, 576.009, and 576.021~~], a person voluntarily admitted to an inpatient mental health facility under this chapter has the right:

(1) to be reviewed periodically to determine the person's need for continued inpatient treatment; and

(2) to have an application for court-ordered mental health services filed only as provided by Section 572.005.

SECTION 1.03. (a) Chapter 572, Health and Safety Code, is amended by adding Section 572.0022 to read as follows:

Sec. 572.0022. INFORMATION ON MEDICATIONS. (a) A mental health facility shall provide to a patient in the patient's primary language, if possible, and in accordance with

rules adopted under Section 571.0065 information relating to prescription medication ordered by the patient's treating physician.

(b) The facility shall also provide the information to the patient's family on request, but only to the extent not otherwise prohibited by state or federal confidentiality laws.

(b) This section takes effect May 1, 1994.

SECTION 1.04. Section 572.005, Health and Safety Code, is amended to read as follows:

Sec. 572.005. APPLICATION FOR COURT-ORDERED TREATMENT. (a) An application for court-ordered mental health services may not be filed against a patient receiving voluntary inpatient services unless:

(1) a request for release of the patient has been filed with the facility administrator; or
 (2) in the ~~[facility administrator's]~~ opinion of the physician responsible for the patient's treatment, the patient meets the criteria for court-ordered mental health services and:

(A) is absent from the facility without authorization; ~~[or]~~

(B) ~~[refuses or]~~ is unable to consent to appropriate and necessary psychiatric treatment; or

(C) refuses to consent to necessary and appropriate treatment recommended by the physician responsible for the patient's treatment and that physician completes a certificate of medical examination for mental illness that, in addition to the information required by Section 574.011, includes the opinion of the physician that:

(i) there is no reasonable alternative to the treatment recommended by the physician; and

(ii) the patient will not benefit from continued inpatient care without the recommended treatment.

(b) The physician responsible for the patient's treatment shall notify the patient if the physician intends to file an application for court-ordered mental health services.

SECTION 1.05. (a) Subchapter D, Chapter 574, Health and Safety Code, is amended by adding Section 574.0415 to read as follows:

Sec. 574.0415. INFORMATION ON MEDICATIONS. (a) A mental health facility shall provide to a patient in the patient's primary language, if possible, and in accordance with rules adopted under Section 571.0065 information relating to prescription medication ordered by the patient's treating physician.

(b) The facility shall also provide the information to the patient's family on request, but only to the extent not otherwise prohibited by state or federal confidentiality laws.

(b) This section takes effect May 1, 1994.

SECTION 1.06. Section 576.006, Health and Safety Code, is amended to read as follows:

Sec. 576.006. RIGHTS SUBJECT TO LIMITATION ~~[BY FACILITY ADMINISTRATOR]~~. (a) A patient in an inpatient mental health facility has the right to:

(1) receive visitors;

(2) communicate with a person outside the facility by telephone and by uncensored and sealed mail; and

(3) communicate by telephone and by uncensored and sealed mail with legal counsel, the department, the courts, and the state attorney general.

(b) The rights provided in Subsection (a) are subject to the general rules of the facility. The physician ultimately responsible for the patient's treatment ~~[facility administrator]~~ may also restrict a right only to the extent ~~[the facility administrator determines]~~ that the restriction is necessary to the patient's welfare or to protect another person but may not restrict the right to communicate with legal counsel, the department, the courts, or the state attorney general ~~[if an attorney-client relationship has been established]~~.

(c) If a ~~[A]~~ restriction is imposed under this section, the physician ultimately responsible for the patient's treatment shall document the clinical ~~[by the facility administrator for the patient's welfare and the]~~ reasons for the restriction and the duration of the restriction in ~~[shall be made a part of]~~ the patient's clinical record. That physician shall inform the

patient and, if appropriate, the patient's parent, managing conservator, or guardian of the clinical reasons for the restriction and the duration of the restriction.

SECTION 1.07. Section 576.009, Health and Safety Code, is amended to read as follows:

Sec. 576.009. NOTIFICATION OF RIGHTS. A patient receiving involuntary inpatient mental health services shall be informed of the rights provided by this subtitle [~~in Sections 576.001, 576.006, 576.007, 576.008, and 576.021~~]:

(1) orally, in simple, nontechnical terms, and in writing that, if possible, is in the person's primary language; or

(2) through the use of a means reasonably calculated to communicate with a hearing impaired or visually impaired person, if applicable.

SECTION 1.08. Chapter 574, Health and Safety Code, is amended by adding Subchapter G to read as follows:

**SUBCHAPTER G. ADMINISTRATION OF MEDICATION TO PATIENT
UNDER ORDER FOR INPATIENT MENTAL HEALTH SERVICES**

Sec. 574.101. DEFINITIONS. In this subchapter:

(1) "Capacity" means a patient's ability to:

(A) understand the nature and consequences of a proposed treatment, including the benefits, risks, and alternatives to the proposed treatment; and

(B) make a decision whether to undergo the proposed treatment.

(2) "Medication-related emergency" means a situation in which it is immediately necessary to administer medication to a patient to prevent:

(A) imminent probable death or substantial bodily harm to the patient because the patient:

(i) overtly or continually is threatening or attempting to commit suicide or serious bodily harm; or

(ii) is behaving in a manner that indicates that the patient is unable to satisfy the patient's need for nourishment, essential medical care, or self-protection; or

(B) imminent physical or emotional harm to another because of threats, attempts, or other acts the patient overtly or continually makes or commits.

(3) "Psychoactive medication" means a medication prescribed for the treatment of symptoms of psychosis or other severe mental or emotional disorders and that is used to exercise an effect on the central nervous system to influence and modify behavior, cognition, or affective state when treating the symptoms of mental illness. "Psychoactive medication" includes the following categories when used as described in this subdivision:

(A) antipsychotics or neuroleptics;

(B) antidepressants;

(C) agents for control of mania or depression;

(D) antianxiety agents;

(E) sedatives, hypnotics, or other sleep-promoting drugs; and

(F) psychomotor stimulants.

Sec. 574.102. APPLICATION OF SUBCHAPTER. This subchapter applies only to the application of medication to a patient subject to an order for inpatient mental health services under Section 574.034 or 574.035 who is receiving those services in a mental health facility operated or funded by the department.

Sec. 574.103. ADMINISTRATION OF MEDICATION TO PATIENT UNDER COURT-ORDERED MENTAL HEALTH SERVICES. A person may not administer a psychoactive medication to a patient who refuses to take the medication voluntarily unless:

(1) the patient is having a medication-related emergency; or

(2) the patient is under an order issued under Section 574.106 authorizing the administration of the medication regardless of the patient's refusal.

Sec. 574.104. PHYSICIAN'S PETITION FOR ORDER TO COMPEL PSYCHOACTIVE MEDICATION; DATE OF HEARING. (a) A physician who is treating a patient may petition a probate court or a court with probate jurisdiction for an order to authorize the administration of a psychoactive medication regardless of the patient's refusal if:

(1) the physician believes that the patient lacks the capacity to make a decision regarding the administration of the psychoactive medication;

(2) the physician determines that the medication is the proper course of treatment for the patient; and

(3) the patient is under an order for temporary or extended mental health services under Section 574.034 or 574.035 and the patient, verbally or by other indication, refuses to take the medication voluntarily.

(b) A petition filed under this section must state:

(1) that the physician believes that the patient lacks the capacity to make a decision regarding administration of the psychoactive medication and the reasons for that belief;

(2) each medication the physician wants the court to compel the patient to take;

(3) whether the current order for inpatient mental health services for the patient was issued under Section 574.034 or under Section 574.035; and

(4) the physician's diagnosis of the patient.

(c) A petition filed under this section is separate from an application for court-ordered mental health services.

(d) The court with which a petition is filed under this section shall set a hearing on the petition to be held not later than the seventh day after the date the petition is filed. The hearing on the petition may be held on the date of a hearing on an application for court-ordered extended mental health services under Section 574.035. The hearing on the petition may not be held on the date of a hearing on an application for court-ordered temporary mental health services under Section 574.034 unless the patient and the patient's attorney agree in writing to have the hearing on that date.

(e) The court may grant one continuance on a party's motion and for good cause shown. The court may grant more than one continuance only with the agreement of the parties.

Sec. 574.105. RIGHTS OF PATIENT. A patient for whom a petition for an order to authorize the administration of a psychoactive medication is filed is entitled to:

(1) representation by a court-appointed attorney who is knowledgeable about issues to be adjudicated at the hearing;

(2) meet with that attorney as soon as is practicable to prepare for the hearing and to discuss any of the patient's questions or concerns;

(3) receive, immediately after the time of the hearing is set, a copy of the petition and written notice of the time, place, and date of the hearing;

(4) be told, at the time personal notice of the hearing is given, of the patient's right to a hearing and right to the assistance of an attorney to prepare for the hearing and to answer any questions or concerns;

(5) be present at the hearing;

(6) request from the court an independent expert; and

(7) oral notification, at the conclusion of the hearing, of the court's determinations of the patient's capacity and best interests.

Sec. 574.106. HEARING ON PATIENT'S CAPACITY AND ORDER AUTHORIZING PSYCHOACTIVE MEDICATION. (a) The court may issue an order authorizing the administration of one or more classes of psychoactive medication only if the court finds by clear and convincing evidence after the hearing that:

(1) the patient lacks the capacity to make a decision regarding the administration of the proposed medication; and

(2) treatment with the proposed medication is in the best interest of the patient.

(b) In making its findings, the court shall consider:

(1) the patient's expressed preferences regarding treatment with psychoactive medication;

(2) the patient's religious beliefs;

(3) the risks and benefits, from the perspective of the patient, of taking psychoactive medication;

(4) the consequences to the patient if the psychoactive medication is not administered;

(5) the prognosis for the patient if the patient is treated with psychoactive medication; and

(6) alternatives to treatment with psychoactive medication.

(c) A hearing under this subchapter shall be conducted by the probate judge or judge with probate jurisdiction, except as provided by Subsection (d).

(d) A judge may refer a hearing to a magistrate or court-appointed master who has training regarding psychoactive medications.

(e) A party is entitled to a hearing by the judge if an appeal of the magistrate's or master's report is filed with the court within three days after the report is issued.

(f) If a hearing or an appeal of a master's or magistrate's report is to be held in a county court in which the judge is not a licensed attorney, the proposed patient or the proposed patient's attorney may request that the proceeding be transferred to a court with a judge who is licensed to practice law in this state. The county judge shall transfer the case after receiving the request, and the receiving court shall hear the case as if it had been originally filed in that court.

(g) As soon as practicable after the conclusion of the hearing, the patient is entitled to have provided to the patient and the patient's attorney written notification of the court's determinations under this section. The notification shall include a statement of the evidence on which the court relied and the reasons for the court's determinations.

(h) An order entered under this section shall authorize the administration to a patient, regardless of the patient's refusal, of one or more classes of psychoactive medications specified in the petition and consistent with the patient's diagnosis. The order shall permit an increase or decrease in a medication's dosage, restitution of medication authorized but discontinued during the period the order is valid, or the substitution of a medication within the same class.

(i) The classes of psychoactive medications in the order must conform to classes determined by the department.

(j) An order issued under this section may be reauthorized or modified on the petition of a party. The order remains in effect pending action on a petition for reauthorization or modification. For the purpose of this subsection, "modification" means a change of a class of medication authorized in the order.

Sec. 574.107. **APPEAL.** (a) A patient may appeal an order under this subchapter in the manner provided by Section 574.070 for an appeal of an order requiring court-ordered mental health services.

(b) An order authorizing the administration of medication regardless of the refusal of the patient is effective pending an appeal of the order.

Sec. 574.108. **EFFECT OF ORDER.** (a) A person's consent to take a psychoactive medication is not valid and may not be relied on if the person is subject to an order issued under Section 574.106.

(b) The issuance of an order under Section 574.106 is not a determination or adjudication of mental incompetency and does not limit in any other respect that person's rights as a citizen or the person's property rights or legal capacity.

Sec. 574.109. **EXPIRATION AND REVIEW OF ORDER.** (a) The court annually shall review an order issued under Section 574.106.

(b) An order issued under Section 574.106 expires on the expiration or termination date of the order for temporary or extended mental health services in effect when the order for psychoactive medication is issued.

SECTION 1.09. Subchapter B, Chapter 576, Health and Safety Code, is amended by adding Sections 576.025 and 576.026 to read as follows:

Sec. 576.025. ADMINISTRATION OF PSYCHOACTIVE MEDICATION. (a) A person may not administer a psychoactive medication to a patient receiving voluntary or involuntary mental health services who does not consent to the administration unless:

(1) the patient is having a medication-related emergency;

(2) the patient is younger than 16 years of age and the patient's parent, managing conservator, or guardian consents to the administration on behalf of the patient;

(3) the patient does not have the capacity to consent and the patient's representative authorized by law to consent on behalf of the patient has consented to the administration; or

(4) the administration of the medication regardless of the patient's refusal is authorized by an order issued under Section 574.106.

(b) Consent to the administration of psychoactive medication given by a patient or by a person authorized by law to consent on behalf of the patient is valid only if:

(1) the consent is given voluntarily and without coercive or undue influence;

(2) the treating physician or a person designated by the physician provided the following information, in a standard format approved by the department, to the patient and, if applicable, to the patient's representative authorized by law to consent on behalf of the patient:

(A) the specific condition to be treated;

(B) the beneficial effects on that condition expected from the medication;

(C) the probable health and mental health consequences of not consenting to the medication;

(D) the probable clinically significant side effects and risks associated with the medication;

(E) the generally accepted alternatives to the medication, if any, and why the physician recommends that they be rejected; and

(F) the proposed course of the medication;

(3) the patient and, if appropriate, the patient's representative authorized by law to consent on behalf of the patient is informed in writing that consent may be revoked; and

(4) the consent is evidenced in the patient's clinical record by a signed form prescribed by the facility or by a statement of the treating physician or a person designated by the physician that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained.

(c) If the treating physician designates another person to provide the information under Subsection (b), then, not later than two working days after that person provides the information, excluding weekends and legal holidays, the physician shall meet with the patient and, if appropriate, the patient's representative who provided the consent, to review the information and answer any questions.

(d) A patient's refusal or attempt to refuse to receive psychoactive medication, whether given verbally or by other indications or means, shall be documented in the patient's clinical record.

(e) In prescribing psychoactive medication, a treating physician shall:

(1) prescribe, consistent with clinically appropriate medical care, the medication that has the fewest side effects or the least potential for adverse side effects, unless the class of medication has been demonstrated or justified not to be effective clinically; and

(2) administer the smallest therapeutically acceptable dosages of medication for the patient's condition. /

(f) If a physician issues an order to administer psychoactive medication to a patient without the patient's consent because the patient is having a medication-related emergency:

(1) the physician shall document in the patient's clinical record in specific medical or behavioral terms the necessity of the order and that the physician has evaluated but rejected other generally accepted, less intrusive forms of treatment, if any; and

(2) treatment of the patient with the psychoactive medication shall be provided in the manner, consistent with clinically appropriate medical care, least restrictive of the patient's personal liberty.

(g) In this section, "medication-related emergency" and "psychoactive medication" have the meanings assigned by Section 574.101.

Sec. 576.026. **INDEPENDENT EVALUATION.** (a) A patient receiving inpatient mental health services under this subtitle is entitled to obtain at the patient's cost an independent psychiatric, psychological, or medical examination or evaluation by a psychiatrist, physician, or nonphysician mental health professional chosen by the patient. The facility administrator shall allow the patient to obtain the examination or evaluation at any reasonable time.

(b) If the patient is a minor, the minor and the minor's parent, legal guardian, or managing or possessory conservator is entitled to obtain the examination or evaluation. The cost of the examination or evaluation shall be billed by the professional who performed the examination or evaluation to the person responsible for payment of the minor's treatment as a cost of treatment.

SECTION 1.10. Subchapter B, Chapter 576, Health and Safety Code, is amended by adding Section 576.027 to read as follows:

Sec. 576.027. **LIST OF MEDICATIONS.** (a) The facility administrator of an inpatient mental health facility shall provide to a patient, a person designated by the patient, and the patient's legal guardian or managing conservator, if any, a list of the medications prescribed for administration to the patient while the patient is in the facility. The list must include for each medication:

(1) the name of the medication;

(2) the dosage and schedule prescribed for the administration of the medication; and

(3) the name of the physician who prescribed the medication.

(b) The list must be provided within four hours after the facility administrator receives a written request for the list from the patient, a person designated by the patient, or the patient's legal guardian or managing conservator and on the discharge of the patient. If sufficient time to prepare the list before discharge is not available, the list may be mailed within 24 hours after discharge to the patient, a person designated by the patient, and the patient's legal guardian or managing conservator.

(c) A patient or the patient's legal guardian or managing conservator, if any, may waive the right of any person to receive the list of medications while the patient is participating in a research project if release of the list would jeopardize the results of the project.

SECTION 1.11. Subsection (b), Section 611.002, Health and Safety Code, is amended to read as follows:

(b) Confidential communications or records may not be disclosed except as provided by Section 611.004 or 611.0045.

SECTION 1.12. Chapter 611, Health and Safety Code, is amended by adding Section 611.0045 to read as follows:

Sec. 611.0045. **RIGHT TO MENTAL HEALTH RECORD.** (a) Except as otherwise provided by this section, a patient is entitled to have access to the content of a confidential record made about the patient.

(b) The professional may deny access to any portion of a record if the professional determines that release of that portion would be harmful to the patient's physical, mental, or emotional health.

(c) If the professional denies access to any portion of a record, the professional shall give the patient a signed and dated written statement that having access to the record would be

harmful to the patient's physical, mental, or emotional health and shall include a copy of the written statement in the patient's records. The statement must specify the portion of the record to which access is denied, the reason for denial, and the duration of the denial.

(d) The professional who denies access to a portion of a record under this section shall redetermine the necessity for the denial at each time a request for the denied portion is made. If the professional again denies access, the professional shall notify the patient of the denial and document the denial as prescribed by Subsection (c).

(e) If a professional denies access to a portion of a confidential record, the professional shall allow examination and copying of the record by another professional if the patient selects the professional to treat the patient for the same or a related condition as the professional denying access.

(f) The content of a confidential record shall be made available to a person listed by Section 611.004(a)(4) or (5) who is acting on the patient's behalf.

(g) A professional shall delete confidential information about another person who has not consented to the release, but may not delete information relating to the patient that another person has provided, the identity of the person responsible for that information, or the identity of any person who provided information that resulted in the patient's commitment.

(h) If a summary or narrative of a confidential record is requested by the patient or other person requesting release under this section, the professional shall prepare the summary or narrative.

(i) The professional or other entity that has possession or control of the record shall grant access to any portion of the record to which access is not specifically denied under this section within a reasonable time and may charge a reasonable fee.

(j) Notwithstanding Section 5.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), this section applies to the release of a confidential record created or maintained by a professional, including a physician, that relates to the diagnosis, evaluation, or treatment of a mental or emotional condition or disorder, including alcoholism or drug addiction.

(k) The denial of a patient's access to any portion of a record by the professional or other entity that has possession or control of the record suspends, until the release of that portion of the record, the running of an applicable statute of limitations on a cause of action in which evidence relevant to the cause of action is in that portion of the record.

SECTION 1.13. Section 611.005, Health and Safety Code, is amended to read as follows:

Sec. 611.005. **LEGAL REMEDIES FOR IMPROPER DISCLOSURE OR FAILURE TO DISCLOSE.** (a) A person aggrieved by the improper disclosure of or failure to disclose confidential communications or records in [a] violation of this chapter may petition the district court of the county in which the person resides for appropriate [injunctive] relief, including injunctive relief. The person may petition a district court of Travis County if the person is not a resident of this state.

(b) In a suit contesting the denial of access under Section 611.0045, the burden of proving that the denial was proper is on the professional who denied the access.

(c) The aggrieved person also has a civil cause of action for damages.

SECTION 1.14. Subchapter A, Chapter 462, Health and Safety Code, is amended by adding Section 462.009 to read as follows:

Sec. 462.009. **CONSENT TO TREATMENT.** (a) A patient receiving treatment in a treatment facility is entitled to refuse a medication, therapy, or treatment unless:

(1) the patient is younger than 16 years of age and the patient's parent, managing conservator, or guardian consents to the medication, therapy, or treatment on behalf of the patient;

(2) the patient has been adjudicated to be incompetent to manage the patient's personal affairs or to make a decision to refuse the medication, therapy, or treatment and the patient's guardian of the person or another person legally authorized to consent to medical treatment consents to the medication, therapy, or treatment on behalf of the patient; or

(3) a physician treating the patient determines that the medication is necessary to prevent imminent serious physical harm to the patient or to another individual and the physician issues a written order, or a verbal order if authenticated in writing by the physician within 24 hours, to administer the medication to the patient.

(b) The decision of a guardian or of a person legally authorized to consent to medical treatment on the patient's behalf under Subsection (a)(2) must be based on knowledge of what the patient would desire, if known.

(c) A patient's refusal to receive medication, therapy, or treatment under Subsection (a), or a patient's attempt to refuse if the patient's right to refuse is limited by that subsection, shall be documented in the patient's clinical record together with the patient's expressed reason for refusal.

(d) If a physician orders a medication to be administered to a patient under Subsection (a)(3), the physician shall document in the patient's clinical record in specific medical and behavioral terms the reasons for the physician's determination of the necessity of the order.

(e) Consent given by a patient or by a person authorized by law to consent to treatment on the patient's behalf for the administration of a medication, therapy, or treatment is valid only if:

(1) the consent is given voluntarily and without coercive or undue influence;

(2) before administration of the medication, therapy, or treatment, the treating physician explains to the patient and to the person giving consent, in simple, nontechnical language:

(A) the specific condition to be treated;

(B) the beneficial effects on that condition expected from the medication, therapy, or treatment;

(C) the probable health and mental health consequences of not consenting to the medication, therapy, or treatment;

(D) the side effects and risks associated with the medication, therapy, or treatment;

(E) the generally accepted alternatives to the medication, therapy, or treatment, if any, and whether an alternative might be appropriate for the patient; and

(F) the proposed course of the medication, therapy, or treatment; and

(3) the informed consent is evidenced in the patient's clinical record by a signed form prescribed by the commission for this purpose or by a statement of the treating physician that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained.

(f) A person who consents to the administration of a medication, therapy, or treatment may revoke the consent at any time and for any reason, regardless of the person's capacity. Revocation of consent is effective immediately and further medication, therapy, or treatment may not be administered unless new consent is obtained in accordance with this section.

(g) Consent given by a patient or by a person authorized by law to consent to treatment on the patient's behalf applies to a series of doses of medication or to multiple therapies or treatments for which consent was previously granted. If the treating physician obtains new information relating to a medication, therapy, or treatment for which consent was previously obtained, the physician must explain the new information and obtain new consent.

SECTION 1.15. Section 462.024, Health and Safety Code, is amended to read as follows:

Sec. 462.024. APPLICATION FOR COURT-ORDERED TREATMENT DURING VOLUNTARY INPATIENT CARE. (a) An application for court-ordered treatment may not be filed against a patient receiving voluntary care under this subchapter unless:

(1) a request for release of the patient has been filed; or

(2) in the [facility administrator's] opinion of the physician responsible for the patient's treatment, the patient meets the criteria for court-ordered treatment and:

(A) is absent from the facility without authorization; [or]

(B) [refuses or] is unable to consent to appropriate and necessary treatment; or

(C) refuses to consent to necessary and appropriate treatment recommended by the physician responsible for the patient's treatment and that physician completes a certificate of medical examination for chemical dependency that, in addition to the information required by Section 462.064, includes the opinion of the physician that:

(i) there is no reasonable alternative to the treatment recommended by the physician; and

(ii) the patient will not benefit from continued inpatient care without the recommended treatment.

(b) The physician responsible for the patient's treatment shall notify the patient if the physician intends to file an application for court-ordered treatment.

SECTION 1.16. (a) Not later than October 31, 1993, the Texas Board of Mental Health and Mental Retardation shall appoint an advisory task force on prescription medications composed of at least the following persons:

(1) one licensed psychiatrist;

(2) one licensed psychologist;

(3) one certified social worker;

(4) one licensed professional counselor;

(5) one licensed chemical dependency counselor;

(6) two persons who have received mental health services, either voluntarily or involuntarily, during the two years preceding the date of the person's appointment;

(7) one member from each of two private associations of persons who advocate on the behalf of or in the interest of persons with mental illness;

(8) one licensed psychiatric nurse; and

(9) one licensed pharmacist.

(b) The board may appoint additional members as it considers appropriate.

(c) The advisory task force shall designate one member to serve as presiding officer.

(d) The advisory task force shall recommend to the Texas Board of Mental Health and Mental Retardation information concerning different types of prescription medications, based on generally accepted clinical and medical standards and practices, that shall be provided to each person who may receive prescription medication while receiving inpatient mental health services. The task force shall make its recommendations not later than February 1, 1994.

(e) The advisory task force may conduct public hearings on desirable information to be provided to a person who may receive prescription medication.

(f) Members of the advisory task force receive no compensation but are entitled to reimbursement for reasonable expenses incurred in performing official duties in accordance with the General Appropriations Act.

(g) In adopting rules under Section 571.0065, Health and Safety Code, as added by this Act, the Texas Board of Mental Health and Mental Retardation shall consider the recommendations of the advisory task force on prescription medications appointed under this section. The board shall adopt rules under Section 571.0065, Health and Safety Code, not later than May 1, 1994.

SECTION 1.17. (a) The changes in law made by this article apply only to consent for the administration of a medication, therapy, or treatment to a person that is given on or after the effective date of this article.

(b) Valid consent for the administration of a medication, therapy, or treatment to a person that is given before the effective date of this article remains valid and continues in effect until consent is withdrawn by the person who gave consent or by a person who is entitled to refuse the medication, therapy, or treatment.

ARTICLE 2

SECTION 2.01. Section 311.002, Health and Safety Code, is amended by amending Subsections (d), (e), and (f) and adding Subsections (g) and (h) to read as follows:

(d) A hospital shall provide an itemized statement of billed services to a third party payor who is actually or potentially responsible for paying all or part of the billed services provided to a patient and who has received a claim for payment of those services. To be entitled to receive a statement, the third party payor must request the statement from the hospital and must have received a claim for payment. The request must be made not later than one year after the date on which the payor received the claim for payment. The hospital shall provide the statement to the payor not later than the 10th day after the date on which the payor requests the statement. If a third party payor receives a claim for payment of part but not all of the billed services, the third party payor may request an itemized statement of only the billed services for which payment is claimed or to which any deduction or copayment applies.

(e) If a person, including a third party payor, requests more than two copies of the statement, the hospital may charge a reasonable fee for the third and subsequent copies provided to that person. The fee may not exceed the hospital's cost to copy, process, and deliver the copy to the person.

(f) [(e)] The Texas Department of Health or other appropriate licensing agency may enforce this section by injunction or by any other appropriate remedy, including suspending, revoking, or refusing to renew a hospital's license.

(g) In this section, "hospital" includes:

- (1) a treatment facility licensed under Chapter 464; and
- (2) a mental health facility licensed under Chapter 577.

(h) [(f)] This section does not apply to a hospital maintained or operated by the federal government.

SECTION 2.02. Subchapter A, Chapter 311, Health and Safety Code, is amended by adding Section 311.0025 to read as follows:

Sec. 311.0025. AUDITS OF BILLING. (a) A hospital, treatment facility, mental health facility, or health care professional may not submit to a patient or a third party payor a bill for a treatment that the hospital, facility, or professional knows was not provided or knows was improper, unreasonable, or medically or clinically unnecessary.

(b) If the appropriate licensing agency receives a complaint alleging a violation of Subsection (a), the agency may audit the billings and patient records of the hospital, treatment facility, mental health facility, or health care professional.

(c) A hospital, treatment facility, mental health facility, or health care professional that violates Subsection (a) is subject to disciplinary action, including denial, revocation, suspension, or nonrenewal of the license of the hospital, facility, or professional. Disciplinary action taken under this section is in addition to any other civil, administrative, or criminal penalty provided by law.

(d) In this section:

- (1) "Health care professional" means an individual licensed, certified, or regulated by a health care regulatory agency who is eligible for reimbursement for treatment ordered or rendered by that professional.
- (2) "Hospital" means a hospital licensed under Chapter 241.
- (3) "Mental health facility" means a mental health facility licensed under Chapter 577.
- (4) "Treatment facility" means a treatment facility licensed under Chapter 464.

ARTICLE 3

SECTION 3.01. Except as otherwise provided by this Act, this Act takes effect immediately.

SECTION 3.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on March 25, 1993: Yeas 31, Nays 0; the Senate concurred in House amendments on May 25, 1993: Yeas 31, Nays 0; passed the House, with amendments, on May 22, 1993, by a non-record vote.

Approved June 19, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment, except §§ 1.03 and 1.05, effective May 1, 1994.