

HEALTH AND SAFETY CODE CHAPTER 321. PROVISION OF MENTAL HEALTH,
CHEMICAL DEPENDENCY, AND REHABILITATION SERVICES

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE G. PROVISION OF SERVICES IN CERTAIN FACILITIES

CHAPTER 321. PROVISION OF MENTAL HEALTH, CHEMICAL DEPENDENCY, AND
REHABILITATION SERVICES

Sec. 321.001. DEFINITIONS. In this chapter:

(1) "Comprehensive medical rehabilitation" means the provision of rehabilitation services that are designed to improve or minimize a person's physical or cognitive disabilities, maximize a person's functional ability, or restore a person's lost functional capacity through close coordination of services, communication, interaction, and integration among several professions that share the responsibility to achieve team treatment goals for the person.

(2) "Hospital" has the meaning assigned by Section 241.003.

(3) "License" means a state agency permit, certificate, approval, registration, or other form of permission required by state law.

(4) "Mental health facility" has the meaning assigned by Section 571.003.

(5) "State health care regulatory agency" means a state agency that licenses a health care professional.

(6) "Treatment facility" has the meaning assigned by Section 464.001.

Added by Acts 1993, 73rd Leg., ch. 705, Sec. 1.01, eff. Sept. 1, 1993.

Sec. 321.002. BILL OF RIGHTS. (a) The Texas Board of Mental Health and Mental Retardation, Texas Board of Health, and Texas Commission on Alcohol and Drug Abuse by rule shall each adopt a "patient's bill of rights" that includes the applicable rights included in this chapter, Subtitle C of Title 7, Chapters 241, 462, 464, and 466, and any other provisions the agencies consider

necessary to protect the health, safety, and rights of a patient receiving voluntary or involuntary mental health, chemical dependency, or comprehensive medical rehabilitation services in an inpatient facility. In addition, each agency shall adopt rules that:

(1) provide standards to prevent the admission of a minor to a facility for treatment of a condition that is not generally recognized as responsive to treatment in an inpatient treatment setting; and

(2) prescribe the procedure for presenting the applicable bill of rights and obtaining each necessary signature if:

(A) the patient cannot comprehend the information because of illness, age, or other factors; or

(B) an emergency exists that precludes immediate presentation of the information.

(b) The Board of Protective and Regulatory Services by rule shall adopt a "children's bill of rights" for a minor receiving treatment in a child-care facility for an emotional, mental health, or chemical dependency problem.

(c) A "bill of rights" adopted under this section must specifically address the rights of minors and provide that a minor is entitled to:

(1) appropriate treatment in the least restrictive setting available;

(2) not receive unnecessary or excessive medication;

(3) an individualized treatment plan and to participate in the development of the plan; and

(4) a humane treatment environment that provides reasonable protection from harm and appropriate privacy for personal needs.

(d) Rules adopted under this section shall provide for:

(1) treatment of minors by persons who have specialized education and training in the emotional, mental health, and chemical dependency problems and treatment of minors;

(2) separation of minor patients from adult patients; and

(3) regular communication between a minor patient and the patient's family, subject only to a restriction in accordance with Section 576.006.

(e) The Texas Board of Health, Texas Board of Mental Health and Mental Retardation, Texas Commission on Alcohol and Drug Abuse, and Board of Protective and Regulatory Services shall consult each other for assistance in adopting rules under this section.

(f) Before a facility may admit a patient for inpatient mental health, chemical dependency, or comprehensive medical rehabilitation services, or before a child-care facility may accept a minor for treatment, the facility shall provide to the person and, if appropriate, to the person's parent, managing conservator, or guardian, a written copy of the applicable "bill of rights" adopted under this section. The facility shall provide the written copies in the person's primary language, if possible. In addition, the facility shall ensure that, within 24 hours after the person is admitted to the facility, the rights specified in the written copy are explained to the person and, if appropriate, to the person's parent, managing conservator, or guardian:

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

(2) through a means reasonably calculated to communicate with a person who has an impairment of vision or hearing, if applicable.

(g) The facility shall ensure that:

(1) each patient admitted for inpatient mental health, chemical dependency, or comprehensive rehabilitation services and each minor admitted for treatment in a child-care facility and, if appropriate, the person's parent, managing conservator, or guardian signs a copy of the document stating that the person has read the document and understands the rights specified in the document; and

(2) the signed copy is made a part of the person's clinical record.

(h) A facility shall prominently and conspicuously post a copy of the "bill of rights" for display in a public area of the facility that is readily available to patients, residents,

employees, and visitors. The "bill of rights" must be in English and in a second language.

Added by Acts 1993, 73rd Leg., ch. 705, Sec. 1.01, eff. Sept. 1, 1993.

Sec. 321.003. SUIT FOR HARM RESULTING FROM VIOLATION.

(a) A treatment facility or mental health facility that violates a provision of, or a rule adopted under, this chapter, Subtitle C of Title 7, or Chapter 241, 462, 464, or 466 is liable to a person receiving care or treatment in or from the facility who is harmed as a result of the violation.

(b) A person who has been harmed by a violation may sue for injunctive relief, damages, or both.

(c) A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.

(d) In addition to an award under Subsection (c), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.

(e) A suit under this section may be brought in the district court of the county in which:

- (1) the plaintiff received care or treatment; or
- (2) the defendant conducts business.

(f) A person harmed by a violation must bring suit not later than the second anniversary of the date on which the person's injury is discovered, except that a minor whose injury is discovered before the minor's 18th birthday may bring suit at any time before the minor's 20th birthday.

(g) This section does not supersede or abrogate any other remedy existing in law.

Added by Acts 1993, 73rd Leg., ch. 705, Sec. 1.01, eff. Sept. 1, 1993.

Sec. 321.004. PENALTIES. In addition to the penalties prescribed by this chapter, a violation of a provision of this chapter by an individual or facility that is licensed by a state health care regulatory agency is subject to the same consequence as

a violation of the licensing law applicable to the individual or facility or of a rule adopted under that licensing law.

Added by Acts 1993, 73rd Leg., ch. 705, Sec. 1.01, eff. Sept. 1, 1993.