

HEALTH AND SAFETY CODE CHAPTER 552. STATE HOSPITALS

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TITLE 7. MENTAL HEALTH AND MENTAL RETARDATION

SUBTITLE B. STATE FACILITIES

CHAPTER 552. STATE HOSPITALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 552.001. HOSPITAL DISTRICTS. (a) The department shall divide the state into hospital districts.

(b) The department may change the districts.

(c) The department shall designate the state hospitals to which persons with mental illness from each district shall be admitted.

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

SUBCHAPTER B. INDIGENT AND NONINDIGENT PATIENTS

Sec. 552.011. DEFINITION. In this subchapter, "patient" means a person admitted to a state hospital under the management and control of the department.

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

Sec. 552.012. CLASSIFICATION AND DEFINITION OF PATIENTS.

(a) A patient is classified as either indigent or nonindigent.

(b) An indigent patient is a patient who:

(1) possesses no property;

(2) has no person legally responsible for the patient's support; and

(3) is unable to reimburse the state for the costs of the patient's support, maintenance, and treatment.

(c) A nonindigent patient is a patient who:

(1) possesses property from which the state may be reimbursed for the costs of the patient's support, maintenance, and treatment; or

(2) has a person legally responsible for the patient's support.

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

Sec. 552.013. SUPPORT OF INDIGENT AND NONINDIGENT PATIENTS. (a) A person may not be denied services under this subtitle because of an inability to pay for the services.

(b) The state shall support, maintain, and treat indigent and nonindigent patients at the expense of the state.

(c) The state is entitled to reimbursement for the support, maintenance, and treatment of a nonindigent patient.

(d) A patient who does not own a sufficient estate shall be maintained at the expense:

(1) of the patient's spouse, if able to do so; or

(2) if the patient is younger than 18 years of age, of the patient's father or mother, if able to do so.

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

Sec. 552.014. CHILD SUPPORT PAYMENTS FOR BENEFIT OF PATIENT. (a) Child support payments for the benefit of a patient paid or owed by a parent under court order are considered the property and estate of the patient, and the state may be reimbursed for the costs of a patient's support, maintenance, and treatment from those amounts.

(b) The state shall credit the amount of child support a parent actually pays for a patient against charges for which the parent is liable, based on ability to pay.

(c) A parent who receives child support payments for a patient is liable for the charges based on the amount of child support payments actually received in addition to the liability of that parent based on ability to pay.

(d) The department may file a motion to modify a court order that establishes a child support obligation for a patient to require payment of the child support directly to the state hospital or facility in which the patient resides for the patient's support, maintenance, and treatment if:

(1) the patient's parent fails to pay child support as required by the order; or

(2) the patient's parent who receives child support fails to pay charges based on the amount of child support payments received.

(e) In addition to modification of an order under Subsection (d), the court may order all past due child support for the benefit of a patient paid directly to the patient's state hospital or facility to the extent that the state is entitled to reimbursement of the patient's charges from the child support obligation.

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

Sec. 552.015. INVESTIGATION TO DETERMINE MEANS OF SUPPORT.

(a) The department may demand and conduct an investigation in a county court to determine whether a patient possesses or is entitled to property or whether a person other than the patient is liable for the payment of the costs of the patient's support, maintenance, and treatment.

(b) The department may have citation issued and witnesses summoned to be heard on the investigation.

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

Sec. 552.016. FEES. (a) Except as provided by this section, the department may not charge a fee that exceeds the cost to the state to support, maintain, and treat a patient.

(b) The department may use the projected cost of providing inpatient services to establish the maximum fee that may be charged to a payer.

(c) The department may establish the maximum fee according to one or a combination of the following:

- (1) a statewide per capita;
- (2) an individual facility per capita; or
- (3) the type of service provided.

(d) Notwithstanding Subsection (b), the department may establish a fee in excess of the department's projected cost of providing inpatient services that may be charged to a payer:

- (1) who is not an individual; and
- (2) whose method of determining the rate of reimbursement to a provider results in the excess.

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

Sec. 552.017. SLIDING FEE SCHEDULE. (a) The department by

rule shall establish a sliding fee schedule for the payment by the patient's parents of the state's total costs for the support, maintenance, and treatment of a patient younger than 18 years of age.

(b) The department shall set the fee according to the parents' net taxable income and ability to pay.

(c) The parents may elect to have their net taxable income determined by their current financial statement or most recent federal income tax return.

(d) In determining the portion of the costs of the patient's support, maintenance, and treatment that the parents are required to pay, the department shall adjust, when appropriate, the payment required under the fee schedule to allow for consideration of other factors affecting the ability of the parents to pay.

(e) The department shall evaluate and, if necessary, revise the fee schedule at least once every five years.

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

Amended by Acts 1995, 74th Leg., ch. 278, Sec. 1, eff. June 5, 1995.

Sec. 552.018. TRUST PRINCIPALS. (a) If a patient is the beneficiary of a trust that has an aggregate principal of \$250,000 or less, the corpus or income of the trust is not considered to be the property of the patient or the patient's estate and is not liable for the patient's support. If the aggregate principal of the trust exceeds \$250,000, only the portion of the corpus of the trust that exceeds that amount and the income attributable to that portion are considered to be the property of the patient or the patient's estate and are liable for the patient's support.

(b) To qualify for the exemption provided by Subsection (a), the trust must be created by a written instrument, and a copy of the trust instrument must be provided to the department.

(c) A trustee of the trust shall, on the department's request, provide to the department a financial statement that shows the value of the trust estate.

(d) The department may petition a district court to order the trustee to provide a financial statement if the trustee does not provide the statement before the 31st day after the date on which

the department makes the request. The court shall hold a hearing on the department's petition not later than the 45th day after the date on which the petition is filed. The court shall order the trustee to provide to the department a financial statement if the court finds that the trustee has failed to provide the statement.

(e) For the purposes of this section, the following are not considered to be trusts and are not entitled to the exemption provided by this section:

(1) a guardianship established under the Texas Probate Code;

(2) a trust established under Chapter 142, Property Code;

(3) a facility custodial account established under Section 551.003;

(4) the provisions of a divorce decree or other court order relating to child support obligations;

(5) an administration of a decedent's estate; or

(6) an arrangement in which funds are held in the registry or by the clerk of a court.

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

Amended by Acts 2001, 77th Leg., ch. 1020, Sec. 2, eff. June 15, 2001.

Sec. 552.019. FILING OF CLAIMS. (a) A county or district attorney shall, on the written request of the department, represent the state in filing a claim in probate court or a petition in a court of competent jurisdiction:

(1) to require the person responsible for a patient to appear in court and show cause why the state should not have judgment against the person for the costs of the patient's support, maintenance, and treatment; or

(2) if the liability arises under Subchapter D, Chapter 593, to require a person responsible for a resident to appear in court and show cause why the state should not have judgment against the person for the resident's support and maintenance in a residential care facility operated by the department.

(b) On a sufficient showing, the court may enter judgment against:

(1) the person responsible for the patient for the costs of the patient's support, maintenance, and treatment; or

(2) the person responsible for the resident for the costs of the resident's support and maintenance.

(c) Sufficient evidence to authorize the court to enter judgment is:

(1) a verified account, sworn to by the superintendent or director of the hospital in which the patient is being treated, or has been treated, as to the amount due; or

(2) a verified account, sworn to by the superintendent or director of the residential care facility in which the person with mental retardation resided or has resided, as to the amount due.

(d) The judgment may be enforced as in other cases.

(e) The county or district attorney representing the state is entitled to a commission of 10 percent of the amount collected.

(f) The attorney general shall represent the state if the county and district attorney refuse or are unable to act on the department's request.

(g) In this section:

(1) "Person responsible for a patient" means the guardian of a patient, a person liable for the support of the patient, or both.

(2) "Person responsible for a resident" means the resident, a person liable for the support of the resident, or both.

(3) "Resident" means a person admitted to a residential care facility operated by the department for persons with mental retardation.

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

Sec. 552.020. APPLICATION. Except as provided by Subchapter C, Chapter 73, Education Code, this subchapter does not apply to The University of Texas M. D. Anderson Cancer Center.

Added by Acts 1995, 74th Leg., ch. 3, Sec. 4, eff. Sept. 1, 1995.