

BILL ANALYSIS

Senate Research Center

S.B. 1842
By: Deuell
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Staff at psychiatric facilities and hospitals must sometimes use restraint or seclusion to manage violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others. Restraint and seclusion are used only as an emergency intervention to help patients re-establish control of their behavior, and only when less restrictive, non-physical interventions have proven unsuccessful.

Currently, the Department of State Health Services (DSHS) administrative rules that are more restrictive than the Centers for Medicare and Medicaid Services (CMS) rules and allow only a physician or a physician's designee (an advanced nurse practitioner (ANP) or physician assistant (PA)) to conduct a face-to-face evaluation of the patient to assess his or her medical and psychiatric stability within one hour of the initiation of the restraint or seclusion. The evaluation includes the patient's immediate situation, his or her reaction to the intervention, his or her medical and behavioral condition, and the need to continue or terminate the restraint or seclusion. The national CMS standard is to have that evaluation performed within an hour but allows for an appropriately trained and licensed registered nurse (RN) to perform the evaluation. RNs are used throughout the country to perform complex medical evaluations in emergency rooms, post-surgical recovery rooms, and intensive care units and relay that clinical evaluation to a physician for appropriate action. Currently, Texas and Massachusetts are the only states that do not allow RNs to conduct these evaluations.

S.B. 1842 requires DSHS to amend its administrative rules to expand the category of health care professionals permitted to perform face-to-face psychiatric evaluations of the medical and psychiatric stability of residents of inpatient psychiatric facilities who are placed in either seclusion or restraint. Current DSHS rules require that a physician conduct this evaluation within one hour of initiating the restraint or seclusion. The physician may delegate this evaluation to a PA or an APN. S.B. 1842 adds RNs to the list of health care professionals authorized to conduct these evaluations.

S.B. 1842 amends current law relating to restraint and seclusion procedures and reporting at certain facilities.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) is modified in SECTION 1 (Section 322.052, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 322.052, Health and Safety Code, by adding Subsection (b-1), as follows:

(b-1) Requires that the rules required to be adopted by the executive commissioner of the Health and Human Services Commission (executive commissioner):

(1) authorize a registered nurse, other than the nurse who initiated the use of restraint or seclusion, who is trained to assess medical and psychiatric stability with demonstrated competence as required by rule to conduct a face-to-face evaluation of a patient in a hospital or facility licensed under Chapter 241 (Hospitals) or 577 (Private Mental Hospitals and Other Mental Health Facilities) or in a state mental hospital, as defined by Section 571.003 (Definitions), not later than one hour after the time the use of restraint and seclusion is initiated; and

(2) require a physician to conduct a face-to-face evaluation of a patient in a hospital or facility licensed under Chapter 241 or 577 or in a state mental hospital, as defined by Section 571.003, and document a clinical justification for continuing the restraint or seclusion before issuing or renewing an order that continues the use of the restraint or seclusion.

SECTION 2. Amends Subchapter B, Chapter 322, Health and Safety Code, by adding Section 322.056, as follows:

Sec. 322.056. **REPORTING REQUIREMENT.** Requires a facility to file with the Department of State Health Services a quarterly report regarding hospital-based inpatient psychiatric services measures related to the use of restraint and seclusion that is required by the federal Centers for Medicare and Medicaid Services.

SECTION 3. Requires the executive commissioner, not later than January 1, 2014, to adopt rules as required by Section 322.052(b-1), Health and Safety Code, as added by this Act.

SECTION 4. Provides that a facility is not required to comply with the reporting requirements under Section 322.056, Health and Safety Code, as added by this Act, before January 1, 2014.

SECTION 5. Effective date: upon passage or September 1, 2013.