

By: Price

H.B. No. 1824

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuity of services received by persons
3 receiving services at state hospitals and state supported living
4 centers.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 574.102, Health and Safety Code, is
7 amended to read as follows:

8 (a) This subchapter applies to the application of
9 medication to a patient subject to a court order for mental health
10 services under this chapter or transferred from a residential care
11 facility to an inpatient mental health facility under chapter
12 594.032, Health and Safety Code.

13 (b) For the purposes of this subchapter, a person described
14 under subsection (a) is considered to be a patient as that term is
15 used in this subchapter.

16 SECTION 2. The heading to Section 574.103 is amended to read
17 as follows:

18 ADMINISTRATION OF MEDICATION TO PATIENT UNDER COURT-ORDERED
19 MENTAL HEALTH SERVICES OR TRANSFERRED FROM A RESIDENTIAL CARE
20 FACILITY TO AN INPATIENT MENTAL HEALTH FACILITY.

21 SECTION 3. Subsection 574.103(b), Health and Safety Code,
22 is amended to read as follows:

23 (b) A person may not administer a psychoactive medication to
24 a patient under court-ordered inpatient mental health services or a

1 person transferred from a residential care facility to an inpatient
2 mental health facility under chapter 594.032, Health and Safety
3 Code who refuses to take the medication voluntarily unless:

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

6 (2) the patient is under an order issued under Section
7 [574.106](#) or [592.156](#) authorizing the administration of the medication
8 regardless of the patient's refusal; or

9 (3) the patient is a ward who is 18 years of age or
10 older and the guardian of the person of the ward consents to the
11 administration of psychoactive medication regardless of the ward's
12 expressed preferences regarding treatment with psychoactive
13 medication.

14 SECTION 4. Section [574.104](#), Health and Safety Code, is
15 amended to read as follows:

16 (a) A physician who is treating a patient in an inpatient
17 setting may, on behalf of the state, file an application in a
18 probate court or a court with probate jurisdiction for an order to
19 authorize the administration of a psychoactive medication
20 regardless of the patient's refusal if:

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

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

26 (3) the patient is:

27 (A) under an order for inpatient mental health

1 services under this chapter [~~or other law~~], transferred under
2 594.032 of the Health & Safety Code; or

3 (B) the subject of an application for
4 court-ordered mental health services under Section 574.034 or [~~7~~
5 ~~574.0345~~] 574.035 [~~7~~ ~~or 574.0355~~] that has been filed for the
6 patient; and

7 (4) the patient, verbally or by other indication,
8 refuses to take the medication voluntarily.

9 (b) An application filed under this section must state:

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

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

15 (3) whether an application for court-ordered mental
16 health services under Section 574.034 or 574.035 has been filed;

17 (4) whether a court order described by
18 subsection(a)(3)(A) or (B) for [~~inpatient mental health~~] services
19 for the patient has been issued and, if so, under what authority it
20 was issued;

21 (5) the physician's diagnosis of the patient; and

22 (6) the proposed method for administering the
23 medication and, if the method is not customary, an explanation
24 justifying the departure from the customary methods.

25 SECTION 5. Subsection 574.106(a) and (a-1), Health and
26 Safety Code, are amended to read as follows:

27 (a) The court may issue an order authorizing the

1 administration of one or more classes of psychoactive medication to
2 a patient who:

3 (1) is described by section 574.102 [~~under a court~~
4 ~~order to receive inpatient mental health services~~]; or

5 (2) is in custody awaiting trial in a criminal
6 proceeding and was ordered to receive inpatient mental health
7 services in the six months preceding a hearing under this section.

8 (a-1) The court may issue an order under this section only
9 if the court finds by clear and convincing evidence after the
10 hearing:

11 (1) that the patient lacks the capacity to make a
12 decision regarding the administration of the proposed medication
13 and treatment with the proposed medication is in the best interest
14 of the patient; or

15 (2) if the patient was ordered to receive inpatient
16 mental health services by a criminal court with jurisdiction over
17 the patient, that treatment with the proposed medication is in the
18 best interest of the patient and either:

19 (A) the patient presents a danger to the patient
20 or others in the inpatient mental health facility in which the
21 patient is being treated as a result of a mental illness or
22 intellectual disability [~~disorder or mental defect~~] as determined
23 under Section 574.1065; or

24 (B) the patient:

25 (i) has remained confined in a correctional
26 facility, as defined by Section 1.07, Penal Code, for a period
27 exceeding 72 hours while awaiting transfer for competency

1 restoration treatment; and

2 (ii) presents a danger to the patient or
3 others in the correctional facility as a result of a mental illness
4 or intellectual disability [~~disorder or mental defect~~] as
5 determined under Section 574.1065.

6 SECTION 6. Section 574.107, Health and Safety Code, is
7 amended to read as follows:

8 (a) The costs for a hearing under this subchapter for a
9 patient committed under this chapter shall be paid in accordance
10 with Sections 571.017 and 571.018.

11 (b) The county in which the applicable criminal charges are
12 pending or were adjudicated shall pay as provided by Subsection (a)
13 the costs of a hearing that is held under Section 574.106 to
14 evaluate the court-ordered administration of psychoactive
15 medication to:

16 (1) a patient ordered to receive mental health
17 services as described by Section 574.106(a)(1) after having been
18 determined to be incompetent to stand trial or having been
19 acquitted of an offense by reason of insanity; or

20 (2) a patient who:

21 (A) is awaiting trial after having been
22 determined to be competent to stand trial; and

23 (B) was ordered to receive mental health services
24 as described by Section 574.106(a)(2).

25 (c) The costs for a hearing under this subchapter for a
26 patient committed under chapter 593 shall be paid by the county that
27 ordered the commitment under that chapter.

1 SECTION 7. Section 574.110, Health and Safety Code, is
2 amended to read as follows:

3 (a) [~~Except as provided by Subsection (b), a~~] An order
4 issued under Section 574.106 for a patient that is committed under
5 this chapter expires on the expiration or termination date of the
6 order for temporary or extended mental health services in effect
7 when the order for psychoactive medication is issued.

8 (b) An order issued under 574.106 for a patient that is
9 committed under chapter 593 expires as provided by section 592.160,
10 Health and Safety Code.

11 [~~(b)~~] (c) An order issued under Section 574.106 for a
12 patient who is returned to a correctional facility, as defined by
13 Section 1.07, Penal Code, to await trial in a criminal proceeding
14 continues to be in effect until the earlier of the following dates,
15 as applicable:

16 (1) the 180th day after the date the defendant was
17 returned to the correctional facility;

18 (2) the date the defendant is acquitted, is convicted,
19 or enters a plea of guilty; or

20 (3) the date on which charges in the case are
21 dismissed.

22 SECTION 8. Section 576.025(a), Health and Safety Code, is
23 amended to read as follows:

24 (a) A person may not administer a psychoactive medication to
25 a patient receiving voluntary or involuntary mental health services
26 who refuses the administration unless:

27 (1) the patient is having a medication-related

1 emergency;

2 (2) the patient is younger than 16 years of age, or the
3 patient is younger than 18 years of age and is a patient admitted
4 for voluntary mental health services under Section 572.002(3)(B),
5 and the patient's parent, managing conservator, or guardian
6 consents to the administration on behalf of the patient;

7 (3) the refusing patient's representative authorized
8 by law to consent on behalf of the patient has consented to the
9 administration;

10 (4) the administration of the medication regardless of
11 the patient's refusal is authorized by an order issued under
12 Sections 574.106 or 592.156, Health and Safety Code; or

13 (5) the administration of the medication regardless of
14 the patient's refusal is authorized by an order issued under
15 Article 46B.086, Code of Criminal Procedure.

16 SECTION 9. Section 592.152(a), Health and Safety Code, is
17 amended to read as follows:

18 (a) A person may not administer a psychoactive medication to
19 a client receiving voluntary or involuntary residential care
20 services who refuses the administration unless:

21 (1) the client is having a medication-related
22 emergency;

23 (2) the refusing client's representative authorized by
24 law to consent on behalf of the client has consented to the
25 administration;

26 (3) the administration of the medication regardless of
27 the client's refusal is authorized by an order issued under Section

1 592.156 or 574.106, Health and Safety Code; or

2 (4) the administration of the medication regardless of
3 the client's refusal is authorized by an order issued under Article
4 46B.086, Code of Criminal Procedure.

5 SECTION 10. Section 592.153(b), Health and Safety Code, is
6 amended to read as follows:

7 (b) A person may not administer a psychoactive medication to
8 a client who refuses to take the medication voluntarily unless:

9 (1) the client is having a medication-related
10 emergency;

11 (2) the client is under an order issued under Section
12 592.156 or 574.106, Health and Safety Code, authorizing the
13 administration of the medication regardless of the client's
14 refusal; or

15 (3) the client is a ward who is 18 years of age or older
16 and the guardian of the person of the ward consents to the
17 administration of psychoactive medication regardless of the ward's
18 expressed preferences regarding treatment with psychoactive
19 medication.

20 SECTION 11. Chapter 594, Health and Safety Code is amended
21 by adding Subchapter D to read as follows:

22 SUBCHAPTER D. TEMPORARY TRANSFER BETWEEN RESIDENTIAL CARE

23 FACILITIES

24 Sec. 594.050. DEFINITIONS. In this subchapter:

25 (1) "alternate residential care facility" means a
26 residential care facility other than the one in which a resident
27 resides prior to a temporary transfer.

1 (2) "originating residential care facility" means the
2 residential care facility at which the resident resides prior to a
3 temporary transfer.

4 (3) "temporary transfer" means the transfer of a
5 resident from the originating residential care facility to an
6 alternate residential care facility for a period not to exceed 12
7 months for the purpose of receiving intensive behavioral health or
8 psychiatric services.

9 Sec. 594.051. TEMPORARY TRANSFER NOT A PERMANENT TRANSFER
10 OR DISCHARGE. A temporary transfer under this subchapter is not a
11 permanent transfer or discharge from the originating residential
12 care center and is not subject to the right to an administrative
13 hearing under Section 594.014.

14 Sec. 594.052. TEMPORARY TRANSFER OF VOLUNTARY RESIDENT. A
15 voluntary resident may not be temporarily transferred to an
16 alternate residential care facility without legally adequate
17 consent.

18 Sec. 594.053. TEMPORARY TRANSFER OF COURT-COMMITTED
19 RESIDENT. The director may transfer a resident to an alternate
20 residential care facility if the resident's interdisciplinary team
21 has recommended the resident requires the intensive behavioral
22 health or psychiatric services available at the alternate
23 residential care facility.

24 Sec. 594.054. RESIDENT RETURN. A voluntary resident or a
25 court-committed resident shall be returned to the originating
26 residential care facility upon completion of the intensive
27 behavioral health or psychiatric services program provided at the

1 alternate residential care facility. The originating residential
2 care facility shall maintain a vacancy for the resident while the
3 resident remains at the alternate residential care facility.

4 Sec. 594.055. TRANSFER OR DISCHARGE OF RESIDENT. A
5 resident who is transferred to an alternate residential care
6 facility who no longer requires treatment at a residential care
7 facility may be transferred to an alternative placement or
8 discharged directly from the alternate residential care facility
9 without the necessity of return to the originating residential care
10 facility.

11 SECTION 12. The executive commissioner shall adopt rules
12 defining the qualifications and conditions for resident
13 participation in intensive behavioral or psychiatric treatment.
14 The rules must address the process for temporary transfer to an
15 alternative residential care facility, ensure the services
16 provided are comparable to the services provided at the originating
17 residential care facility, and establish minimum staffing ratios.

18 SECTION 13. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2021.