RULE §19.802 Comprehensive Care Plans

... (b) The comprehensive care plan must be:

... (2) prepared by an interdisciplinary team that includes the attending physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident’s needs, and, to the extent practicable, with the participation of the resident, the resident’s family or legal representative.

SUBCHAPTER K. QUALITY OF CARE

Sec. 242.401. QUALITY OF LIFE.

(a) An institution shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident’s quality of life and dignity. An institution that admits a resident who is younger than 18 years of age must provide care to meet the resident’s unique medical and developmental needs.

SUBCHAPTER L. RIGHTS OF RESIDENTS

Sec. 242.501. RESIDENT’S RIGHTS.

(a) The department by rule shall adopt a statement of the rights of a resident. The statement must be consistent with Chapter 102, Human Resources Code, but shall reflect the unique circumstances of a resident at an institution. At a minimum, the statement of the rights of a resident must address the resident’s constitutional, civil, and legal rights and the resident’s right:

(3) to be treated with courtesy, consideration, and respect;

... (6) to privacy, including privacy during visits and telephone calls;

... (9) to retain the services of a physician the resident chooses, at the resident’s own expense or through a health care plan, and to have a physician explain to the resident, in language that the resident understands, the resident’s complete medical condition, the recommended treatment, and the expected results of the treatment, including reasonably expected effects, side effects, and risks associated with psychoactive medications;

(10) to participate in developing a plan of care, to refuse treatment, and to refuse to participate in experimental research;

(16) to receive visitors;

... (18) to participate in activities inside and outside the institution;

Sec. 242.602. PHARMACIST SERVICES.
... (b) The institution shall allow residents to choose their pharmacy provider from any pharmacy that is qualified to perform the services.

Added by Acts 1997, 75th Leg., ch. 1159, Sec. 1.30, eff. Sept. 1, 1997.

Sec. 242.902. FAMILY COUNCIL. A family council may:

(1) make recommendations to the institution proposing policy and operational decisions affecting resident care and quality of life; and

(2) promote educational programs and projects that will promote the health and happiness of residents.

Added by Acts 2007, 80th Leg., R.S., Ch. 798, Sec. 3, eff. September 1, 2008.

Sec. 242.903. DUTIES OF INSTITUTION.

(a) An institution shall consider the views and recommendations of the family council and make a reasonable effort to resolve the council's grievances.

(b) An institution may not:

(1) prohibit the formation of a family council;

(2) terminate an existing family council;

(3) deny a family council the opportunity to accept help from an outside person;

(4) limit the rights of a resident, family member, or family council member to meet with an outside person, including:

(A) an employee of the institution during nonworking hours if the employee agrees; and

(B) a member of a nonprofit or government organization;

(5) prevent or interfere with the family council receiving outside correspondence addressed to the council;

(6) open family council mail; or

(7) wilfully interfere with the formation, maintenance, or operation of a family council, including interfering by:

(A) discriminating or retaliating against a family council participant; and

(B) wilfully scheduling events in conflict with previously scheduled family council meetings if the institution has other scheduling options.

(c) On admission of a resident, an institution shall inform the resident's family members in writing of:

(1) the family members' right to form a family council; or
(2) if a family council already exists, the council’s:

(A) meeting time, date, and location; and

(B) contact person.

(d) An institution shall:

(1) include notice of a family council in a mailing that occurs at least semiannually;

(2) permit a representative of a family council to discuss concerns with an individual conducting an inspection or survey of the facility;

(3) provide a family council with adequate space on a prominent bulletin board to post notices and other information;

(4) provide a designated staff person to act as liaison for a family council; and

(5) respond in writing to a written request by a family council within five working days.

Added by Acts 2007, 80th Leg., R.S., Ch. 798, Sec. 3, eff. September 1, 2008.

Sec. 242.904. MEETINGS.

(a) On written request, an institution shall allow a family council to meet in a common meeting room of the institution at least once a month during hours mutually agreed upon by the family council and the institution.

(b) Institution employees or visitors may attend a family council meeting only at the council’s invitation.

Added by Acts 2007, 80th Leg., R.S., Ch. 798, Sec. 3, eff. September 1, 2008.

Sec. 242.905. VISITING. A family council member may authorize in writing another member to visit and observe a resident represented by the authorizing member unless the resident objects.

Added by Acts 2007, 80th Leg., R.S., Ch. 798, Sec. 3, eff. September 1, 2008.

**SUBCHAPTER D**

**FACILITY CONSTRUCTION**

**RULE §19.305 Resident Rooms**

Resident rooms must be designed and equipped for adequate nursing care, comfort, and privacy of residents.

(1) Bedrooms must:

(D) be designed or equipped to assure full visual privacy for each resident. Appropriate
measures must be taken through the use of cubicle curtains, screens, or procedures to protect the privacy and dignity of the residents. Curtains and screens must be rendered and maintained flame-retardant.

E] in facilities initially certified after March 31, 1992, except in private rooms, have ceiling-suspended curtains for each bed, which extend around the bed to provide total visual privacy, in combination with adjacent walls and curtain (see paragraph (4) of this section).

...(13) Locks on bedroom doors are permitted when they meet definite patient needs, including the following situations:

(A) married couples whose rights of privacy could be infringed upon unless bedroom door locks are permitted.

Source Note: The provisions of this §19.305 adopted to be effective July 1, 1996, 21 TexReg 4408.

RULE §19.334 Architectural Space Planning and Utilization

(a) Resident bedrooms. Each resident bedroom must meet the following requirements:

... (11) Visual privacy (such as cubicle curtains) must be available for each resident in multi-bed rooms. Design for privacy must not restrict resident access to entry, lavatory, or toilet, nor may it restrict bed evacuation or obstruct sprinkler flow coverage.

RULE §19.403 Notice of Rights and Services

(g) The resident has the right to refuse treatment, to formulate an advance directive (as specified in §19.419 of this title (relating to Directives and Medical Powers of Attorney)), and to refuse to participate in experimental research.

(2) If the resident chooses to participate in experimental research, he must be fully notified of the research and possible effects of the research. The research may be carried on only with the full written consent of the resident's physician, and the resident.

Source Note: The provisions of this §19.403 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective March 1, 1998, 23 TexReg 1314; amended to be effective August 1, 2000, 25 TexReg 6779; amended to be effective July 1, 2001, 26 TexReg 3824; amended to be effective May 1, 2002, 27 TexReg 3207; amended to be effective August 1, 2002, 27 TexReg 6052

RULE §19.406 Free Choice

(a) Resident rights. The resident has the right to:

(1) choose and retain a personal attending physician, subject to that physician's compliance with the facility's standard operating procedures for physician practices in the facility;

(2) be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and
(3) unless adjudged incompetent or otherwise found to be incapacitated under the laws of
the State of Texas, participate in planning care and treatment or changes in care and
treatment. See §19.419 of this title (relating to Directives and Durable Powers of Attorney).

(b) Licensed-only facilities. The resident must be allowed complete freedom of choice to
obtain pharmacy services from any pharmacy that is qualified to perform the services. A
facility must not require residents to purchase pharmaceutical supplies or services from the
facility itself or from any particular vendor. The resident has the right to be informed of
prices before purchasing any pharmaceutical item or service from the facility, except in an
emergency.

(c) Additional requirements regarding freedom of choice for Medicaid recipients. The
recipient must be allowed complete freedom of choice to obtain any Medicaid services from
any institution, agency, pharmacy, person, or organization that is qualified to perform the
services, unless the provider causes the facility to be out of compliance with the
requirements specified in this chapter.

(1) A facility must not require recipients to purchase supplies or services, including
pharmaceutical supplies or services, from the facility itself or from any particular vendor.
The recipient has the right to be informed of prices before purchasing any item or services
from the facility, except in an emergency (see §19.1502(b)(3) of this title (relating to Choice
of Pharmacy Provider)).

(2) The facility must furnish Medicaid recipients with complete information about available
Medicaid services, how to obtain these services, their rights to freely choose service
providers as specified in this subsection and the right to request a hearing before the Texas
Department of Human Services (DHS) if the right to freely choose providers has been
abridged without due process.

Source Note: The provisions of this §19.406 adopted to be effective May 1, 1995, 20 TexReg
2393.

RULE §19.407 Privacy and Confidentiality

The resident has the right to personal privacy and confidentiality of his personal and clinical
records. (See also §19.1910(e) of this title (relating to Clinical Records) and §19.403(e) of
this title (relating to Notice of Rights and Services).)

(4) The facility must ensure the resident's right to privacy in the following areas:

(E) governmental searches are permitted only if there exists probable cause to believe an
illegal substance or activity is being concealed. Administrative searches by the appropriate
entity, such as the fire inspector, are allowed only for limited purposes, but such searches
would not ordinarily extend to the resident's personal belongings. The Texas Department of
Human Services (DHS) and the nursing facility must provide for and allow residents their
individual freedoms. State statutes authorize inspections of the nursing facility but do not
authorize inspection of those areas in which an individual has a reasonable expectation of
privacy. Any direct participation by DHS personnel in an inspection of "the contents of
residents' personal drawers and possessions," is in violation of federal and state law; and
RULE §19.419 Advance Directives

(a) Competent adults may issue advance directives in accordance with applicable laws. An advance directive has the meaning as defined in Texas Health and Safety Code, §166.002.

(b) A facility must maintain policies and procedures implementing the following with respect to all adult residents:

(1) The facility must:

   (A) maintain written policies regarding the implementation of advance directives; and

   (B) include a clear and precise statement of any procedure the facility is unwilling or unable to provide or withhold in accordance with an advance directive.

(2) The facility must:

   (A) when a resident is admitted, provide the resident or the appropriate person referenced in paragraph (8) of this subsection with a copy of:

      (i) the advance care planning educational material provided by DADS;

      (ii) the resident’s rights under Texas law (whether statutory or as recognized by the courts of the state) to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives; and

      (iii) the facility's policies respecting the implementation of these rights, including the written policies regarding the implementation of advance directives;

   (iv) within 14 days after the resident is admitted, orally review and discuss the information provided in accordance with subparagraph (A) of this paragraph and the importance of planning for end-of-life care with the resident or with the appropriate person referenced in paragraph (8) of this subsection; and

   (v) annually and when there is a significant positive change or a significant deterioration in the resident's clinical condition, provide, review, and discuss the written information regarding advance directives listed in subparagraph (A) of this paragraph with the resident or with the appropriate person referenced in paragraph (8) of this subsection.

(3) The facility must document the oral discussion and the provision of the written information in the resident’s clinical record. The facility must document in the resident’s clinical record whether or not the resident has executed an advance directive.

(4) The facility must not condition the provision of care or otherwise discriminate against a resident based on whether or not the resident has executed an advance directive.

(5) The facility must ensure compliance with the requirements of Texas law, whether statutory or as recognized by the courts of Texas, respecting advance directives.
(6) The facility must provide, individually or with others, education for staff and the community on issues concerning advance directives. For the community, this may include newsletters, newspaper articles, local news reports, or commercials. For educating staff, this may include in-service programs.

(7) The facility must provide the attending physician, emergency medical technician, and hospital personnel with any information relating to a resident’s known existing advance directive and assist with coordinating physicians’ orders with the resident's known existing advance directive.

(8) Except as provided in paragraph (9) of this subsection, if a resident is in a comatose or otherwise incapacitated state, and therefore is unable to receive information or articulate whether the resident has executed an advance directive, the facility must provide, review, and discuss written information regarding advance directives, including advance care planning educational material provided by DADS and facility policies regarding the implementation of advance directives, in the following order of preference, to:

- the resident's legal guardian;
- a person responsible for the resident’s health care decisions;
- the resident’s spouse;
- the resident’s adult child;
- the resident’s parents; or
- the person admitting the resident.

(9) If a resident is in a comatose or otherwise incapacitated state, and therefore is unable to receive information or articulate whether the resident has executed an advance directive, and if the facility is unable, after diligent search, to locate a person listed under paragraph (8) of this subsection, the facility is not required to provide written information regarding advance directives. The facility must document in the resident’s clinical record its attempts to make a diligent search.

(10) If a resident, who was incompetent or otherwise incapacitated and was unable to receive information regarding advance directives, including written policies regarding the implementation of advance directives, later becomes able to receive the information, the facility must provide, review, and discuss the written information at the time the resident becomes able to receive the information.

(11) If the resident or a relative, surrogate, or other concerned or related person presents the facility with a copy of the resident’s advance directive, the facility must comply with the advance directive, including recognition of a Medical Power of Attorney, to the extent allowed under state law. If no one comes forward with a previously executed advance directive and the resident is incapacitated or otherwise unable to receive information or articulate whether he has executed an advance directive, the facility must document in the resident’s clinical record that the resident was not able to receive information and was unable to communicate whether an advance directive existed.
(c) Failure to provide the facility’s written policies as required in subsection (b)(2)(A)(iii) of this section when a resident is admitted will result in an administrative penalty of $500.

(d) A facility that provides services to children must ensure that:

(1) prior to admission to the facility, the primary physician, who has been providing care to the child, has discussed advance directives with the family or guardian and has provided documentation of this discussion to the facility; and

(2) the decision made by the family or guardian regarding advance directives is addressed in the comprehensive care plan (see §19.802 of this title (relating to Comprehensive Care Plans)).

Source Note: The provisions of this §19.419 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective August 1, 2000, 25 TexReg 6779; amended to be effective April 1, 2007, 32 TexReg 1582

RULE §19.422 Authorized Electronic Monitoring (AEM)

(e) A resident, or the resident's guardian or legal representative, who wishes to conduct AEM also must obtain the consent of other residents in the room, using the DHS Consent to Authorized Electronic Monitoring form. When complete, the form must be given to the administrator or designee. A copy of the form must be maintained in the active portion of the resident's clinical record.

(3) AEM must be conducted in accordance with any limitation placed on the monitoring as a condition of the consent given by or on behalf of another resident in the room. The resident's roommate, their guardian, or legal representative assumes responsibility for assuring AEM is conducted according to the designated limitations.

(f) When the completed Request for Authorized Electronic Monitoring form and the Consent to Authorized Electronic Monitoring form, if applicable, have been given to the administrator or designee, AEM may begin.

(3) The facility must meet residents' requests to have a video camera obstructed to protect their dignity.

Source Note: The provisions of this §19.422 adopted to be effective July 1, 2002, 27 TexReg 4362

RULE 19.701 Quality of life

A facility must care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life. If children are admitted to a facility, care must be provided to meet their unique medical and developmental needs.

(1) Dignity. The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his individuality.

(2) Self-determination and participation. The resident has the right to:
(A) choose activities, schedules, and health care consistent with his interests, assessments, and plans of care;

(B) interact with members of the community both inside and outside of the facility; and

(C) make choices about aspects of his life in the facility that are significant to him.

(3) Participation in resident and family groups.

(A) A resident has the right to organize and participate in resident groups in the facility.

(B) A resident’s family has the right to meet in the facility with the families of other residents in the facility.

(C) The facility must provide a resident or family group, if one exists, with private space. (D) Staff or visitors may attend meetings at the group’s invitation.

(E) The facility must provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings.

(F) When a resident or family group exists, the facility must listen to the views and act upon the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility.

(G) The facility must assist residents to attend meetings.

(4) Participation in other activities. A resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

RULE §19.706 Resident Group and Family Council

(a) A resident has the right to organize and participate in resident groups in a facility.

(b) A facility must assist residents who require assistance to attend resident group meetings.

(c) A resident’s family has the right to meet in the facility with the families of other residents in the facility and organize a family council. A family council may:

   (1) make recommendations to the facility proposing policy and operational decisions affecting resident care and quality of life; and

   (2) promote educational programs and projects intended to promote the health and happiness of residents.

(d) If a resident group or family council exists, a facility must:

   (1) listen to and consider the views and act upon the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility;
(2) provide a resident group or family council with private space;

(3) provide a designated staff person responsible for providing assistance and responding to written requests that result from resident group and family council meetings; and

(4) allow staff or visitors to attend meetings at the resident group’s or family council’s invitation.

(e) If a family council exists, a facility must:

(1) upon written request, allow the family council to meet in a common meeting room of the facility at least once a month during hours mutually agreed upon by the family council and the facility;

(2) provide the family council with adequate space on a prominent bulletin board to post notices and other information;

designate a staff person to act as the family council’s liaison to the facility;

respond in writing to written requests by the family council within five working days;

(5) include information about the existence of the family council in a mailing that occurs at least semiannually; and

(6) permit a representative of the family council to discuss concerns with an individual conducting an inspection or survey of the facility.

(f) Unless the resident objects, a family council member may authorize, in writing, another member to visit and observe a resident represented by the authorizing member.

(g) A facility must not limit the rights of a resident, a resident's family member, or a family council member to meet with an outside person, including:

(A) an employee of the facility during the employee's nonworking hours if the employee agrees; or

(B) a member of a nonprofit or government organization.

(h) A facility must not:

(1) terminate an existing family council;

(2) prevent or interfere with the family council from receiving outside correspondence addressed to the family council or open family council mail; or

(3) willfully interfere with the formation, maintenance, or operation of a family council, including interfering by:

(A) denying a family council the opportunity to accept help from an outside person;

(B) discriminating or retaliating against a family council participant; or
(C) willfully scheduling events in conflict with previously scheduled family council meetings, if the facility has other scheduling options.

Source Note: The provisions of this §19.706 adopted to be effective September 1, 2008, 33 TexReg 6151

**RULE §19.802 Comprehensive Care Plans**

(b) The comprehensive care plan must be:

(2) prepared by an interdisciplinary team that includes the attending physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident’s needs, and, to the extent practicable, with the participation of the resident, the resident’s family or legal representative; and

**Source Note:** The provisions of this §19.802 adopted to be effective May 1, 1995, 20 TexReg 2393; amended to be effective June 1, 2001, 26 TexReg 3824

**RULE §19.1502 Choice of Pharmacy Provider**

(a) Unless the facility is paying for the drugs and biologicals, the resident’s choice of pharmacy provider and any changes in his choice must be recorded on appropriate forms maintained by the facility.

(b) A Medicaid-certified facility must have written agreements with its provider pharmacies that define required services. These agreements will not be considered to abridge the resident’s freedom of choice of pharmacy services when they require labeling, packaging, and a drug distribution system according to facility policy. The drug-distribution system must be accessible to all pharmacies willing to meet the distribution system requirements. The agreements must require the following:

(1) that the resident’s pharmacy services be provided by a pharmacy on a 24-hour basis for emergency medications; and

(2) that the resident’s medications be delivered to the facility on a timely and reasonable basis.

(c) The resident’s choice of pharmacy provider must be in accordance with §19.406(c) of this title (relating to Free Choice).

**Source Note:** The provisions of this §19.1502 adopted to be effective May 1, 1995, 20 TexReg 2054.

**RULE §19.2108 Emergency Suspension and Closing Order**

(d) When an emergency suspension has been ordered and the conditions in the facility indicate that residents should be relocated, the following rules apply unless superseded by DHS’s Medicaid discharge rules in §19.502 of this title (relating to Transfer and Discharge in Medicaid-Certified Facilities):
(1) A resident’s rights or freedom of choice in selecting treatment facilities must be respected.

(2) If a facility or part of a facility is closed:

(F) with each resident transferred, the following reports, records, and supplies must be transmitted to the receiving institution:

(iv) the residents' personal belongings, clothing, and toilet articles. An inventory of personal property and valuables must be made by the closing facility; and

Source Note: The provisions of this §19.2108 adopted to be effective May 1, 1995, 20 TexReg 2054; amended to be effective October 15, 1998, 23 TexReg 10496.

RULE §19.1922 Resident Care Policies

(a) The facility must have written policies to govern the nursing care and related medical or other services provided. The written policies must include plans for promoting self-care and independence.

2208 Standards for Certified Alzheimer’s Facilities

(a) General requirements.

... (5) Residents are provided privacy in treatment and in care for his or her personal needs.