

§ 558.283 Advance Directives

(a) An agency must maintain a written policy regarding implementation of advance directives. The policy must comply with the Advance Directives Act, Texas Health and Safety Code Chapter 166. The policy must include a clear and precise statement of any procedure the agency is unwilling or unable to provide or withhold in accordance with an advance directive.

(b) The agency must provide written notice to a client of the written policy required by subsection (a) of this section. The notice must be provided at the earlier of:

- (1) the time the client is admitted to receive services from the agency; or
- (2) the time the agency begins providing care to the client.

(c) If, at the time notice must be provided under subsection (b) of this section, the client is incompetent or otherwise incapacitated and unable to receive the notice, the agency must provide the required written notice, in the following order of preference, to:

- (1) the client's legal guardian;
- (2) a person responsible for the health care decisions of the client;
- (3) the client's spouse;
- (4) the client's adult child;
- (5) the client's parent; or
- (6) the person admitting the client.

(d) If subsection (c) of this section applies, except as provided by subsection (e) of this section, and an agency is unable, after a diligent search, to locate an individual listed by subsection (c) of this section, the agency is not required to provide the notice.

(e) If a client who was incompetent or otherwise incapacitated and unable to receive the notice required by this section, at the time notice was to be provided under subsection (b) of this section, later becomes able to receive the notice, the agency must provide the written notice at the time the client becomes able to receive the notice.

(f) HHSC assesses an administrative penalty of \$500 without an opportunity to correct against an agency that violates this section.

Notes

26 Tex. Admin. Code § 558.283

The provisions of this §558.283 adopted to be effective February 1, 2002, 26 TexReg 9159; amended to be effective June 1, 2006, 31 TexReg 1455; amended to be effective December 1, 2006, 31 TexReg 9620; amended to be effective January 15, 2009, 34 TexReg 254; Transferred from Title 40, Chapter 97 by Texas Register, Volume 44, Number 15, April 12, 2019, TexReg 1893, eff. 5/1/2019; Amended by Texas Register, Volume 46, Number 15, April 9, 2021, TexReg 2431, eff. 4/25/2021