§ 558.871 Physical Environment in a Hospice Inpatient Unit

(a) Safety Management. A hospice inpatient unit must maintain a safe physical environment free of hazards for clients, staff, and visitors.
(1) A hospice inpatient unit must address real or potential threats to the health and safety of the clients, others, and property.
(2) In addition to § 558.256 of this chapter (relating to Emergency Preparedness Planning and Implementation), a hospice inpatient unit must have a written disaster preparedness plan that addresses the core functions of emergency management as described in subparagraphs (A) - (G) of this paragraph. The facility must maintain documentation of compliance with this paragraph.
(A) The portion of the plan on direction and control must:
(i) designate a person by position, and at least one alternate, to be in charge during implementation of an emergency response plan, with authority to execute a plan to evacuate or shelter in place;
(ii) include procedures the facility will use to maintain continuous leadership and authority in key positions;
(iii) include procedures the facility will use to activate a timely response plan based on the types of disasters identified in the risk assessment;
(iv) include procedures the facility will use to meet staffing requirements;
(v) include procedures the facility will use to warn or notify facility staff about internal and external disasters, including during off hours, weekends, and holidays;
(vi) include procedures the facility will use to maintain a current list of who the hospice will notify once warning of a disaster is received;
(vii) include procedures the facility will use to alert critical facility personnel once a disaster is identified; and
(viii) include procedures the facility will use to maintain a current 24-hour contact list for all personnel.
(B) The portion of the plan on communication must include procedures:
(i) for continued communication, including procedures during an evacuation to maintain contact with critical personnel and with all vehicles traveling in an evacuation caravan;
(ii) to maintain an accessible, current list of the phone numbers of:
(I) client family members;
(II) local shelters;
(III) prearranged receiving facilities;
(IV) the local emergency management agencies;
(V) other health care providers; and
(VI) State and federal emergency management agencies;
(iii) to notify staff, clients, families of clients, families of critical staff, prearranged receiving facilities, and others of an evacuation or the plan to shelter in place;

(iv) to provide a contact number for out-of-town family members to call for information; and
(v) to relocate and track clients during disasters that require mass evacuations.
(C) The portion of the plan on resource management must include procedures:
(i) to maintain contracts and agreements with vendors as needed to ensure the availability of the supplies and transportation needed to execute the plan to shelter in place or evacuate;
(ii) to develop accurate, detailed, and current checklists of essential supplies, staff, equipment, and medications;
(iii) to designate responsibility for completing the checklists during disaster operations;
(iv) for the safe and secure transportation of adequate amounts of food, water, medications, and critical supplies and equipment during an evacuation; and
(v) to maintain a supply of sufficient resources for at least seven days to shelter in place, which must include:
(I) emergency power, including backup generators and accounts for maintaining a supply of fuel;
(II) potable water in an amount based on population and location;
(III) the types and amounts of food for the number and types of clients served;
(IV) extra pharmacy stocks of common medications; and
(V) extra medical supplies and equipment, such as oxygen, linens, and any other vital equipment.
(D) The portion of the plan on sheltering in place must:
(i) be developed using information about the building's construction and Life Safety Code (LSC) systems;
(ii) describe the criteria to be used to decide whether to shelter in place versus evacuate;
(iii) include procedures to assess whether the building is strong enough to withstand the various types of possible disasters and to identify the safest areas of the building;
(iv) include procedures to secure the building against damage;
(v) include procedures for collaborating with the local emergency management agencies regarding the decision to shelter in place;
(vi) include procedures to assign each task in the sheltering plan to facility staff;
(vii) describe procedures to shelter in place that allow the facility to maintain 24-hour operations for a minimum of seven days to maintain continuity of care for the number and types of clients served; and
(viii) include procedures to provide for building security.
(E) The portion of the plan on evacuation must:
(i) include contracts with prearranged receiving facilities, including a hospice inpatient facility, skilled nursing facility, nursing facility, assisted living facility, or hospital, with at least one facility located at least 50 miles away;
(ii) include procedures to identify and follow evacuation and alternative routes for transporting clients to a receiving facility and to notify the proper authorities of the decision to evacuate;
(iii) include procedures to protect and transport client records and to match them to each

client;
(iv) include procedures to maintain a checklist of items to be transported with clients, including medications and assistive devices, and how the items will be matched to each client;
(v) include staffing procedures the facility will use to ensure that staff accompanies evacuating clients when the hospice transports clients to a receiving facility;
(vi) include procedures to identify and assign staff responsibilities, including how clients will be cared for during evacuations and a backup plan for lack of sufficient staff;
(vii) include procedures facility staff will use to account for all persons in the building during the evacuation and to track all persons evacuated;
(viii) include procedures for the use, protection, and security of the identifying information the facility will use to identify evacuated clients;
(ix) include procedures facility staff will follow if a client becomes ill or dies in route when the hospice transports clients to a receiving facility;
(x) include procedures to make a hospice counselor available when staff accompanies clients during transport by the hospice to a receiving facility;
(xi) include the facility's policy on whether family of staff and clients can shelter at the hospice and evacuate with staff and clients;
(xii) include procedures to coordinate building security with the local emergency management agencies;
(xiii) include procedures facility staff will use to determine when it is safe to return to the geographical area;
(xiv) include procedures facility staff will use to determine if the building is safe for reoccupation; and
(xv) be approved by the local emergency management coordinator (EMC) at least annually and when updated.
(F) The portion of the plan on transportation must:
(i) describe how the hospice prearranges for a sufficient number of vehicles to provide suitable, safe transportation for the type and number of clients being served; and
(ii) include procedures to contact the local EMC to coordinate the facility's transportation needs in the event its prearrangements for transportation fail for reasons beyond the facility's control.
(G) The portion of the plan on training must include:
(i) procedures that specify when and how the disaster response plan is reviewed with clients and family members;
(ii) procedures to review the role and responsibility of a client able to participate with the plan;
(iii) procedures for initial and periodic training for all facility staff to carry out the plan;
(iv) the frequency for conducting disaster drills and demonstrations to ensure staff are fully trained with respect to their duties under the plan; and
(v) procedures to conduct emergency response drills at least annually either in response to an actual disaster or in a planned drill, which may be in addition to or combined with the drills required by the LSC as specified in subsection (c)(1) of this section.

(b) Physical plant and equipment. A hospice must develop procedures for controlling the reliability and quality of:
(1) the routine storage and prompt disposal of trash and medical waste;
(2) light, temperature, and ventilation and air exchanges throughout the hospice inpatient unit;
(3) emergency gas and water supply; and
(4) the scheduled and emergency maintenance and repair of all equipment.
(c) Fire protection. Except as otherwise provided in this subsection:
(1) A hospice must meet the provisions applicable to the health care occupancy chapters of the 2000 edition of the LSC of the National Fire Protection Association (NFPA). Chapter 19.3.6.3.2, exception number 2 of the 2000 edition of the LSC does not apply to hospices.
(2) In consideration of a recommendation by HHSC, CMS may waive, for periods deemed appropriate, specific provisions of the LSC which if rigidly applied would result in unreasonable hardship for the hospice, but only if the waiver would not adversely affect the health and safety of clients.
(3) The provisions of the adopted edition of the LSC do not apply in the State of Texas if CMS finds that a fire and safety code imposed by State law adequately protects clients in hospices.
(4) Notwithstanding any provisions of the 2000 edition of the LSC to the contrary, a hospice inpatient unit may place alcohol-based hand rub dispensers in its facility if:
(A) use of alcohol-based hand rub dispensers does not conflict with any State or local codes that prohibit or otherwise restrict the placement of alcohol-based hand rub dispensers in health care facilities;
(B) the dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;
(C) the dispensers are installed in a manner that adequately protects against access by vulnerable populations; and
(D) the dispensers are installed in accordance with chapter 18.3.2.7 or chapter 19.3.2.7 of the 2000 edition of the LSC, as amended by NFPA Temporary Interim Amendment 00-1(101), issued by the Standards Council of the NFPA on April 15, 2004.
(d) Client areas. A hospice inpatient unit must provide a home-like atmosphere and ensure that client areas are designed to preserve the dignity, comfort, and privacy of clients. A hospice inpatient unit must provide:
(1) physical space for private client and family visiting;
(2) accommodations for family members to remain with the client throughout the night;
(3) physical space for family privacy after a client's death; and
(4) the opportunity for the client to receive visitors at any hour, including infants and small children.
(e) Client rooms. A hospice must ensure that client rooms are designed and equipped for nursing care, as well as the dignity, comfort, and privacy of clients. A hospice must accommodate a client and family request for a single room whenever possible. A client's room must:
(1) be at or above grade level;

(2) contain a suitable bed and other appropriate furniture for the client;
(3) have closet space that provides security and privacy for clothing and personal belongings;
(4) accommodate no more than two clients and their family members; and
(5) provide at least 80 square feet for a client residing in a double room and at least 100 square feet for a client residing in a single room.
(f) Toilet and bathing facilities. A client room in an inpatient unit must be equipped with, or conveniently located near, toilet and bathing facilities.
(g) Plumbing facilities. A hospice inpatient unit must:
(1) always have an adequate supply of hot water; and
(2) have plumbing fixtures with control valves that automatically regulate the temperature of the hot water used by a client.
(h) Infection control. A hospice inpatient unit must maintain an infection control program that protects clients, staff, and others by preventing and controlling infections and communicable disease in accordance with§ 558.853 of this subchapter (relating to Hospice Infection Control Program).
(i) Sanitary environment. A hospice inpatient unit must provide a sanitary environment by following accepted standards of practice, including nationally recognized infection control precautions, and avoiding sources and transmission of infections and communicable diseases.
(j) Linen. A hospice inpatient unit must always have available a quantity of clean linen in sufficient amounts for a client's use. Linens must be handled, stored, processed, and transported in such a manner as to prevent the spread of contaminants.
(k) Meal service and menu planning. A hospice inpatient unit must furnish meals to a client that are:
(1) consistent with the client's plan of care, nutritional needs, and therapeutic diet;
(2) palatable, attractive, and served at the proper temperature; and
(3) obtained, stored, prepared, distributed, and served under sanitary conditions.
(l) Use of restraint or seclusion. A client in a hospice inpatient unit has the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraint or seclusion may only be imposed to ensure the immediate physical safety of the client, a staff member, or others and must be discontinued at the earliest possible time.
(1) Restraint or seclusion may only be used when less restrictive interventions are determined to be ineffective to protect the client, a staff member, or others from harm.
(2) The type or technique of restraint or seclusion used must be the least restrictive intervention that is effective to protect the client, a staff member, or others from harm.
(3) The use of restraint or seclusion must be:
(A) in accordance with a written modification to the client's plan of care; and
(B) implemented in accordance with safe and appropriate restraint and seclusion techniques as determined by hospice policy.
(4) The use of restraint or seclusion must be in accordance with the order of a physician authorized to order restraint or seclusion by hospice policy.

(5) An order for the use of restraint or seclusion must never be written as a standing order or on an as needed basis.
(6) The medical director or physician designee must be consulted as soon as possible if the attending practitioner did not order the restraint or seclusion.
(7) An order for restraint or seclusion used for the management of violent or self-destructive behavior that jeopardizes the immediate physical safety of the client, a staff member, or others may only be renewed in accordance with the following limits for up to a total of 24 hours:
(A) four hours for adults 18 years of age or older;
(B) two hours for children and adolescents nine to 17 years of age; or
(C) one hour for children under nine years of age.
(8) After 24 hours, before writing a new order for the use of restraint or seclusion for the management of violent or self-destructive behavior, a physician authorized to order restraint or seclusion by hospice policy must see and assess the client.
(9) Each order for restraint used to ensure the physical safety of a non-violent or non-self-destructive client may be renewed as authorized by hospice policy.
(10) Restraint or seclusion must be discontinued at the earliest possible time, regardless of the length of time identified in the order.
(11) The condition of the client who is restrained or secluded must be monitored by a physician or trained staff who have completed the training criteria specified in subsection (o) of this section at an interval determined by hospice policy.
(12) Training requirements for a physician and for an attending practitioner must be specified in hospice policy. At a minimum, a physician and an attending practitioner authorized to order restraint or seclusion by hospice policy must have a working knowledge of hospice policy regarding the use of restraint or seclusion.
(13) When restraint or seclusion is used for the management of violent or self-destructive behavior that jeopardizes the immediate physical safety of the client, a staff member, or others:
(A) the client must be seen face-to-face within one hour after the initiation of the intervention by a physician or RN who has been trained in accordance with the requirements specified in subsection (m) of this section; and
(B) the physician or RN must evaluate:
(i) the client's immediate situation;
(ii) the client's reaction to the intervention;
(iii) the client's medical and behavioral condition; and
(iv) the need to continue or terminate the restraint or seclusion.
(14) If the face-to-face evaluation specified in paragraph (13) of this subsection is conducted by a trained RN, the trained RN must consult the medical director or physician designee as soon as possible after the completion of the one-hour face-to-face evaluation.
(15) All requirements specified under this paragraph are applicable to the simultaneous use of restraint and seclusion. Simultaneous restraint and seclusion is only permitted if the client is continually monitored:
(A) face-to-face by an assigned, trained staff member; or

(B) by trained staff using both video and audio equipment. This monitoring must be close to the client.
(16) When restraint or seclusion is used, there must be documentation in the client's record of:
(A) the one-hour face-to-face medical and behavioral evaluation if restraint or seclusion is used to manage violent or self-destructive behavior;
(B) a description of the client's behavior and the intervention used;
(C) alternatives or other less restrictive interventions attempted, if applicable;
(D) the client's condition or symptoms that warranted the use of the restraint or seclusion; and
(E) the client's response to the interventions used, including the rationale for continued use of the intervention.
(m) Restraint or seclusion staff training requirements. A client has the right to safe implementation of restraint or seclusion by trained staff.
(1) Client care staff working in the hospice inpatient unit must be trained and able to demonstrate competency in the application of restraints, implementation of seclusion, monitoring, assessment, and providing care for a client in restraint or seclusion:
(A) before performing any of the actions specified in paragraph (1) of this subsection;
(B) as part of orientation; and
(C) subsequently on a periodic basis consistent with hospice policy.
(2) A hospice must require appropriate staff to have education, training, and demonstrated knowledge based on the specific needs of the client population in:
(A) techniques to identify staff and client behaviors, events, and environmental factors that may trigger circumstances that require the use of a restraint or seclusion;
(B) the use of nonphysical intervention skills;
(C) choosing the least restrictive intervention based on an individualized assessment of the client's medical or behavioral status or condition;
(D) the safe application and use of all types of restraint or seclusion used in the hospice, including training in how to recognize and respond to signs of physical and psychological distress (for example, positional asphyxia);
(E) clinical identification of specific behavioral changes that indicate that restraint or seclusion is no longer necessary;
(F) monitoring the physical and psychological well-being of a client who is restrained or secluded, including but not limited to respiratory and circulatory status, skin integrity, vital signs, and any special requirements specified by hospice policy associated with the one-hour face-to-face evaluation; and
(G) the use of first-aid techniques and certification in the use of cardiopulmonary resuscitation, including required periodic recertification.
(3) Persons providing staff training must be qualified as evidenced by education, training, and experience in techniques used to address a client's behaviors.
(4) A hospice must document in the staff personnel records that the training and demonstration of competency were successfully completed.
(n) Death reporting requirements. A hospice must report deaths associated with the use of

seclusion or restraint in its inpatient unit.
(1) The hospice must report:
(A) an unexpected death that occurs while a client is in restraint or seclusion;
(B) an unexpected death that occurs within 24 hours after the client has been removed from restraint or seclusion; and
(C) a death known to the hospice that occurs within one week after restraint or seclusion where it is reasonable to assume that use of restraint or placement in seclusion contributed directly or indirectly to the client's death. The term "reasonable to assume" in this context includes but is not limited to death related to restrictions of movement for prolonged periods of time, or death related to chest compression, restriction of breathing, or asphyxiation.
(2) The hospice must report a death described in paragraph (1) of this subsection toHHSC by telephone at 1-800-458-9858 within 24 hours after knowledge of a client's death.
(3) The hospice must complete Provider Investigation Report For Home and Community Support Services Agency (HHSC Form 3613) and send it to HHSC Complaint Intake Unit within 10 days after reporting the death to HHSC by telephone.
(4) Hospice personnel must document in the client's record the date and time the death was reported to HHSC.

Notes
26 Tex. Admin. Code § 558.871
The provisions of this §558.871 adopted to be effective October 1, 2013, 38 TexReg 6628; 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 2434, eff. 4/25/2021