

Audit Report

# Inpatient Psychiatric Hospitals

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West Oaks Hospital

August 26, 2022

OIG Report No. AUD-22-026



**Inspector  
General**

Texas Health  
and Human Services



# Inpatient Psychiatric Hospitals

## West Oaks Hospital

## Results in Brief

### Why OIG Conducted This Audit

The Texas Health and Human Services Office of Inspector General (OIG) initiated this audit in response to a risk assessment after lawsuits and reports alleging that private inpatient psychiatric hospitals were committing and holding patients (a) that did not meet admission or commitment criteria or (b) without the person's consent. The OIG Audit and Inspections Division (OIG Audit) reviewed West Oaks' medical records, policies and procedures around (a) admissions, commitments, and discharges, (b) specific patient consent forms, and (c) physician orders.

### Summary of Review

The audit objective was to determine whether West Oaks completed admission, commitment, and specific consent requirements for STAR+PLUS members receiving inpatient psychiatric services in accordance with selected federal and state regulations, rules, and policies.

The audit examined STAR+PLUS claims processed by UnitedHealthcare of Texas, Inc. and United Behavioral Health, Inc. (United), and associated documentation with service dates from September 1, 2019, through February 28, 2021.

### Conclusion

West Oaks Hospital (West Oaks) complied with selected federal and state regulations, rules, and policies related to physician licensing and appropriate days billed. However, it should strengthen controls to comply with requirements related to discharging patients, physician orders, psychiatric evaluations, treatment plans, patient consent forms, required facility signage, and patient access to outside communication.

### Key Results

Based on the site visit on March 1, 2022, and additional testing, West Oaks complied with requirements related to physician qualifications and billing only days in the facility. However, West Oaks should improve its practices for performing and documenting evaluations and ensuring patients and their families or legally authorized representatives are informed and aware of their rights and options. Specifically:

- One voluntarily admitted patient who requested discharge was held past the discharge date ordered by the physician. The physician initially determined that the hospital would petition for court-ordered treatment, but subsequently decided the patient should be released. A patient has the right not to be detained once the decision not to file a petition for court-ordered treatment is made.
- All 60 sampled records included an initial psychiatric evaluation. However, (a) 26 were not conducted timely, (b) 4 were not performed by a physician, (c) auditors could not determine if 9 were timely, and (d) one was not signed by a physician. West Oaks could have patients in its care who were not evaluated by a physician or whose psychiatric evaluations were not completed timely.
- Most medication orders were prescribed and signed by a physician as required; however, some were either not signed at all or not signed timely. In the selected sample of 40 patient records, there were 336 psychoactive medication orders. Of those 336 orders, 32 (9.5 percent) were not signed or signed timely. Medication orders not signed by a physician may mean psychoactive medications were administered without verification from the treating physician.
- While West Oaks obtained most of the required medication consent forms for psychoactive medication, it did not obtain 29 of 176 medication consent forms tested (16.5 percent). Of the remaining

## Background

West Oaks is a 160-bed facility providing care for adolescents and adults in the Houston, Texas, area. It provides inpatient hospital psychiatric services to beneficiaries of the Texas STAR+PLUS program under contract with United, a Texas managed care organization (MCO). STAR+PLUS is a Texas Medicaid managed care program for people who have disabilities or are age 65 or older. Individuals in STAR+PLUS receive Medicaid basic services and long-term services and supports through a health plan they choose.

Through its provider contract with United, West Oaks received Texas Medicaid reimbursements of \$4.2 million for inpatient psychiatric hospitalization services delivered to 461 Medicaid beneficiaries during the audit scope, of which \$18,172 related to electroconvulsive therapy.

## Management Response

OIG Audit presented preliminary audit results, issues, and recommendations to West Oaks in a draft report dated August 8, 2022. West Oaks agreed with the audit recommendations and asserted corrective actions had already been implemented or were underway. West Oaks' management responses are included in the report following each recommendation.

For more information, contact:  
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147 medication consent forms tested, most medication consent forms were not completed or were not completed before administering the medication.

- For the 40 sampled records, one admission order was missing. For the remaining 39, three were not signed timely, five were not dated with the time noted, and five did not have the time noted. West Oaks could have patients in its care without admission authorization.
- West Oaks did not ensure that only the patients signed the consent form for voluntary admission.
- West Oaks did not always ensure protective custody orders and emergency detention warrants were appropriately retained in patients' medical records. Of 11 involuntarily admitted patients tested, all were missing the protective custody order and three were missing the notice of emergency detention warrant or protective custody transfer order.
- West Oaks did not ensure all patients acknowledged their rights. Eight patients refused to sign: an explanation was not provided for three and none had a third-party witness. Of the 32 remaining forms tested, 13 had at least one error with signing or initialing.
- Texas Administrative Code requires specific elements for certain therapy consent. One patient in the sample had two electroconvulsive therapy treatment sessions during the audit scope. West Oaks obtained consent for each treatment session, but the consent forms were not completed or completed timely.
- Some signs were not prominently displayed and did not have all required information. Specifically, a statement of the duty to report abuse and neglect, or illegal, unethical or unprofessional conduct including a toll-free telephone number was not posted as required.
- One voluntarily admitted patient was placed on phone restriction without clinical reasons documented for the restriction or the duration of the restriction.

## Recommendations

West Oaks should:

- Discharge patients according to discharge orders.
- Ensure psychiatric evaluations are completed by a physician within the required timeframe based on type of admission.
- Ensure voluntary admission consent forms are only completed by the patient and not their family.
- Ensure completed medication consent forms are obtained prior to medication administration.
- Retain court orders.
- Obtain complete and timely patients' consent for treatment and acknowledgment of rights.
- Update its forms and postings to include all required information.

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# Audit Overview

## Overall Conclusion

West Oaks Hospital (West Oaks) complied with selected federal and state regulations, rules, and policies related to physician licensing, and days billed. However, it should strengthen controls to comply with requirements related to discharging patients, physician orders, psychiatric evaluations, treatment plans, patient consent forms, required facility signage, and patient access to outside communication.

## Key Audit Results

The Texas Health and Human Services (HHS) Office of Inspector General (OIG) Audit and Inspections Division (OIG Audit) reviewed West Oaks' medical records, policies and procedures around (a) admissions, commitments, and discharges, (b) specific patient consent forms, and (c) physician orders. Based on the testing, West Oaks complied with requirements related to physician qualifications and billing the correct number of days a patient is in the facility.

However, West Oaks should improve its practices for performing and documenting psychiatric evaluations and ensuring patients and their families or legally authorized representatives are informed and aware of their rights and options.

### Objective

The audit objective was to determine whether West Oaks completed admission, commitment, and specific consent requirements for STAR+PLUS members receiving inpatient psychiatric services in accordance with selected federal and state regulations, rules, and policies.

### Scope

The audit examined STAR+PLUS claims processed by UnitedHealthcare of Texas, Inc. and United Behavioral Health, Inc. (United), and associated documentation with service dates from September 1, 2019, through February 28, 2021.

Specifically:

- One voluntarily admitted patient who requested discharge was held past the discharge date ordered by the physician.
- Physicians did not always perform, sign, or date and note the time on psychiatric evaluations within the required timeframe based on admission type.
- Physicians did not always sign medication and admission orders or did not sign within the required timeframe.
- West Oaks should ensure, on voluntary admissions, only the patient signs the form.
- West Oaks did not ensure all patients acknowledged their rights.
- The treatment team did not always sign treatment plans or sign within the required timeframe.
- Consent forms for electroconvulsive therapy were not completed timely.
- Facility-specific medication consent forms did not contain all the required state-mandated information.
- Posted signage at the facility did not include required information.
- One voluntarily admitted patient was placed on phone restriction without clinical reasons documented for the restriction or the duration of the restriction.

#### **What Prompted This Audit**

OIG initiated this audit in response to a risk assessment after lawsuits and reports alleging that private inpatient psychiatric hospitals were committing and holding patients (a) that did not meet admission or commitment criteria or (b) without the person's consent.

OIG Audit offered recommendations to West Oaks, which, if implemented, will help ensure compliance with all applicable requirements.

The "Detailed Audit Results" section of this report presents additional information about the audit results. In addition, other audit issues identified in this report may be subject

to liquidated damages or OIG administrative enforcement measures,<sup>1</sup> including administrative penalties.<sup>2</sup>

OIG Audit presented preliminary audit results, issues, and recommendations to West Oaks in a draft report dated August 8, 2022. West Oaks agreed with the audit recommendations and asserted corrective actions had already been implemented or were underway. West Oaks' management responses are included in the report following each recommendation.

OIG Audit communicated other, less significant issues to West Oaks in a separate written communication.

OIG Audit thanks management and staff at West Oaks for their cooperation and assistance during this audit.

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<sup>1</sup> 1 Tex. Admin. Code § 371.1603 (May 20, 2020).

<sup>2</sup> Tex. Hum. Res. Code § 32.039 (Apr. 2, 2015).



## Key Program Data

West Oaks provides inpatient hospital psychiatric services to beneficiaries of the Texas STAR+PLUS program. STAR+PLUS is a Texas Medicaid managed care program for people who have disabilities or are age 65 or older. Individuals in STAR+PLUS receive Medicaid basic services and long-term services and supports through a health plan they choose. Inpatient hospital psychiatric services provided by West Oaks to STAR+PLUS members include:

- Screening, examination, and eligibility determination prior to admission.
- Treatment planning and providing medical services.
- Recommending services, support, and patient placement post discharge.
- Following up with patients regarding outpatient service.

### West Oaks Operation

- **Beds:** 160
- **Services:** Adult chemical dependency; behavioral health
- **Ages served:** Children, adolescents, and adults
- **Area served:** Houston, Texas, and the surrounding area

Through its provider contract with United, West Oaks received Texas Medicaid reimbursements of \$4.2 million for inpatient psychiatric hospitalization services delivered to 461 Medicaid beneficiaries during the audit scope, of which \$18,172 related to electroconvulsive therapy.

## Auditing Standards

### Generally Accepted Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.




# Detailed Audit Results

OIG Audit assessed compliance with selected Texas Administrative Code and Texas Health and Safety Code requirements for inpatient psychiatric hospitals as well as West Oaks' internal policies and procedures. The areas tested include:

- Psychiatric evaluations
- Psychoactive medications
- Non-medication orders
- Days at facility
- Treatment and consent forms
- Inpatient facility requirements

There are three types of admission for inpatient psychiatric care, as detailed in Figure 1.

**Figure 1: Types of Admission for Inpatient Care**

	Individuals 16 years old or older, people under 16 who are or have been married, or the legally authorized representative of a person younger than 18 may request <b>voluntary admission</b> . The individual must meet the hospital's admission criteria. <sup>3</sup>
	An individual's legally authorized representative or a peace officer may seek involuntary temporary admissions under <b>emergency detention</b> . The individual must meet the requirements for emergency detention. <sup>4</sup>
	A hospital may admit an individual involuntarily under a <b>court order for protective custody</b> , for court-ordered inpatient mental health services, or under order for commitment or order for placement. <sup>5</sup>

Source: 25 Tex. Admin. Code §§ 411.461 through 411.463 (Jan. 1, 2004)

<sup>3</sup> 25 Tex. Admin. Code § 411.461 (Jan. 1, 2004).

<sup>4</sup> 25 Tex. Admin. Code § 411.462 (Jan. 1, 2004).

<sup>5</sup> 25 Tex. Admin. Code § 411.463 (Jan. 1, 2004).

The following sections of this report detail the instances of compliance and noncompliance OIG Audit identified.

# Psychiatric Evaluations

All patients being admitted to a psychiatric hospital voluntarily or under an emergency detention must receive a psychiatric evaluation by a physician.<sup>6</sup> The psychiatric evaluation includes not only the patient's medical history, but also a determination of the patient's mental status.<sup>7</sup> An evaluation must also be completed if patients who were voluntarily admitted request discharge and the physician has reasonable cause to believe that the patient may meet the criteria for court-ordered inpatient mental health services or emergency detention.<sup>8</sup> By ensuring physicians fully and timely complete all required evaluations, West Oaks protects its patients from unsupported treatment and potentially delayed release.

## Chapter 1.1: Physicians Did Not Always Follow State Requirements Regarding Voluntarily Admitted Patients Who Requested Discharge

Of the 29 voluntarily admitted patients tested, four requested discharge during the audit scope.

Voluntarily admitted patients may request, in writing, to be discharged at any time. If a patient requests discharge, hospital staff should notify a physician within four hours of the request for discharge.

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<sup>6</sup> Tex. Health & Safety Code § 572.0025 (f)(1) (A–B) (Sept. 1, 2019) and Tex. Health & Safety Code § 573.021 (c) (June 9, 2017).

<sup>7</sup> 25 Tex. Admin. Code § 411.472 (f) (Jan. 1, 2004).

<sup>8</sup> 25 Tex. Admin. Code § 411.484 (c) (Jan. 1, 2004).

Figure 2 shows the timeline for the hospital to act on a request for discharge from a voluntarily admitted patient.

**Figure 2: Timeline of Request for Release of Voluntary Admission**

Hour 0 through Hour 4	Hour 4 through Hour 24	Hour 24 through 4:00 p.m. of next business day
 <p>Patient requests release in writing:</p> <ul style="list-style-type: none"> <li>• Doctor notified, and if doctor does not have reasonable cause to detain, patient is released by hour 4.</li> </ul>	 <p>If doctor has reasonable cause to question release, doctor evaluates patient and determines whether to release or seek approval for detention by hour 24:</p> <ul style="list-style-type: none"> <li>• If no further concern, patient is released by hour 24.</li> <li>• If further concern, seek court approval by 4:00 p.m. of the next business day.</li> </ul>	 <p>By 4:00 p.m. of the next business day, the hospital must:</p> <ul style="list-style-type: none"> <li>• File application for court-ordered mental health services or emergency detention.</li> <li>• Obtain written order for further detention.</li> <li>• Notify patient of intention to detain and document the reasons for the decision to detain the patient in the patient's medical record.</li> </ul>

Source: 25 Tex. Admin. Code § 411.484 (Jan. 4, 2004)

For all four patients, the patients' medical record contained documentation that the physician was notified within the required four hours. However, for (a) all four patients the physician's decision not to immediately release was not signed and dated with the time of the verbal order to detain for evaluation noted, and (b) three patients, the physician's reason for the determination to detain for evaluation was not noted in the medical record.<sup>9,10</sup>

In practice, West Oaks' processes for requests for release from voluntary admission did not require the physician to sign, date, and note the time to substantiate their decision within the first four hours; or to sign, date, and note the time on the orders to detain. Without proper documentation, patients may be held longer than state regulations allow.

<sup>9</sup> West Oaks Hospital, "The Content of the Medical Records," Policy # HIM-13, (June 2018 through Feb. 2021).

<sup>10</sup> Tex. Health & Safety Code § 572.004 (d) (May 17, 2005).

All four patients were evaluated by a physician; however, auditors were unable to determine if one of the patients was evaluated within 24 hours as the physician did not note the time on the evaluation. For the four patients:

- Two retracted their original request for discharge; one patient was evaluated timely and the physician did not note the time on the other patient's evaluation.
- One was released within 24 hours and received a timely evaluation.
- One was detained past 24 hours as the physician prepared a certificate of medical examination to petition the court for court-ordered treatment.

Requests to detain a patient for court-ordered treatment are required to be submitted no later than 4:00 p.m. of the following business day. The patient who was detained requested discharge on a Friday, and the physician completed the evaluation on Friday. The next business day was a Tuesday because of a Monday holiday. The physician ordered the patient to be discharged on Monday before the petition had been filed, but the patient was not released until Tuesday.

A patient has the right not to be detained once the decision not to file a petition for court-ordered treatment has been made.<sup>11</sup>

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<sup>11</sup> 25 Tex. Admin. Code § 404.157 (b) (1) (Dec. 10, 1993).

## Recommendation 1.1

West Oaks should update processes and procedures to ensure:

- Verbal orders to detain or discharge a patient are properly signed, dated, and the time is noted by the ordering physician.
- Patients are discharged within four hours of request if the physician does not have a reasonable cause to detain the patient.
- A decision to detain a patient beyond four hours of the request and the reasons for such decision are made a part of the patient's clinical record.
- Physician evaluations documented in the medical record are signed and dated with the time noted.
- Patients are discharged consistent with the discharge orders or the reason for delay is noted in the medical record.

## Management Response

### Action Plan

The following processes and policies were reviewed and amended as indicated to reflect the most current processes:

- Policy HIM 13-Content of the Medical Record was reviewed and revised to clarify the 48-hour time frame for authenticating orders
- Policy N118-4 Hour letter was reviewed and confirmed
- Policy N160-Administration of Court Medication was reviewed and confirmed
- Policy N170-AMA was reviewed and confirmed

The Medical Director provided training to all medical staff members via MEC [Medical Executive Committee] meeting on 9/30/2021, and those physicians not able to attend received training from their sponsoring physician. Training emphasized that all psychiatric evaluations of voluntary patients must be completed within 24 hours after admission; all verbal and telephone orders must be signed, dated, and timed within 48-hours after giving the order; and that the decision to detain a voluntary patient requesting discharge and the

reason for the decision must be documented in the medical record. Medical staff signed an attestation of understanding.

The HIM [Health Information Management] Director monitors 100% of the psychiatric evaluations to confirm they are completed in 24-hours. Medical records are audited regularly to confirm that physicians are timely signing, dating, and timing verbal and telephone orders. UR [Utilization Review] Director monitors a random sample of medical records of voluntary patients who requested discharge and were detained to confirm that the physician documented the order and reason to detain the patient for further evaluation. Monitoring will continue at this level until substantial compliance is maintained for four consecutive months. Any noncompliance is being addressed via the OPPE/FPPE [Ongoing Professional Practice Evaluation/Focused Professional Practice Evaluation] process by the Medical Director. Data is reported to MEC monthly and the Board of Governors quarterly.

The CEO also addresses any continuous lack of compliance with documentation through 1:1 meetings with the involved physician(s).

The UR Department coordinates discharge planning each weekday with the nursing staff so discharges are timely, efficient, and safe.

### **Responsible Managers**

- Chief Executive Officer
- HIM Director

### **Implementation Date**

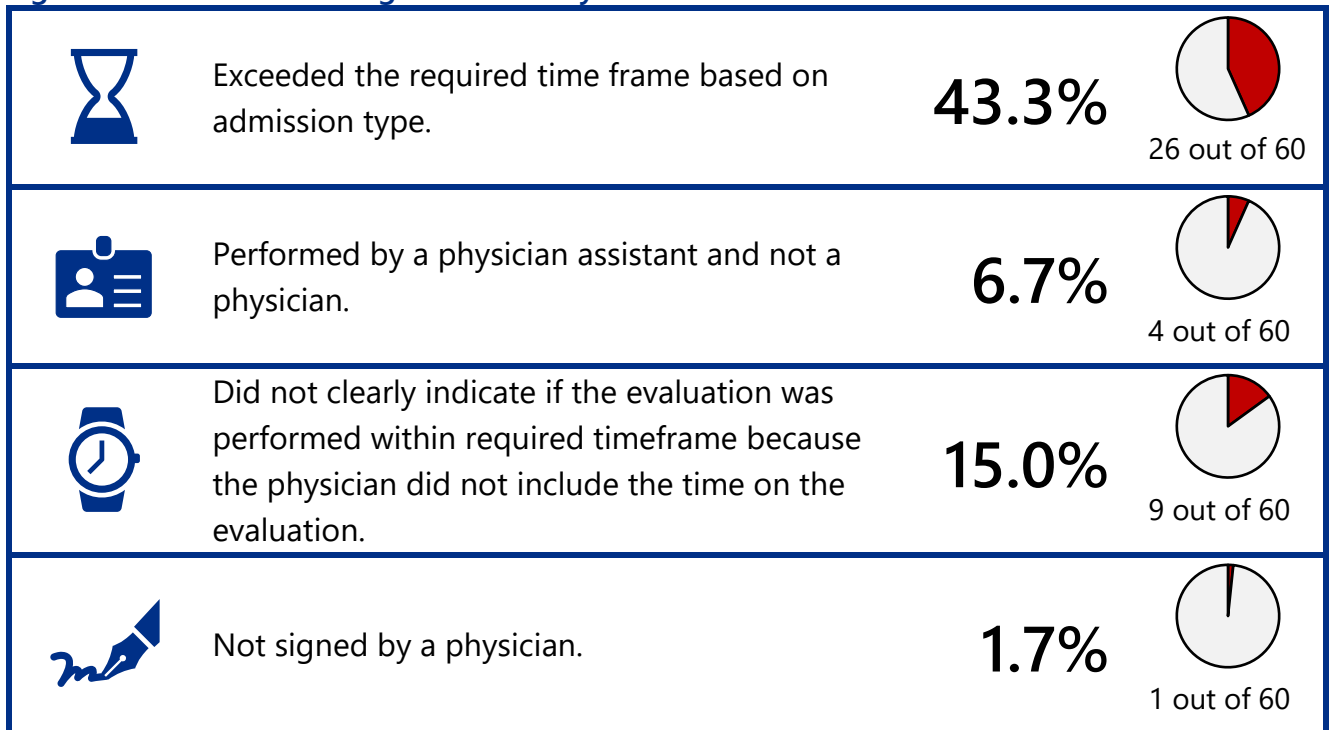
November 30, 2021



## Chapter 1.2: Initial Psychiatric Evaluations Were Not Always Completed or Completed Timely

All 60 sampled records included an initial psychiatric evaluation. However, 40 psychiatric evaluations for voluntarily admitted patients and emergency detentions were not completed within the required guidelines, as shown in Figure 3:

Figure 3: Results of Testing for Initial Psychiatric Evaluations



Source: OIG Audit

Once a patient is admitted, the patient must have a psychiatric evaluation by a physician within 12 hours for emergency detention admissions and up to 72 hours before or 24 hours after admission for voluntary admissions.<sup>12</sup> Emergency detention psychiatric evaluations help determine whether (a) the prospective patient has a mental illness, (b) there is substantial risk of serious harm to self or others, and (c) the risk of harm is imminent unless the prospective patient is

<sup>12</sup> Tex. Health & Safety Code §§ 572.0025 (f)(1)(A–B) (Sept. 1, 2019) and 573.022 (Apr. 2, 2015).

immediately detained. Voluntary admission psychiatric evaluations determine whether the person has symptoms of mental illness and will benefit from inpatient or outpatient services.<sup>13,14</sup>

West Oaks' policy requires all entries into the medical record to be dated with the time noted and signed.<sup>15</sup> This ensures all orders and consultations are completed within the required timeframes. West Oaks did not always follow its policy to sign, date, and time the psychiatric evaluation or have the evaluation performed by a physician.

Because West Oaks did not ensure all evaluations were performed as required, West Oaks could have patients in its care who were not evaluated by a physician or whose psychiatric evaluations were not completed timely, which may affect those patients receiving the care they need. For emergency detentions, this could affect the determination of whether a patient should remain admitted involuntarily while commitment paperwork is filed with the court.

## **Recommendation 1.2**

West Oaks should implement processes and update procedures to ensure:

- Psychiatric evaluations are completed and signed within the required timeframe based on type of admission.
- Psychiatric evaluations are completed by a physician.
- Documentation clearly indicates the date and time the psychiatric evaluation was performed.

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<sup>13</sup> Tex. Health & Safety Code § 572.002 (June 14, 2013).

<sup>14</sup> 25 Tex. Admin. Code § 411.462 (c)(1)(A)–(C) (June 1, 2004).

<sup>15</sup> West Oaks Hospital, "The Content of the Medical Records," Policy # HIM-13, (June 2018 through Feb. 2021).

## Management Response

### Action Plan

Since the audit period, the hospital has changed how physicians document their psychiatric evaluations. Currently, most physicians are dictating their psychiatric evaluations, which are documented via transcription services. This process automatically time and date stamps both the dictations and when the physician e-signs the dictations.

The Medical Director provided training to all medical staff members via MEC meeting on 9/30/2021, and those not able to attend received training from their sponsoring physician. Training emphasized that all psychiatric evaluations must be completed within the required timeframe, and that only physicians can perform a psychiatric evaluation. Medical staff signed an attestation of understanding.

The HIM Director and PI [Process Improvement] Director monitor 100% of the psychiatric evaluations to confirm they are done by a physician, completed timely, and contain the physician's dated and timed signature. Monitoring at this level will continue until substantial compliance has been achieved for four consecutive months. Any noncompliance is addressed via the OPPE/FPPE process by the Medical Director. Data is reported to MEC monthly by physician and the Board of Governors quarterly.

The CEO also addresses any continuous lack of compliance with completion of this documentation through 1:1 meetings with the involved physician(s).

Ongoing re-education during the monthly MEC meetings covers any substantial trends.

### Responsible Managers

- Chief Executive Officer
- HIM Director

### Implementation Date

November 30, 2021

## Psychoactive Medications

During inpatient stays, physicians can prescribe medication including psychoactive medications as part of the patient's treatment. Psychoactive medications are used for the treatment of symptoms of psychosis or other severe mental or emotional disorders and are used to exercise an effect on the central nervous system to modify behavior, cognition, or affective state. Psychoactive medications include:<sup>16</sup>

- Antipsychotics or neuroleptics
- Antidepressants
- Agents for control of mania or depression
- Antianxiety agents
- Sedatives, hypnotics, or other sleep-promoting drugs
- Psychomotor stimulants

Due to these medications' potential effects on a patient's perception and autonomy, it is important for the treating physician to prescribe and sign the medication order authorizing the administration of psychoactive medications.

Patients receiving voluntary or involuntary mental health services can refuse the administration of psychoactive medications unless (a) the patient is having a medication-related emergency, (b) the patient's legal representative consents on the patient's behalf, or (c) the court has authorized the medication to be administered.<sup>17</sup>

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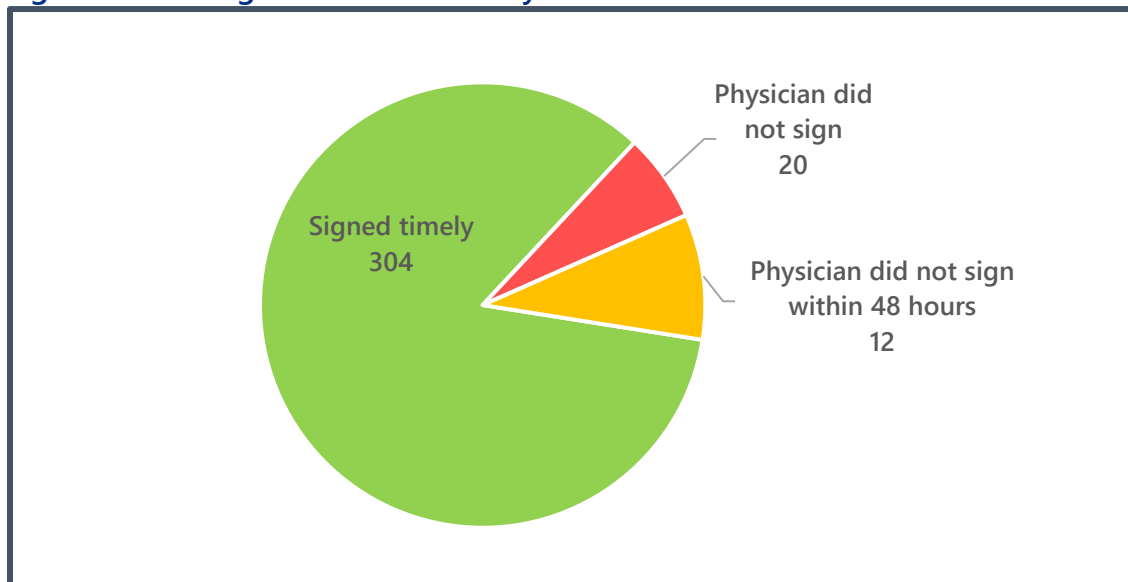
<sup>16</sup> Tex. Health & Safety Code § 574.101 (3) (Aug. 30, 1993).

<sup>17</sup> Tex. Health & Safety Code § 576.025 (a) (June 17, 2005).

## Chapter 2.1: Physicians Did Not Always Sign Medication Orders or Sign Medication Orders Timely

Most medication orders were prescribed and signed by a physician as required; however, some were either not signed at all or not signed timely. In the selected sample of 40 patient records, there were 336 psychoactive medication orders. Of those 336 orders, 32 (9.5 percent) were not signed or not signed timely, as shown in Figure 4.

Figure 4: Testing Results for 336 Psychoactive Medication Orders



Source: OIG Audit

West Oaks' policy requires physicians to sign medication orders within 48 hours from when verbal or telephone orders are communicated.<sup>18</sup> This ensures treating physicians verify accuracy of all medications their patients are prescribed. Medication orders not signed by a physician may mean psychoactive medications were administered without verification from the treating physician.

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<sup>18</sup> West Oaks Hospital, "The Content of the Medical Records," Policy # HIM-13, (June 2018 through Feb. 2021).

## **Recommendation 2.1**

West Oaks should ensure physicians follow its policies and procedures to sign medication orders within the required timeframe.

### **Management Response**

#### **Action Plan**

Since the audit period, West Oaks has changed its process. Medication orders are now entered in an electronic system by physicians, nurses, or extenders. A notification is sent to all physicians reminding them to review and e-sign their orders. Attending or treating physicians then review and e-sign their orders, and the system date and time stamps the signature. The authentication of orders is monitored monthly to ensure authentication documentation is completed within 48-hours through regular chart audits. The results are presented in MEC monthly and board of governors quarterly. Noncompliance is addressed through the OPPE/FPPE process.

#### **Responsible Managers**

- Chief Executive Officer
- HIM Director

#### **Implementation Date**

November 30, 2021

## Chapter 2.2: Medication Consent Forms Were Not Always Obtained, Completed, or Completed Timely

While West Oaks obtained most of the required medication consent forms for psychoactive medication, it did not obtain 29 of 176 medication consent forms tested (16.5 percent).<sup>19</sup> Of the remaining 147 medication consent forms tested; most medication consent forms were not completed or were not completed before administering the medication, as shown in Table 2.

**Table 2: Results of Testing for Medication Consent Forms**

Result	Count	Percentage
Obtained timely and dated by patient	10	6.8%
Obtained after medication administration	11	7.4%
Patient, patient's legally authorized representative, or witness did not sign consent	7	4.8%
Witness did not date consent	5	3.4%
Obtained, not dated by patient	114	77.6%
<b>Total</b>	<b>147</b>	<b>100.0%</b>

Source: OIG Audit

The hospital must obtain medication consent for each psychoactive medication from the patient or their legally authorized representative before that psychoactive medication may be administered.<sup>20</sup> This information must be given verbally or in writing to the patient, their legally authorized representative, or both, and evidenced by a signed and dated completed copy of West Oaks' medication consent form. If the patient or their legally authorized representative consents to the administration of psychoactive medication but refuses or is unable to execute the form, a witness to the consent should sign and date the form.<sup>21</sup>

<sup>19</sup> Seven of these 29 were not listed on the Medication Administration Record and a consent was not on file, so the audit team was unable to determine if medication was administered or if a consent was required.

<sup>20</sup> Emergency medication does not require consent and was not tested, 25 Tex. Admin. Code § 414.406 (a) (Aug. 31, 2004).

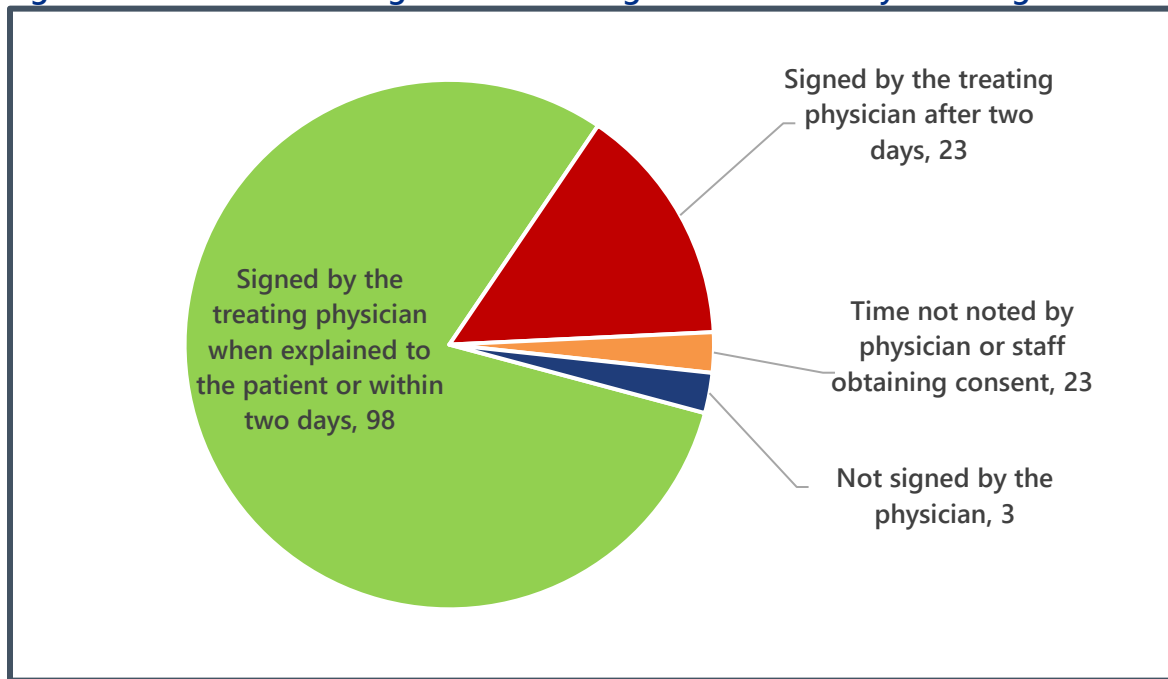
<sup>21</sup> 25 Tex. Admin. Code §414.404 and § 414.405 (c) (Aug. 31, 2004).

West Oaks' policy also requires medication consent forms to be signed and dated prior to medication administration.<sup>22</sup> West Oaks did not follow its policy and administered medications without the patient's or their legally authorized representative's consent, as appropriate, either because the consent was not obtained prior to medication administration or because the patient did not sign or date the consent form.

If the facility did not obtain consent before administering psychoactive medication, patients were not made aware of generally accepted alternative forms of treatment, possible side effects, or their rights regarding consent to treatment with psychoactive medications.<sup>23</sup>

Among the 147 patient consent forms on file, most were signed by the physician when they explained the consent information to the patient or within the required two working days, but some were not signed or not signed promptly, as shown in Figure 5.

**Figure 5: Results of Testing the 147 Existing Consents for Physician Signature**



Source: OIG Audit

<sup>22</sup> West Oaks Hospital, "Consent for Treatment," Policy # AIM-106, (Nov. 2018).

<sup>23</sup> 25 Tex. Admin. Code § 414.404 (Aug. 31, 2004).



If a staff member other than the treating physician gives the initial explanation of the consent information, then the treating physician must confirm the explanation and consent within two working days.<sup>24</sup> West Oaks' policy does not address physicians signing the consent within two working days to confirm the consent information was explained to the patient by a staff member.

## **Recommendation 2.2**

West Oaks should implement policies and procedures to ensure:

- Medication consent forms are obtained prior to psychoactive medication administration.
- Patients, legally authorized representatives, or witnesses, as appropriate, sign and date the medication consent forms.
- Staff, as appropriate, and physicians sign and date the medication consent forms, within the required timeframe.

## **Management Response**

### **Action Plan**

The Consent Policy AIM106 was reviewed by the Intake Director and PI Director, and they will revise the policy to add the requirement for physicians to sign the consent within two working days if another staff member reviews the consent form with the patient or legally authorized representative.

The Consent to Treatment Forms will be reviewed by the Forms Committee and consents compliant with 100% of all required elements will be integrated into the various classes of psychoactive medication consents. The revised forms will go to MEC for review and/or approval.

The Chief Nursing Officer/designee will re-educate all nursing staff on the revised forms and the requirements for completion of consents for psychoactive medication by appropriate personnel before administration of psychoactive medication, including appropriate signatures and dates, by 12/1/2022. The Medical Director is updating the physicians via MEC Meeting on the revised forms and reminding them that, if a staff member gives the

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<sup>24</sup> 25 Tex. Admin Code § 414.405 (d) (Aug. 31, 2004).

initial explanation of consent information for psychoactive medication to a patient/legally authorized representative, the treating physician must confirm the explanation and consent and sign the form within two working days.

Noncompliance is addressed with re-education and/or disciplinary action.

Regular night audits are conducted by the nursing staff to confirm timeliness and the completion of the presence of signatures.

**Responsible Manager**

Chief Executive Officer

**Target Implementation Date**

December 1, 2022

## Orders for Admission

Patients may be admitted to an inpatient psychiatric facility (a) voluntarily, (b) temporarily and involuntarily under emergency detention,<sup>25</sup> or (c) involuntarily under court order.

- For voluntary admissions, the patient must meet the hospital admission criteria<sup>26</sup> and the physician must conduct an admission examination and submit an order of admission. Verbal admission orders must be signed by a physician within 24 hours of being issued.<sup>27</sup>
- For temporary admissions under emergency detention, if the physician determines, based on the preliminary examination, that the patient qualifies for emergency detention, the physician must issue an order of admission and obtain a written order for protective custody.<sup>28</sup> Verbal admission orders must be signed by a physician within 48 hours of being issued.<sup>29</sup>
- For involuntary admissions under court order, a physician with admitting privileges must sign an admissions order authorizing the hospital's acceptance of the patient.<sup>30</sup> Verbal admission orders must be signed by a physician within 48 hours of being issued.<sup>31</sup>

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<sup>25</sup> According to 25 Tex. Admin. Code, § 411.462 (a) (Jan. 1, 2004), "a hospital may accept for a preliminary examination: (1) an individual who has been apprehended and transported to a hospital by a peace officer in accordance with Texas Health and Safety Code, § 573.001 or § 573.012; or (2) an individual who is 18 years of age or older and who has been transported to the hospital by the individual's guardian of the person in accordance with Texas Health and Safety Code, § 573.003."

<sup>26</sup> 25 Tex. Admin. Code § 411.459 (Jan. 1, 2004).

<sup>27</sup> 25 Tex. Admin. Code § 411.461 (Jan. 1, 2004).

<sup>28</sup> 25 Tex. Admin. Code § 411.462 (Jan. 1, 2004) and Tex. Health & Safety Code § 573.021 (June 9, 2017).

<sup>29</sup> West Oaks Hospital, "The Content of the Medical Records," Policy # HIM-13, (June 2018 through Feb. 2021).

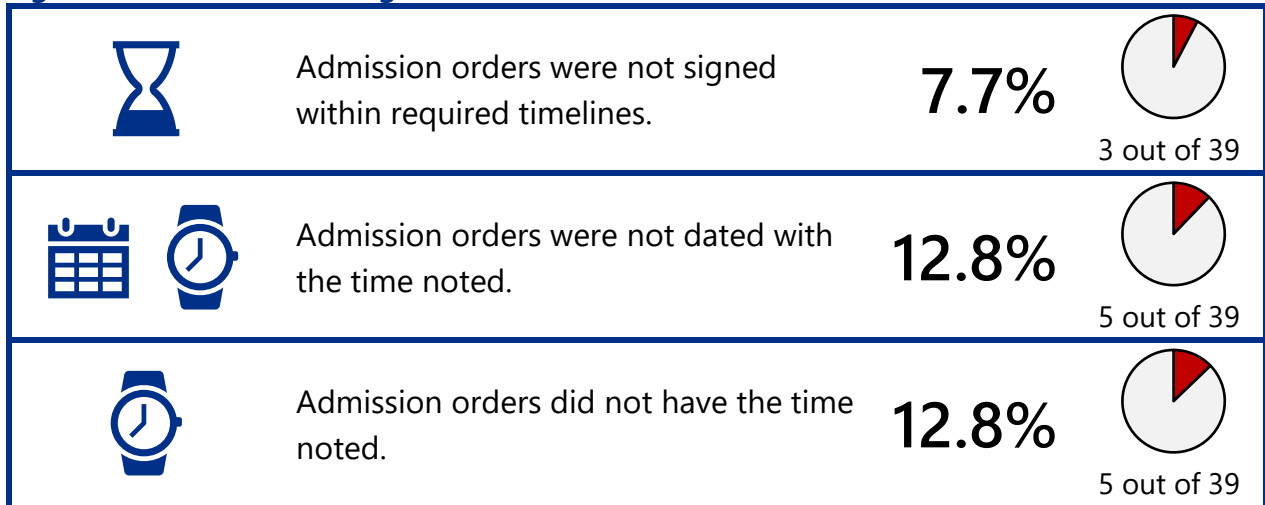
<sup>30</sup> West Oaks Hospital, "Admission Services," (July 2017).

<sup>31</sup> West Oaks Hospital, "The Content of the Medical Records," Policy # HIM-13, (June 2018 through Feb. 2021).

## Chapter 3.1: Admission Orders Were Not Always Obtained, Completed, or Completed Timely

For the 40 sampled records, one admission order was missing. For the remaining 39, West Oaks did not always complete all required elements of the admission orders, as shown in Figure 6:

Figure 6: Results of Testing for Admission Orders



Source: OIG Audit

For voluntarily admitted patients, a physician must issue an admission order in writing, verbally, or electronically. If the order is issued verbally or electronically, Texas Administrative Code requires the physician to sign the order within 24 hours after its issuance.<sup>32</sup> West Oaks' policy requires physicians to sign orders within 48 hours of being issued for both voluntarily and involuntarily admitted patients.

All physician orders must be signed and dated with the time noted.<sup>33</sup> Without both the date and time noted on the admission order, it is not clear if the order was completed in the facility's required timeframe. Furthermore, West Oaks' policy did not address the signing, dating, and noting the time of voluntary

<sup>32</sup> 25 Tex. Admin. Code § 411.461 (g) (Jan. 1, 2004).

<sup>33</sup> West Oaks Hospital, "The Content of the Medical Records," Policy # HIM-13, (June 2018 through Feb. 2021).

admission orders within 24 hours. Without such precautions, West Oaks could have patients in its care without the appropriate admission authorization.

### **Recommendation 3.1**

West Oaks should implement processes and update policies and procedures to ensure admission orders are obtained and appropriately completed within the required timeframes.

#### **Management Response**

##### **Action Plan**

Since the audit period, West Oaks has changed its processes so that orders, including admission orders, are now entered into an electronic system by physicians, nurses, or extenders. A notification is sent to all physicians reminding them to review and e-sign their orders. The physicians then review and e-sign their orders, including admission orders. The system dates and time stamps the signatures. The timely authentication of orders, including admission orders, is monitored monthly by regular chart audits. Data is aggregated and presented in PI and MEC Committees monthly and Board of Governors quarterly.

##### **Responsible Managers**

- Chief Executive Officer
- HIM Director

##### **Implementation Date**

November 30, 2021

## Chapter 3.2: Court Orders Were Not Always Retained as Required

West Oaks did not always ensure protective custody orders and emergency detention warrants were appropriately retained in patients' medical records. Of 11 involuntarily admitted patients tested, all 11 (100 percent) were missing the protective custody order. Additionally, three records (27.3 percent) were missing the notice of emergency detention warrant or protective custody transfer order.

West Oaks' policies require compliance with Texas laws, as follows:<sup>34</sup>

- Patients admitted under warrantless detention or emergency apprehension and detention must be evaluated to determine if the hospital will need to file for an emergency apprehension and detention warrant, if needed, and then begin the process to petition for protective custody orders.<sup>35</sup>
- Patients brought in under court order will have protective custody orders.<sup>36</sup>

Inpatient psychiatric hospitals must have documentation of whether the patient is on emergency detention or under a court order, including the court orders, as appropriate, in the medical records of involuntarily admitted patients.<sup>37</sup>

While West Oaks documented whether the patients were on emergency detention or under a court order, it did not retain associated court orders for patients documented as involuntary, which could result in patients being held without proper authority. West Oaks did not follow its policy or state guidelines to include the patient's relevant legal documents in the medical record.<sup>38</sup>

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<sup>34</sup> West Oaks' policies, "Appropriate Use of Involuntary Commitment" (Aug. 2020) and "Admission Services" (July 2017).

<sup>35</sup> Tex. Health & Safety Code § 573.021 (Jun. 9, 2017).

<sup>36</sup> Tex. Health & Safety Code § 574.022 (Apr. 2, 2015).

<sup>37</sup> 25 Tex. Admin. Code § 411.488 (a)(1) (Jan. 1, 2004).

<sup>38</sup> West Oaks Hospital, "The Content of the Medical Records," Policy # HIM 13 (June 2018 through Feb. 2021).

## Recommendation 3.2

West Oaks should implement processes to ensure that court orders are obtained and retained to document patients' involuntary admission to the facility.

### Management Response

#### Action Plan

Intake Director, Patient Advocate, Risk/PI Director, Compliance have reviewed the processes. During the audit period, the court was operating virtually due to Covid-19. The court did not reliably transmit all protective custody orders during that time, and the West Oaks court liaison was not able to go to the court in person to obtain copies of orders. The court has returned to in-person operation since the audit period ended. The court liaison retrieved the missing documents from the courts justifying the 11 patient stays referenced above. Currently, the court liaison obtains orders that are not already provided by the court or the constable. Emergency detention notifications and court orders are filed in the medical record. Any court documents sent to West Oaks post discharge are also filed in the patient record.

#### Responsible Managers

- Chief Executive Officer
- HIM Director





#### Implementation Date

August 31, 2022

## Acknowledgment and Consent

In addition to consenting to receive certain medications, inpatient psychiatric hospital patients must also request admission in writing, acknowledge their rights, participate in their treatment planning, and consent to certain treatments, as shown in Figure 7.

Figure 7: Required Acknowledgments and Consents

	Prior to <b>voluntary admissions</b> , prospective patients must request admission in writing. This signed request must include a statement consenting to diagnosis, observation, care, and treatment until the patient is discharged or entitled to leave the hospital after a request for discharge is made. <sup>39</sup>
	The facility must verbally inform patients of their rights in their primary language using plain and simple terms. The patient acknowledges this information was verbally provided by signing, dating, and initialing the <b>Patient Bill of Rights</b> form. If the patient is unable or unwilling to sign the form, a brief explanation of the reason should be added along with the signatures of the person who explained the rights and a third-party witness. <sup>40</sup>
	After a patient is admitted, a physician, in coordination with the patient and patient's treatment team, will determine what treatment is appropriate. This process is documented on the <b>interdisciplinary treatment plan</b> , which is required to be signed by the interdisciplinary treatment team, including the treating physician, nurse, a licensed social worker, the patient, and any other responsible party listed on the treatment plan. <sup>41</sup>
	To provide explicit safeguards for psychiatric patients, Texas Administrative Code establishes appropriate limits for the therapeutic use of electroconvulsive therapy. <sup>42</sup> Patients or their legally authorized representatives must explicitly consent to <b>electroconvulsive therapy</b> prior to each treatment session. <sup>43</sup>

Source: OIG Audit

<sup>39</sup> 25 Tex. Admin. Code § 411.461 (a)(2) (Jan. 1, 2004).

<sup>40</sup> 25 Tex. Admin. Code § 404.163 (Dec. 10, 1993).

<sup>41</sup> 25 Tex. Admin. Code § 411.453 (16–17) (Jan. 1, 2004).

<sup>42</sup> 25 Tex. Admin. Code § 405.101 (Dec. 10, 1993).

<sup>43</sup> 25 Tex. Admin. Code § 405.108 (Feb. 11, 1998).



## Chapter 4.1: Consents for Voluntary Admission Were Not Completed by the Patient or Completed Timely

West Oaks included a written consent for treatment for all 29 voluntary admission records tested. However, auditors were unable to determine the timeframe for all 29 (100 percent) records tested. West Oaks' form included the date, but not time.

Additionally, two patients (6.9 percent) did not sign the voluntary admission consent form. The consent form was signed by a family member. For patients 18 years old and older, a request for voluntary admission may only be made by the prospective patient.<sup>44</sup> This request also must include a statement that the individual consents to voluntary treatment. If a prospective patient does not have the capacity to consent, as determined by a physician, then the hospital may not admit the prospective patient on a voluntary basis.<sup>45</sup>

West Oaks does not have a policy in place that addresses the applicable timeframe required for the voluntary admission consent form to be completed. Also, the hospital did not have adequate controls in place to ensure the consent form was dated and the time noted by the patient. West Oaks could potentially have voluntary patients in their care without the appropriate consent.

### Recommendation 4.1

West Oaks should implement policies and procedures to ensure:

- Only the patient signs, dates and notes the time on the voluntary admission consent form.
- All voluntarily admitted patients sign, date, and note the time on the voluntary admission consent form.
- Patients sign the voluntary admission consent form prior to admission.

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<sup>44</sup> All patients in the sample were over 18, so consent by a parent, managing conservator, or guardian would not be applicable based on 25 Tex. Admin. Code § 411.461 (a)(1)(B) (Jan. 1, 2004).

<sup>45</sup> 25 Tex. Admin. Code § 411.461 (a)–(b) (Jan. 1, 2004).

## **Management Response**

### **Action Plan**

The Consent Policy AIM106 was reviewed by the Intake Director and PI Director and affirmed it requires the Voluntary Admission consent form to be completed in its entirety before admission, and for adult patients, to be signed and dated by the patient, including the time. The Intake Director and PI Director also reviewed the process and confirmed that, because the Voluntary Admission consent form is completed in the Intake Department before a voluntary patient is escorted to an inpatient unit, it is completed before admission. The Director of Intake/designee is re-educating all intake staff on the requirement for voluntary adult patients to sign, date, and time the admission consent form in the Intake Department. New staff in the Intake Department will also receive re-education on this process.

Re-education will take place within 90 days and staff will sign an attestation of understanding of these requirements.

Director of Intake/designee is auditing 50 admission forms per month to confirm compliance with the completion of the Voluntary Admission consent form. Monitoring will continue until substantial compliance has been sustained for three consecutive months.

Noncompliance is addressed with re-education and/or disciplinary action.

### **Responsible Manager**

Chief Executive Officer

### **Target Implementation Date**

December 1, 2022

## Chapter 4.2: Acknowledgment of Patient Rights Were Not Always Completed or Completed Timely

All 40 records tested contained the Patient’s Bill of Rights form signed by the staff who explained the patient’s rights. However, the required fields on the Patient’s Bill of Rights form were not always completed.

Eight patients refused to sign: an explanation was not provided for three and none had a third-party witness. Of the 32 remaining forms tested, 13 had at least one error with signing or initialing, as shown in Table 3. A patient may have had more than one error.

**Table 3: Results of Testing for Patients’ Bill of Rights Acknowledgment**

Test	Errors	No Error
Patient signed	12	20
Patient initialed that the rights were explained	6	26
Patient initialed that they received a copy	6	26
At least one error with signing or initialing	13	19

Source: OIG Audit

Of the 19 patients that did sign and initial the Patient’s Bill of Rights form, 11 did not have a date and time noted for the patient and one did not have the time noted.

The facility must verbally inform all patients of their rights in their primary language using plain and simple terms, ensuring:

- Voluntary patients are informed of their rights prior to admission.
- Involuntary patients are informed of their rights within 24 hours of admission.<sup>46</sup>

West Oaks’ policies and procedures did not address the patient initialing the acknowledgment, signing, dating, or noting the time on the Patient’s Bill of Rights form. In addition, it did not address entering a reason for patient’s refusal to sign and requiring a third-party signature. Ensuring that patients are aware of

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<sup>46</sup> 25 Tex. Admin. Code § 404.163 (Dec. 10, 1993).

their rights would help West Oaks protect the health, safety, and rights of patients receiving mental health treatment in its hospital.

## **Recommendation 4.2**

West Oaks should update policies and procedures to ensure all the required fields on the Patient's Bill of Rights form are completed, including:

- Patients initialing the required elements of the form.
- Patients signing, dating, and noting the time on the form.
- When patients are unable or refuse to sign, the form includes:
  - The reason the patient did not sign.
  - The signature of a third-party witness.

## **Management Response**

### **Action Plan**

The Consent Policy AIM106 was reviewed by the Intake Director and PI Director and affirmed it requires forms to be completed in their entirety including time. They are revising the policy to clarify these requirements. They also reviewed the agency-promulgated form that the rule directs private psychiatric hospitals to use for the Patient's Bill of Rights and noted that the form's signature page does not have a blank for entering the time or a block for documenting when and why patients are unable or refuse to sign along with the signature of a third-party witness.

The Forms Committee is revising the Patient's Bill of Rights signature page to add blanks for the time of signatures and a place to include the reason the patient did not sign the form if they were unable or refuse, along with blanks for the signature, date, and time of a third-party witness.

The Director of Intake/ designee is re-educating all intake staff on the revised form and signature requirements for voluntary patients to complete before admission.

Director of Intake/designee is auditing 50 admissions monthly for compliance with the completion of the Patient's Bill of Rights form. Monitoring continues until substantial compliance has been sustained for three consecutive months.

Noncompliance is addressed with re-education and/or disciplinary action as indicated.

**Responsible Manager**

Chief Executive Officer

**Target Implementation Date**

December 1, 2022

## **Chapter 4.3: Interdisciplinary Treatment Plans Were Not Always Obtained or Completed as Required**

Hospitals provide inpatient mental health treatment to a patient under the direction of a physician and in accordance with the patient's interdisciplinary treatment plan. The treatment plan should be appropriate to the needs and interests of the patient and be directed toward restoring and maintaining optimal levels of physical and psychological functioning. All interdisciplinary treatment plans must be completed and signed by all members of the interdisciplinary treatment team within 72 hours of the patient's admission.<sup>47</sup>

OIG Audit initially selected a sample of 40 patient records to test whether:

- The patients' medical record contained an interdisciplinary treatment plan.
- The treatment plan was completed within 72 hours of admission.
- The treatment plan was signed by all members of the interdisciplinary treatment team.

Based on the results of testing, OIG Audit requested an additional 20 patient records to further test whether interdisciplinary treatment plans were in the patients' records and whether they were completed within 72 hours.

Out of a sample of 60 medical records, two patients were discharged within 72 hours and did not require an interdisciplinary treatment plan, leaving 58 patient records for testing.

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<sup>47</sup> 25 Tex. Admin. Code § 411.471 (c)(2) (Jan. 1, 2004).

## Not All Interdisciplinary Treatment Plans Were Obtained or Signed Within 72 Hours

West Oaks did not always document or complete interdisciplinary treatment plans within 72 hours of admission. One treatment plan did not exist. For the remaining 57 patient records tested:

- 11 (19.3 percent) contained interdisciplinary treatment plans signed more than 72 hours after admission.
- 41 (71.9 percent) contained interdisciplinary treatment plans in which at least one team member did not include the date or time, so the audit team could not determine if the plan was signed timely.<sup>48</sup>

If not all members of the treatment team participate in the treatment plan and complete it within 72 hours, patients may not get the necessary care during their stay.

## Some Interdisciplinary Treatment Plans Were Missing Team Member Signatures

Of the initial sample of 40 patient records, one patient was discharged prior to the 72 hours, leaving 39 interdisciplinary treatment plans for which completed treatment plans were required. Most treatment plans included all the required signatures, but some were missing one or more required signatures. Specifically:

- 10 (25.6 percent) were missing the social worker's signature.
- One (2.6 percent) was missing the social worker's and activity therapist's signatures.
- One (2.6 percent) was missing the activity therapist's signature.
- One (2.6 percent) was missing the nurse's signature.
- One (2.6 percent) was missing the patient's signature and a reason the patient did not sign was not documented.

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<sup>48</sup> West Oaks Hospital, "The Content of the Medical Records," Policy # HIM 13 (Feb. 2021).

According to Texas Administrative Code, West Oaks must provide inpatient mental health treatment to a patient in accordance with the patient's treatment plan.<sup>49</sup> Treatment includes medical services, nursing services, social services, therapeutic activities if ordered, and psychological services if ordered.<sup>50</sup> Therapeutic activities, which includes both activity and clinical therapy, are ordered for every patient at West Oaks; therefore, the treating physician, nurse, social worker, activity therapist, and clinical therapist must sign the interdisciplinary treatment plan.

The patient is also required to sign the interdisciplinary treatment plan.<sup>51</sup> If the patient is unable or refuses to sign, the reason must be documented in the patient's medical record.<sup>52</sup> The patient's signature on this form shows they had the opportunity to contribute and consent to the proposed treatment.

West Oaks' policy considers the interdisciplinary treatment team to consist of:

- Physician
- Nurses
- Activity and clinical therapists, as appropriate
- The patient<sup>53</sup>

The policy requires the specified individuals to sign treatment plans as members of the interdisciplinary treatment team; however, staff did not consistently follow West Oaks' policy by ensuring the members of the team signed the form. Additionally, West Oaks' policy does not include a licensed social worker as a member of the interdisciplinary treatment team. If all members of the treatment team do not participate in the treatment plan, patients may not get the appropriate care they need.

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<sup>49</sup> 25 Tex. Admin. Code § 411.471 (a) (Jan. 1, 2004).

<sup>50</sup> 25 Tex. Admin. Code § 411.453 (17) (Jan. 1, 2004).

<sup>51</sup> 25 Tex. Admin Code § 411.453 (16) and § 411.471 (c)(2) (Jan. 1, 2004).

<sup>52</sup> 25 Tex. Admin. Code § 411.471 (c)(2) (Jan. 1, 2004).

<sup>53</sup> West Oaks policy, "Initial Nursing Treatment Plan, Master Treatment Plan and Reassessment" (June 2018).



## Recommendation 4.3

West Oaks should update its policies and procedures to ensure:

- Treatment plans are obtained for every patient and retained in the medical record.
- All team members sign the interdisciplinary treatment plan within 72 hours.
- The licensed social worker is included as a required member of the interdisciplinary treatment team and always signs the treatment plan.
- The nurse always signs the treatment plan.
- The activity therapist and other modality representatives sign the treatment plan when corresponding services are ordered.
- The patient always signs the treatment plan or the reason the patient is unwilling or unable to sign is documented in the treatment plan.

## Management Response

### Action Plan

The Director of Clinical Services and inpatient therapists reviewed Policy POC C106 Active and Individual Treatment Planning and affirmed that complete documentation is required by clinical staff on the Interdisciplinary Master Treatment Plan Form. The policy is being amended to clarify that all discipline participants are included within the policy. The policy will be presented to MEC Committee for review/approval.

Director of Clinical Services completed training on these requirements and the revised policy will be discussed in weekly Clinical Staff Meetings. Clinical Director will continue to educate therapists on documentation as needed.

Training on the revised policy and these requirements is also included in New Employee Orientation for both RNs and therapists/social workers.

Director of Clinical Services/Assistant Director of Clinical Services conducts a random audit of 50 master treatment plans per month to confirm they are

completed and contain the signatures of all members of the treatment team and of the patient within 72-hours of admission. Monitoring will continue until substantial compliance has been sustained for three consecutive months. Results of the audit are presented to the PI and MEC Committees monthly and the Board of Governors quarterly.

Noncompliance is addressed with re-education and/or disciplinary action.

**Responsible Manager**

Chief Executive Officer

**Target Implementation Date**

December 1, 2022

## Chapter 4.4: Consents for Electroconvulsive Therapy Were Not Completed or Completed Timely

One patient in the sample had two electroconvulsive therapy treatment sessions during the audit scope. West Oaks obtained consent for each treatment session, but the consent forms were not completed or not completed timely. Specifically:

- A supplemental statement about the individual patient's indications and contraindications for therapy was missing from the patient's record.
- The consent form for the first session was signed 15 days after the session.

Consent must be obtained prior to each individual electroconvulsive therapy treatment and is documented by the signature and date of the person giving consent on the state provided form.<sup>54</sup> Due to the indications and contraindications to the therapeutic use of electroconvulsive therapy, a supplemental statement must also be completed about the individual patient.<sup>55</sup>

West Oaks does not have policies and procedures in place to address completing the electroconvulsive therapy consent form and supplemental statement and the applicable timeframe required. Without appropriately completing the consent forms, patients cannot make a complete and informed decision on their care.

### Recommendation 4.4

West Oaks should update its policies and procedures to ensure:

- The supplemental form required for electroconvulsive therapy treatment is completed and included in the patient record.
- The consent form is signed and dated by the patient prior to each electroconvulsive therapy session.

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<sup>54</sup> 25 Tex. Admin. Code § 405.117 (Feb. 11, 1998).

<sup>55</sup> 25 Tex. Admin. Code § 405.108 (Feb. 11, 1998).

## **Management Response**

### **Action Plan**

The Consent Policy AIM106 was reviewed and is being revised to include that staff must obtain a patient's consent to ECT [electroconvulsive therapy] prior to each treatment with ECT, and that staff must document that consent on the forms mandated by the rules, including the Disclosure and Consent for Electroconvulsive Therapy and the Supplemental Statement.

There will be re-education to the ECT staff on the completion and timing of consents, and attestation of understanding completed within the next 90-days.

Audits of 100% of ECT consent forms will be performed monthly and continue until substantial compliance has been sustained for three consecutive months. Results of the audit are presented to the PI and MEC Committees monthly.

### **Responsible Manager**

Chief Executive Officer

### **Target Implementation Date**

December 1, 2022

## Chapter 4.5: Consent Forms Did Not Always Contain the Required Information

When discussing inpatient treatment, psychiatric hospitals must provide specific information to the patient and include certain elements on the medication consent forms and the treatment plans. Specifically, staff must:

- Obtain a signed written consent documenting that the ten required elements related to the use of psychoactive medications were explained to the patient and the patient's legally authorized representative.<sup>56</sup>
- Affirm, by a patient's signature, the interdisciplinary treatment plan was created in conjunction with or reviewed with the patient. The written treatment plan must include 16 required elements.<sup>57</sup>

West Oaks' standard interdisciplinary treatment plan forms contained all the required information; however, medication consent forms created by West Oaks did not include all the information required by Texas Administrative Code. Specifically,

- For the psychoactive medication consent forms, nine of the ten (90.0 percent) standard forms used did not include all the required information.

All the required information is needed when obtaining consent to help patients fully understand their rights or the risks and benefits associated with the prescribed treatment.

### Recommendation 4.5

West Oaks' standard medication consent forms should include all the required information consistent with Texas Administrative Code.

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<sup>56</sup> 25 Tex. Admin. Code § 414.404 and § 414.405 (Aug. 31, 2004).

<sup>57</sup> 25 Tex. Admin. Code § 411.471 (b) and (c) (Jan. 1, 2004).

## **Management Response**

### **Action Plan**

The Consent to Treatment Forms is being reviewed by the Forms Committee, and the standard consent form that included all required elements will be integrated into the other consent forms for the various classes of psychoactive medication. The forms will go to MEC for review and/or approval.

After approval of the revised consent forms, the Medical Director, Chief Nursing Officer or designee will provide medical and nursing staff with re-education on the revised forms.

### **Responsible Manager**

Chief Executive Officer

### **Target Implementation Date**

December 1, 2022

## On-Site Signage

Inpatient psychiatric hospitals are required to have the following signs posted throughout the facility in English and a second language:

- Patient's Bill of Rights<sup>58</sup>
- A statement of the duty to report abuse and neglect, or illegal, unethical, or unprofessional conduct<sup>59</sup>

OIG Audit visited West Oaks on March 1, 2022, to observe inpatient facility posting requirements.

### **Chapter 5: Posters for Reporting Abuse and Neglect Were Not Prominently Displayed and Did Not Have Required Information**

While West Oaks did have all signs posted in both English and Spanish and the Patient's Bill of Rights poster was prominently displayed with correct information, other signs were not prominently displayed and did not have all required information. Specifically:

- West Oaks did not prominently display in a public area that is readily visible to patients, residents, volunteers, employees, and visitors a statement of the duty to report abuse and neglect, or illegal, unethical or unprofessional conduct. Additionally, the required toll-free telephone number was not included in the signage.
- West Oaks did post complaint and grievance procedures in non-public areas; however, these postings did not have the correct toll-free number listed and did not include verbiage regarding the responsibility to report abuse, neglect, or illegal, unethical, or unprofessional conduct. Adequate signage, prominently displayed throughout the facility, on how to report and the responsibility to report abuse, neglect, or illegal, unethical or

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<sup>58</sup> Tex. Health & Safety Code § 321.002 (h) (Apr. 2, 2015).

<sup>59</sup> 26 Tex. Admin. Code § 510.46 (c)(2) (June 1, 2019).

unprofessional conduct to the appropriate authorities may prevent abuse, neglect, or exploitation from occurring or continuing.

## **Recommendation 5**

West Oaks should ensure posters:

- Are prominently displayed; indicate both how and the responsibility to report abuse, neglect, or illegal, unethical or unprofessional conduct for patients, residents, volunteers, employees, and visitors; and include a toll-free telephone number.
- List the correct phone number to report abuse, neglect, or illegal, unethical or unprofessional conduct.
- Are reviewed at least annually to ensure compliance with state requirements.

## **Management Response**

### **Action Plan**

Abuse and Neglect signs have been updated with correct phone numbers and contact information, and they are prominently displayed throughout the facility in both English and Spanish. The posting will be reviewed annually to ensure compliance.

### **Responsible Manager**

Compliance Officer

### **Implementation Date**

June 2022 Completed



## Inpatient Facility Requirements

Inpatient psychiatric hospitals have general administrative requirements they must follow. These include ensuring:

- Physicians are qualified to work at the facility and with Medicaid patients.
- Medicaid is billed only for days at the facility.
- Patients are able to make private telephone calls.

OIG Audit visited West Oaks on March 1, 2022, to observe physical inpatient facility requirements.

### **Chapter 6: West Oaks Followed Most Inpatient Facility Requirements**

West Oaks physicians were qualified to work with Medicaid patients and only billed for applicable inpatient days. However, West Oaks did not ensure patients had the ability to make private telephone calls.

#### **Physicians Were Qualified to Work with Medicaid Patients**

West Oaks physicians (a) held a valid Texas medical license, (b) were Medicaid providers, and (c) were not listed on the Texas HHSC-OIG exclusion website. By ensuring physicians hold a Texas medical license and are registered Medicaid providers, West Oaks works to ensure patients receive care from a qualified physician. Without these precautions, the patient may receive unsafe care and the state may make improper payments to the provider or facility.

#### **Patients Were Billed for Days at Facility**

West Oaks ensured it only billed for the days patients were considered inpatient at the facility. Patients are considered inpatient from the day the physician orders a patient to be admitted through the day the physician orders a patient to be

discharged.<sup>60</sup> Physician orders may be verbal or in writing. For the audit period, West Oaks was only paid for days they could support with inpatient records.

## **Patients Did Not Always Have Access to Make Private Telephone Calls**

One patient was restricted from making outgoing telephone calls and the clinical reasons for the restriction or the duration of the restriction was not noted in the patient's medical record. The treating physician may restrict telephone access only to the extent that the restriction is necessary to the patient's welfare or to protect another person. If a restriction is put in place, the clinical reason and duration should be documented in the patient's medical record.<sup>61</sup> West Oaks' processes did not follow state requirements regarding ensuring patients have the ability to communicate freely.

### **Recommendation 6**

West Oaks should ensure phone restrictions are documented in the patient's medical record, including the clinical reason for the restriction and the duration.

## **Management Response**

### **Action Plan**

The Compliance Officer and Chief Nursing Officer reviewed the policy PR114 and confirmed that it requires documentation of the clinical reason and duration of any restriction on a patient's access to make private telephone calls. The Nursing staff and Medical Staff are being reminded about this requirement in the policy.

HIM Director reviews 100% of medical records and telephone orders.

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<sup>60</sup> West Oaks Hospital policy, "Admission Services," Policy #AIM 105 (Jan. 2021) and West Oaks Hospital policy, "Patient Discharge," Policy #AIM 111 (Apr. 2009).

<sup>61</sup> Tex. Health & Safety Code § 576.006 (Aug. 30, 1993).

### Responsible Managers

- Chief Executive Officer
- HIM Director

### Target Implementation Date

December 1, 2022

## Appendix A: Objective, Scope, and Criteria

### Objective and Scope

The audit objective was to determine whether West Oaks completed admission, commitment, and specific consent requirements for STAR+PLUS members receiving inpatient psychiatric services in accordance with selected federal and state regulations, rules, and policies.

The audit scope examined STAR+PLUS claims processed by United and associated documentation with service dates from September 1, 2019, through February 28, 2021.

### Criteria

OIG Audit used the following criteria to evaluate the information provided:

- 25 Tex. Admin. Code Chapters 404 (1993), 405 (1993 & 1998), 411 (2004), and 414 (2004)
- 26 Tex. Admin. Code Chapter 510 (2019)
- Tex. Health & Safety Code Chapters 321 (2015), 572 (2013 & 2019), 573 (2017), 574 (1993), and 576 (1993 through 2005)
- Texas Occupation Code Chapter 157 (2019)
- West Oaks Hospital "The Contents of the Medical Record" Policy (2021)
- West Oaks Hospital "Admission Services" Policy (2017)
- West Oaks Hospital "Patient Discharge" Policy (2009)
- West Oaks Hospital "Initial Nursing Treatment Plan, Master Treatment Plan and Reassessment" (2018)
- West Oaks Hospital "Appropriate Use of Involuntary Commitment" Policy (2020)

## Appendix B: Detailed Methodology

OIG Audit issued an engagement letter to West Oaks on January 31, 2022, providing information about the upcoming audit, and conducted fieldwork from February 2022, through June 2022.

OIG Audit also reviewed West Oaks' system of internal controls, including components of internal control,<sup>62</sup> within the context of the audit objectives by:

- Interviewing West Oaks staff with oversight responsibilities for admissions and intake, interdisciplinary treatment plans, and medication administration.
- Reviewing relevant documentation, such as policies, procedures, and medical records.
- Performing selected tests of the relevant documentation.

### Data Reliability

OIG Audit assessed the reliability of data provided by West Oaks by tracing encounter data to the claims United paid. OIG Audit determined that the data was sufficiently reliable for the purpose of this audit.

### Testing Methodology

OIG Audit collected information for this audit through discussions, interviews, a facility site visit, and electronic communications with West Oaks' staff. OIG Audit reviewed:

- Medical records for an initial sample of 40 patient records billed to United during the audit period.
- Medical records for an expanded sample of 20 additional patient records billed to United during the audit period.

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<sup>62</sup> For more information on the components of internal control, see the United States Government Accountability Office's *Standards for Internal Control in the Federal Government*, (Sept. 2014), <https://www.gao.gov/assets/gao-14-704g.pdf> (accessed Apr. 16, 2021).

- Relevant West Oaks policies and procedures.
- On-site postings and access to telephones.

For this audit, OIG Audit used two sample sets of paid claims with service dates ranging from September 1, 2019, through February 28, 2021. The audit team selected an initial sample of 40 paid claims for testing. The sample included the entire patient record for each claim. OIG Audit then expanded the sample for selected additional testing. The expanded sample contained 20 paid claims, but only included select records for each claim.

For the claims in the initial sample, OIG Audit tested West Oaks' compliance in six areas: (a) psychiatric evaluations, (b) psychoactive medication orders and consent, (c) voluntary and involuntary admission orders, (d) non-medication acknowledgment and consent, (e) billing for days at the facility, and (f) treatment plans and consent forms. For the claims in the expanded sample, OIG Audit tested select attributes in three areas: (a) psychiatric evaluations, (b) treatment plans, and (c) days at facility.

The audit team reviewed physician qualifications for Medicaid participation. Additionally, the audit team conducted an on-site visit to review facility conditions and requirements including: (a) postings and signage and (b) access to make private telephone calls while inpatient. This report details results, issues, and recommendations in those areas, when applicable.

### **Sampling Methodology**

Auditors selected nonstatistical samples related to West Oaks through risk-based selection. The sample items were not necessarily representative of the population; therefore, it would not be appropriate to project the test results to the population.

## Appendix C: Summary of Recommendations

Table C.1: Summary of Recommendations to West Oaks

No.	Recommendation	Responsible Managers	Target Implementation Date
1.1	<p>West Oaks should update processes and procedures to ensure:</p> <ul style="list-style-type: none"> <li>• Verbal orders to detain or discharge a patient are properly signed, dated, and timed by the ordering physician.</li> <li>• Patients are discharged within four hours of request if the physician does not have a reasonable cause to detain the patient.</li> <li>• A decision to detain a patient beyond four hours of the request and the reasons for such decision are made a part of the patient’s clinical record.</li> <li>• Physician evaluations documented in the medical record are signed and dated with the time noted.</li> <li>• Patients are discharged consistent with the discharge orders or the reason for delay is noted in the medical record.</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• HIM Director</li> </ul>	November 30, 2021
1.2	<p>West Oaks should implement processes and update procedures to ensure:</p> <ul style="list-style-type: none"> <li>• Psychiatric evaluations are completed and signed within the required timeframe based on type of admission.</li> <li>• Psychiatric evaluations are completed by a physician.</li> <li>• Documentation clearly indicates the date and time the psychiatric evaluation was performed.</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• HIM Director</li> </ul>	November 30, 2021

No.	Recommendation	Responsible Managers	Target Implementation Date
2.1	West Oaks should ensure physicians follow its policies and procedures to sign medication orders within the required timeframe.	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• HIM Director</li> </ul>	November 30, 2021
2.2	<p>West Oaks should implement policies and procedures to ensure:</p> <ul style="list-style-type: none"> <li>• Medication consent forms are obtained prior to psychoactive medication administration.</li> <li>• Patients, legally authorized representatives, or witnesses, as appropriate, sign and date the medication consent forms.</li> <li>• Staff, as appropriate, and physicians sign and date the medication consent forms, within the required timeframe.</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> </ul>	December 1, 2022
3.1	West Oaks should implement processes and update policies and procedures to ensure admission orders are obtained and appropriately completed within the required timeframes.	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• HIM Director</li> </ul>	November 30, 2021
3.2	West Oaks should implement processes to ensure that court orders are obtained and retained to document patients' involuntary admission to the facility.	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• HIM Director</li> </ul>	August 31, 2022



No.	Recommendation	Responsible Managers	Target Implementation Date
4.1	<p>West Oaks should implement policies and procedures to ensure:</p> <ul style="list-style-type: none"> <li>• Only the patient signs, dates and notes the time on the voluntary admission consent form.</li> <li>• All voluntarily admitted patients sign, date, and note the time on the voluntary admission consent form.</li> <li>• Patients sign the voluntary admission consent prior to admission.</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> </ul>	December 1, 2022
4.2	<p>West Oaks should update policies and procedures to ensure all the required fields on the Patient’s Bill of Rights form are completed, including:</p> <ul style="list-style-type: none"> <li>• Patients initialing the required elements of the form.</li> <li>• Patients signing, dating, and noting the time on the form.</li> <li>• When patients are unable or refuse to sign, the form includes: <ul style="list-style-type: none"> <li>○ The reason the patient did not sign.</li> <li>○ The signature of a third-party witness.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> </ul>	December 1, 2022

No.	Recommendation	Responsible Managers	Target Implementation Date
4.3	<p>West Oaks should update its policies and procedures to ensure:</p> <ul style="list-style-type: none"> <li>• Treatment plans are obtained for every patient and retained in the medical record.</li> <li>• All team members sign the interdisciplinary treatment plan within 72 hours.</li> <li>• The licensed social worker is included as a required member of the interdisciplinary treatment team and always signs the treatment plan.</li> <li>• The nurse always signs the treatment plan.</li> <li>• The activity therapist and other modality representatives sign the treatment plan when corresponding services are ordered.</li> <li>• The patient always signs the treatment plan or the reason the patient is unwilling or unable to sign is documented in the treatment plan.</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> </ul>	December 1, 2022
4.4	<p>West Oaks should update its policies and procedures to ensure:</p> <ul style="list-style-type: none"> <li>• The supplemental form required for electroconvulsive therapy treatment is completed and included in the patient record.</li> <li>• The consent form is signed and dated by the patient prior to each electroconvulsive therapy session.</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> </ul>	December 1, 2022

No.	Recommendation	Responsible Managers	Target Implementation Date
4.5	West Oaks' standard medication consent forms should include all the required information consistent with Texas Administrative Code.	<ul style="list-style-type: none"> <li>Chief Executive Officer</li> </ul>	December 1, 2022
5	<p>West Oaks should ensure posters:</p> <ul style="list-style-type: none"> <li>Are prominently displayed; indicate both how and the responsibility to report abuse, neglect, and illegal, unethical or unprofessional conduct for patients, residents, volunteers, employees, and visitors; and include a toll-free telephone number.</li> <li>List the correct phone number to report abuse, neglect, or illegal, unethical or unprofessional conduct.</li> <li>Are reviewed at least annually to ensure compliance with state requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Compliance Officer</li> </ul>	Completed
6	West Oaks should ensure phone restrictions are documented in the patient's medical record, including the clinical reason for the restriction and the duration.	<ul style="list-style-type: none"> <li>Chief Executive Officer</li> <li>HIM Director</li> </ul>	December 1, 2022

Source: OIG Audit

## Appendix D: Resources for Additional Information

The following resources provide additional information about the topics covered in this report.

### For more information on STAR+PLUS:

“STAR+PLUS,” HHSC, <https://www.hhs.texas.gov/services/health/medicaid-chip/medicaid-chip-members/starplus> (accessed May 9, 2022)

### For more information on West Oaks Hospital:

Homepage, West Oaks Hospital, <https://westoakshospital.com/> (accessed July 8, 2022)

### For more information on UnitedHealthcare:

Homepage, United HealthCare Services, Inc., <https://www.uhc.com/> (accessed May 9, 2022)

## Appendix E: Report Team and Distribution

### Report Team

OIG staff members who contributed to this audit report include:

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- Susan J. Parker, CPA, Audit Project Manager
- Jude Ugwu, CFE, CICA, CRMA, Senior Auditor
- Errol Baugh, Staff Auditor
- Kay Allred, Staff Auditor
- Kathryn Wolf, Staff Auditor
- Shaun Craig, Associate Auditor
- Karen Mullen, CGAP, Quality Assurance Reviewer
- Mo Brantley, Senior Audit Operations Analyst

### Report Distribution

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- Stephanie Stephens, Chief Medicaid and CHIP Services Officer, Medicaid and CHIP Services

- Emily Zalkovsky, Deputy State Medicaid Director, Medicaid and CHIP Services
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- Dana L. Collins, Deputy Executive Commissioner for Operations, Medicaid and CHIP Services
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#### **West Oaks Hospital**

- Ashley Sacriste, Chief Executive Officer
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- Shirrell Henry, Divisional Director of Clinical Services
- Leslie Stuart, Regional Vice President of Finance

#### **United Healthcare Community Plan**

- Deborah L. Deska, Compliance Officer
- Annel Llanes, Accredited Health Care Fraud Investigator, Senior Compliance Analyst, Audit Management
- Paul J. Severson, Associate Director Provider Services, Optum Behavioral Health

## Appendix F: OIG Mission, Leadership, and Contact Information

The mission of OIG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of OIG's mission and statutory responsibility includes:

- Sylvia Hernandez Kauffman, Inspector General
- Audrey O'Neill, Principal Deputy Inspector General, Chief of Audit and Inspections
- Susan Biles, Chief of Staff, Chief of Policy and Performance
- Erik Cary, Chief Counsel
- Christine Maldonado, Chief of Operations and Workforce Leadership
- Steve Johnson, Chief of Investigations and Reviews

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- Online: <https://oig.hhs.texas.gov/report-fraud-waste-or-abuse>
- Phone: 1-800-436-6184

### To Contact OIG

- Email: [OIGCommunications@hhs.texas.gov](mailto:OIGCommunications@hhs.texas.gov)
- Mail: Texas Health and Human Services  
Office of Inspector General  
P.O. Box 85200  
Austin, Texas 78708-5200
- Phone: 512-491-2000