

**Purpose**

To adopt and enforce Licensing Standards for Home & Community Support Services Agencies (HCSSA) §558.282 governing client conduct and responsibilities, client rights, and the Rights of the Elderly for those over 60 years of age.

**Policy**

- A. The Agency will protect and promote the rights of all clients, without discrimination based on age, race, color, religion, military status, gender preference, sex, marital status, national origin, disability, or source of payment.
- B. The Agency complies with applicable Federal conscience and anti-discrimination laws prohibiting exclusion, adverse treatment, coercion, or other discrimination against individuals or entities on the basis of their religious beliefs or moral convictions as found in the Department of Health and Human Services, Office for Civil Rights, Rule 45 CFR, Part 88, Protecting Statutory Conscience Rights in Health Care, effective May 2019.
- C. During the initial evaluation or before providing services, the Agency will provide information to the client or the client’s representative, verbally and in writing, about client conduct and responsibilities, client rights, and the Rights of the Elderly for those over 60 years of age.
- D. During the orientation of employees and volunteers, and annually thereafter, the Agency will provide training about the client’s rights and responsibilities.

**Procedure**

- A. As part of an employee’s and volunteer’s orientation, a copy of the Client Responsibilities and Conduct, Client Rights, and the Rights of the Elderly will be provided to him/her.
  - 1. Employees and volunteers will be responsible for knowing, observing, and implementing this information in all contacts with the clients.
  - 2. Documentation of the orientation and training will be kept in the individual’s personnel file.
- B. The Rights of the Elderly will be posted in a visible location in the Agency.
- C. The client or the client’s representative will be given a written statement that a complaint against the Agency may be directed to the Health and Human Services Commission (HHSC); The Texas Health and Human Services Complaint and Incident Intake, Mail Code E249, P.O. Box 149030, Austin, TX 78714-9030, fax (877) 438-5827 or (512) 438-2724.; phone: 1-800-458-9858, or by calling toll free 24 hours a day.
  - 1. The written statement may include that the client can register a complaint with the Agency’s Administrator.
    - a. The written information includes the time frame for review and resolution per HCSSA Licensing Standards found at §558.250 and incorporated here by reference.
  - 2. The client or the client’s representative will be assured complaints can be made without fear of discrimination, reprisal, or retaliation.
  - 3. The client or the client’s representative will sign and date an Acknowledgment of receiving and understanding the information about his/her rights.

- a. The Agency's representative will sign and date the Acknowledgment, also.
- b. If the client is unable to sign/date the Acknowledgment, the reason why will be provided on the form.
- c. The original signed/dated Acknowledgment will be kept in the client's record at the Agency and a copy will be given to the client or the client's representative.

**Client Conduct and Responsibilities**

- A. The client or the client's representative has the responsibility to participate in developing the Individualized Service Plan (ISP) to the degree that s/he is capable.
  1. Pertinent health related information should be provided in order to plan and then carry out services that promote the highest possible level of health and independence.
  2. Information about the client's Advance Directives should be provided.
  3. The client or the client's representative should ask for any information that is not understood to be repeated or explained in a different manner until it is.
  4. Information and releases required for billing purposes should be completed.
- B. The client, the client's representative, and/or the client's family have the responsibility to cooperate in following the ISP.
  1. The client has the responsibility to be at home when services are scheduled.
    - a. If the client is not going to be home, the Agency should be notified as soon as possible.
    - b. Services can be scheduled for a different time.
- C. The client or the client's representative has the responsibility to notify the Agency if the attendant is not providing the authorized hours and tasks.
  1. The Agency should be notified if the client is dissatisfied with services provided.
- D. The client or the client's representative should notify the Agency of any changes in treatment that impact the services provided by the Agency.
  1. The client or the client's representative has the responsibility for participating in making any changes to the ISP.
- E. The client or the client's representative has the responsibility to provide a safe working environment for the Agency's staff.
- F. The client or the client's representative has the responsibility to communicate in a respectful manner with all members of the Agency's staff.
- G. The client or the client's representative has the responsibility to pay for services as agreed to in its contract with the Agency.

**Client Rights Adapted and Reformatted from HCSSA Licensing Standards at §558.282**

- A. A client has the right to be informed in advance about the care to be furnished, the plan of care, expected outcomes, barriers to treatment, and any changes in the care to be furnished. The Agency must ensure that written informed consent specifying the type of care and services that may be provided by the Agency has been obtained for every client, either from the client or his/her legal representative. The client or the legal representative must sign or mark the consent form.
- B. A client has the right to participate in planning the care or treatment and in planning a change in the care or treatment.
  - 1. The Agency must advise or consult with the client or legal representative in advance of any change in the care or treatment.
  - 2. A client has the right to refuse care and services.
    - a. The client will be informed of the possible consequences of this choice.
  - 3. A client has the right to be informed, before care is initiated, of the extent to which payment may be expected from the client, a third-party payer, and any other source of funding known to the Agency.
- C. A client has the right to have assistance in understanding and exercising his/her rights. The Agency must maintain documentation showing that it has complied with the requirements of this paragraph and that the client demonstrates understanding of the client's rights.
- D. A client has the right to exercise rights as a client of the Agency.
- E. A client has the right to have the client's person and property treated with consideration, respect, and full recognition of the client's individuality and personal needs.
- F. A client has the right to be free from abuse, neglect, and exploitation by an Agency employee, volunteer, or contractor.
- G. A client has the right to confidential treatment of the client's personal and medical records.
  - 1. There may be exceptions as provided by law or third-party payer contracts.
- H. A client has the right to voice grievances regarding treatment or care that is or fails to be furnished, or regarding the lack of respect for property by anyone who is furnishing services on behalf of the Agency, and must not be subjected to discrimination or reprisal for doing so.
- I. In the case of a client adjudged incompetent, the rights of the client are exercised by the person appointed by law to act on the client's behalf.
- J. In the case of a client who has not been adjudged incompetent, any legal representative may exercise the client's rights to the extent permitted by law.

**Additional Client Rights Based on Industry-accepted Best Practices**

- A. The client has the right to courteous and humane care that meets professional standards and is performed by personnel who are qualified through education, training, and/or experience to perform the services they have been assigned.
- B. The client has the right to service coordination and continuity of care.

- C. The client has extended rights to confidentiality of his/her records according to the Health Information Privacy and Accountability Act (HIPAA) as found in the Agency's Policy IM.2 Client Record Information Confidentiality that is incorporated here by reference.

**Rights of the Elderly Reformatted from the Human Resources Code Chapter 102**

- A. The client will be given a copy of the Rights of the Elderly in its entirety as found in the Human Resources Code Chapter 102.
1. If there are changes made by new regulations to the Rights of the Elderly, including the list of specific rights found in Section 102.003, the client or the client's representative will be given a copy of the revision.
- B. The list of the specific Rights of the Elderly is found in Section 102.003 and includes:
1. An elderly individual has all the rights, benefits, responsibilities, and privileges granted by the constitution and laws of this state and the United States, except where lawfully restricted. The elderly individual has the right to be free of interference, coercion, discrimination, and reprisal in exercising these civil rights.
  2. An elderly individual has the right to be treated with dignity and respect for the personal integrity of the individual, without regard to race, religion, national origin, sex, age, disability, marital status, or source of payment. This means that the elderly individual:
    - a. Has the right to make the individual's own choices regarding the individual's personal affairs, care, benefits, and services;
    - b. Has the right to be free from abuse, neglect, and exploitation; and
    - c. If protective measures are required, has the right to designate a guardian or representative to ensure the right to quality stewardship of the individual's affairs.
  3. An elderly individual has the right to be free from physical and mental abuse, including corporal punishment or physical or chemical restraints that are administered for the purpose of discipline or convenience and not required to treat the individual's medical symptoms. A person providing services may use physical or chemical restraints only if the use is authorized in writing by a physician or the use is necessary in an emergency to protect the elderly individual or others from injury. A physician's written authorization for the use of restraints must specify the circumstances under which the restraints may be used and the duration for which the restraints may be used. Except in an emergency, restraints may only be administered by qualified medical personnel.
  4. An elderly individual with an intellectual disability who has a court-appointed guardian of the person may participate in a behavior modification program involving use of restraints or adverse stimuli only with the informed consent of the guardian.
  5. An elderly individual may not be prohibited from communicating in the individual's native language with other individuals or employees for the purpose of acquiring or providing any type of treatment, care, or services.

6. An elderly individual may complain about the individual's care or treatment. The complaint may be made anonymously or communicated by a person designated by the elderly individual. The person providing service shall promptly respond to resolve the complaint. The person providing services may not discriminate or take other punitive action against an elderly individual who makes a complaint.
7. An elderly individual is entitled to privacy while attending to personal needs and a private place for receiving visitors or associating with other individuals unless providing privacy would infringe on the rights of other individuals. This right applies to medical treatment, written communications, telephone conversations, meeting with family, and access to resident councils. An elderly person may send and receive unopened mail, and the person providing services shall ensure that the individual's mail is sent and delivered promptly. If an elderly individual is married and the spouse is receiving similar services, the couple may share a room.
8. An elderly individual may participate in activities of social, religious, or community groups unless the participation interferes with the rights of other persons.
9. An elderly individual may manage the individual's personal financial affairs. The elderly individual may authorize in writing another person to manage the individual's financial affairs. The elderly individual may choose the manner of financial management, which may include management through or under a money management program, a representative payee program, a financial power of attorney, a trust, or a similar method, and the individual may choose the least restrictive of these methods. A person designated to manage an elderly individual's financial affairs shall do so in accordance with each applicable program policy, law, or rule. On request of the elderly individual or the individual's representative, the person designated to manage the elderly individual's financial affairs shall make available the related financial records and provide an accounting relating to the financial management. An elderly individual's designation of another person to manage the individual's financial affairs does not affect the individual's ability to exercise another right described by this chapter. If an elderly individual is unable to designate another person to manage the individual's financial affairs and a guardian is designated by a court, the guardian shall manage the individual's financial affairs in accordance with the Estates Code and other applicable laws.
10. An elderly individual is entitled to access to the individual's personal and clinical records. These records are confidential and may not be released without the elderly individual's consent, except the records may be released:
  - a. To another person providing services at the time the elderly individual is transferred; or
  - b. If the release is required by another law.
11. A person providing services shall fully inform an elderly individual, in language that the individual can understand, of the individual's total medical condition and shall notify the individual whenever there is a significant change in the person's medical condition.
12. An elderly individual may choose and retain a personal physician and is entitled to be fully informed in advance about treatment or care that may affect the individual's well-being.

13. An elderly individual may participate in an individual plan of care that describes the individual's medical, nursing, and psychological needs and how the needs will be met.
14. An elderly individual may refuse medical treatment after the elderly individual:
  - a. Is advised by the person providing services of the possible consequences of refusing treatment; and
  - b. Acknowledges that the individual clearly understands the consequences of refusing treatment.
15. An elderly individual may retain and use personal possessions, including clothing and furnishings, as space permits. The number of personal possessions may be limited for the health and safety of other individuals.
16. An elderly individual may refuse to perform services for the person providing services.
17. Not later than the 30th day after the date the elderly individual is admitted for service, a person providing services shall inform the individual:
  - a. Whether the individual is entitled to benefits under Medicare or Medicaid; and
  - b. Which items and services are covered by these benefits, including items or services for which the elderly individual may not be charged.
18. A person providing services may not transfer or discharge an elderly individual unless:
  - a. The transfer is for the elderly individual's welfare, and the individual's needs cannot be met by the person providing services;
  - b. The elderly individual's health is improved sufficiently so that services are no longer needed;
  - c. The elderly individual's health and safety or the health and safety of another individual would be endangered if the transfer or discharge was not made;
  - d. The person providing services ceases to operate or to participate in the program that reimburses the person providing services for the elderly individual's treatment or care; or
  - e. The elderly individual fails, after reasonable and appropriate notices, to pay for services.
19. Except in an emergency, a person providing services may not transfer or discharge an elderly individual from a residential facility until the 30th day after the date the person providing services provides written notice to the elderly individual, the individual's legal representative, or a member of the individual's family stating:
  - a. That the person providing services intends to transfer or to discharge the elderly individual;
  - b. The reason for the transfer or discharge listed in Subsection (18);
  - c. The effective date of the transfer or discharge;
  - d. If the individual is to be transferred, the location to which the individual will be transferred; and

- e. The individual's right to appeal the action and the person to whom the appeal should be directed.
20. An elderly individual may:
- a. Make a living will by executing a directive under Subchapter B, Chapter 166, Health and Safety Code;
  - b. Execute a medical power of attorney under Subchapter D, Chapter 166, Health and Safety Code; or
  - c. Designate a guardian in advance of need to make decisions regarding the individual's health care should the individual become incapacitated.