

## **Client Bill of Rights**

The Law provides certain rights to you as a client. This is a general statement of your rights. Some of the rights listed may pertain to services received through a home care agency or other provider agency but not to those using the Consumer Directed Services option. These include the right:

1. To exercise your rights as a client of the Agency.
2. To have assistance in understanding and exercising your rights.
3. To have a family member or guardian exercise your rights if you are judged incompetent.
4. To have any legal representative exercise your rights to the extent permitted by law.
5. To participate in decisions and planning of your personal care or treatment and in planning of any changes in the care or treatment.
6. To have your person and property treated with consideration, respect, and full recognition of unique individuality and needs, and not be judged for decisions which may be contrary to the belief of others.
7. To not be denied appropriate care on the basis of race, religion, creed, color, national origin, sex, age, disability, or marital status.
8. To voice complaints 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, or recommend changes in policy without being subjected to restraint, interference, coercion, discrimination, or reprisal.
9. To communicate in your own native language with other individuals and team members for the purpose of acquiring or providing any type of treatment, care, service, and/or reasonable information.
10. To associate, communicate and meet privately with other individuals unless to do so would infringe on the right of the other individuals.
11. To open you own mail, unless you authorize a designated individual to do so.
12. To participate in activities of social, religious, or community groups unless a physician records on the Plan of Treatment that participation would be harmful (participants may be homebound).
13. Not to be physically or mentally abused or exploited.
14. Not to be physically or chemically restrained unless the restraint:
  - a) Is necessary in an emergency to protect the participant or others from injury after the participant harms or threatens to harm himself/herself or another person; or
  - b) Is authorized in writing by a physician for a limited and specific period of time.
15. To receive a satisfactory explanation, prior to service initiation, of the services and charges regardless of the source of payment or ability to pay for services rendered. (Charges will be in writing if not covered by a third party payer.)
16. To manage your personal finances or authorize in writing an individual to assume said responsibilities.

17. To choose a personal attending physician and care providers.
18. To ensure confidentiality of all clinical records, communications and personal information and to know that clinical records are released only with written consent, unless authorized by law.
19. To decline or refuse agency services after the possible consequences of refusing care are fully explained..
20. To receive services provided by qualified and trained personnel.
21. Not to be required to perform services for an employee of the agency providing services.

### **Client Responsibilities**

Whenever there are rights, there are also responsibilities. A Participant is responsible for:

1. Being open and willing in assuming responsibility for your care.
2. Making an effort to understand your health and treatments needs.
3. Participating in the planning of your care.
4. Asking for information concerning any services not understood.
5. Cooperating with the agency staff and treating all staff with respect, dignity, and consideration.
6. No verbal or physical abuse toward CDS employees or contractors.
7. Following the service plan agreed upon by you.
8. Providing accurate and true information necessary to your agency for all services. .
9. Providing a safe home working environment for your staff without the threat of physical, mental or verbal abuse or sexual harassment and an environment free of illegal drugs.
10. Informing the Agency of any dissatisfaction with service or care.
11. Not denying care from a qualified caregiver on the basis of race, religion, creed, color, national origin, sex, age, disability, or marital status.
12. Not making loans or performing services for an employee of the Agency.
13. Having full responsibility for the recruiting, training and management of personal attendant care providers.
14. To be aware of agency staff's responsibility to provide equitable care to other participants in the agency.
15. To attend IDT meetings at the request of the agency's staff in an effort to resolve issues or to complete a Corrective Action Plan.

It is the policy of DSSW/LifeSpan/CDS in Texas to enforce client rights as well as client responsibilities. If a client's rights are violated by a contractor or employee of the agency, the CDS representative will follow the disciplinary action policy and procedure up to and including termination. Any reports of violation of this policy will be documented on an incident report and TDADS/DFPS will be notified as applicable. A violation of client responsibilities will be discussed with the client and an IDT meeting may be held to discuss

action to be taken. Services may ultimately be suspended or terminated if client cannot or will not comply with regulations.

## **COMPLAINTS**

**This is notification of your right to voice a complaint by contacting the CDS office at 1-866-675-7331. A representative will contact you within ten (10) days of the receipt of the complaint to initiate an investigation and resolution.**

**You may also contact the Texas Department of Aging and Disability Services, PO Box 149030, Austin, Texas 78714-9030 at 1-800-458-9858 in the event that you need information or if a complaint is not resolved.**

**It is our policy that you will not be subjected to discrimination or reprisal for voicing concerns or grievances regarding any aspect of services provided to you.**

## **Human Resources Code Chapter 102 RIGHTS OF THE ELDERLY**

### **Table of Contents**

#### **Sec. 0102.0001. Definitions In this chapter:**

- (1) **"Convalescent and nursing home"** means an institution licensed by the Texas Department of Aging and Disability Services under Chapter 242, Health and Safety Code
- (2) **"Home health services"** means provision of health service for pay or other consideration in a patient's residence regulated under Chapter 142, Health and Safety Code.
- (3) **"Alternate care"** means services provided within an elderly individual's own home, neighborhood, or community, including:
  - (A) day care;
  - (B) foster care;
  - (C) alternative living plans, including personal care services; and
  - (D) Supportive living services, including attendant care, Residential repair or emergency response services
- (4) **"Person providing services"** means an individual, corporation, association, partnership, or her private or public entity providing convalescent and nursing home services, home health services, or alternate care services.
- (5) **"Elderly individual"** means an individual 60 years of age or older.

Added by Acts 1983, 68<sup>th</sup> leg., p. 5159, ch. 936, sec. 1, eff. Sept 1, 1983. Amended by Acts 1985, 69<sup>th</sup> Leg. , ch. 264, Sec. 25, eff. Aug. 26, 1985.

Amended by Acts 1991, 72<sup>nd</sup> Leg., ch. 14, Sec. 284(20), (30), eff. Sept. 1, 1991; Acts 1995, 74<sup>th</sup> Leg., ch. 76, Sec. 8.101, eff. Sept. 1, 1995; Acts 1997, 75<sup>th</sup> Leg., eff. Sept. 1, 1997

#### **Sec. 102.002. Prohibition.**

(a) A person providing services to the elderly may not deny an elderly individual a right guaranteed by this chapter.

(b) Each agency that licenses, registers, or certifies a person providing services shall require the person to implement and enforce this chapter. A violation of this chapter is grounds for suspension or revocation of license, registration, or certification of a person providing services.

Add by Acts 1983, 68<sup>th</sup> Leg., p. 5159, ch. 936, Sec. 1, eff. Sept. 1, 1983.

Amended by Acts 1985, 69<sup>th</sup> Leg., ch. 264, Sec. 26, eff. Aug. 26, 1985; Acts 1997, 75<sup>th</sup> Leg., eff. Sept. 1, 1997

### **Sec. 102.003. Rights of the Elderly**

(a) 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.

(b) 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:

- (1) has the right to make the individual's own choices regarding the individual's personal affairs, care benefits, and services;
- (2) has the right to be free from abuse, neglect and exploitation; and
- (3) if protective measures are required, the right to designate a guardian or representative to ensure the right to quality stewardship of the individual's affairs.

(c) 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

(d) A mentally retarded elderly individual with 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.

(e) 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.

(f) 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 the 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.

(g) 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

(h) An elderly individual may participate in activities of social, religious or community groups unless the participation interferes with the right of other persons.

(i) 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 money. The elderly individual may choose the manner in which the individual's money is managed, including 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 money 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 money shall make available the related financial records and provide an accounting of the money. An elderly individual's designation of another person to manage the individual's money 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 affairs and a court designates a guardian, the guardian shall manage the individual's money in accordance with the Probate Code and other applicable laws.

(j) An elderly individual is entitled to access 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:

- 1) To another person providing services at the time the elderly individual is transferred; or
- 2) If the release is required by another law

(k) 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.

(l) An elderly individual may choose and retain a personal physician and is entitled to be fully informed in advanced about treatment or care that may affect the individual's well-being.

(m) An elderly individual may participate in an individual plan of care that describes the individual's medical, nursing and psychosocial needs and how the needs will be met.

(n) An elderly individual may refuse medical treatment after the elderly individual:

- (1) Is advised by the person providing the services of the possible consequences of refusing treatment; and
- (2) Acknowledges that the individual clearly understands the consequences of refusing treatment.

(o) 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.

(p) An elderly individual may refuse to perform services for the person providing services.

(q) No later the 30<sup>th</sup> day after the date the elderly individual is admitted for service, a person providing services shall inform the individual:

- (1) Whether the individual is entitled to benefits under Medicare or Medicaid; and
- (2) Which items and services are covered by these benefits, including items or services for which the elderly individual may not be charged.

(r) A person providing services may not transfer or discharge an elderly individual unless:

- (1) The transfer is for the elderly's welfare, and the individual's needs cannot be met by the person providing services;
- (2) The elderly individual's health is improved sufficiently so that services are no longer needed;
- (3) 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;
- (4) 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
- (5) The elderly individual fails, after reasonable and appropriate notices, to pay for services.

(s) Except in an emergency, a person providing services may not transfer or discharge an elderly individual from a residential facility until the 30<sup>th</sup> 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:

- (1) that the person providing services intends to transfer or discharge the individual;
- (2) the reason for the transfer or discharge listed in Subsection (r);
- (3) the effective date of the transfer
- (4) if the individual is to be transferred, the location to which the individual will be transferred; and
- (5) the individual's right to appeal the action and the person to whom the appeal should be directed.

(t) An elderly individual may:

- (1) Make a living will by executing a directive under the Natural Death Act (Chapter 672, Health and Safety Code );
- (2) Execute a durable power of attorney for health care under Chapter 135 , Civil Practice and Remedies Code; or

(3) Designate a guardian in advanced of need to make decision regarding the individual's health care should the individual become incapacitated.

Added by Acts 1983, 68<sup>th</sup> Leg. , p. 5159, ch. 936, Sec. 1, eff. Sept. 1, 1983.  
Amended by Acts 1997, 75 Leg., eff. Sept. 1, 1997.

#### **Sec. 102.004 List of Rights**

(a) A person providing services shall provide each elderly individual with a written list of the individual's rights and responsibilities, including each provision of Section 102.003, before providing services or as soon after providing services as possible, and shall post the list in a conspicuous location.

(b) A person providing services must inform an elderly individual of changes or revisions in the list.

Added by Acts 1983, 68<sup>th</sup> Leg., p. 5159, ch. 936, Sec. 1, eff. Sept. 1, 1983.

Amended by Acts 1997, 75<sup>th</sup> Leg., eff. Sept. 1, 1997.

#### **Sec. 102.005. Right Cumulative.**

The rights described in this chapter are cumulative of other right or remedies to which an elderly individual may be entitled under law.

Added by Acts 1997, 75 Leg., eff. Sept. 1, 1997

**To Report Abuse, Neglect or Exploitation Call:**  
**Texas Department of Protective and Regulatory Services: 1-800-252-5400**  
**and**  
**Texas Department of Aging and Disability Services:**  
**1-800-458-9858**