

APPENDIX B RIGHTS PROTECTION PROCEDURE

1. COMMUNICATION OF CONSUMER RIGHTS

The Department of Aging and Disability Services (DADS) and the Department of State Health Services (DSHS) offices of Consumer Services and Rights Protection publishes rights handbooks written in simple and non-technical language that contains interpretations of the various rights afforded consumers receiving services in mental health and mental retardation programs. Any Rights Handbooks designed by the Center must be approved by DADS or DSHS before use.

Mental Health Services: The **Handbook of Consumer Rights – Mental Health Services** is designed for consumers of mental health services.

Intellectual and Development Disabilities (IDD) Services: **Your Rights as a Person With Mental Retardation – Receiving Services in a Community Program from MHMR, Your Rights as a Person With Mental Retardation – Receiving Services from an ICF-MR Provider or Your Rights as a Person With Mental Retardation – Receiving Services from an HCS Provider** are the approved handbooks designed for consumers of mental retardation services.

Substance Abuse Services: Substance abuse services must provide a copy of the rights listed in **Rights of Individuals Receiving Substance Abuse Services**.

Cornerstone ECI Services: ECI services must provide a copy of the rights booklet required by their funding source.

Copies of Rights Handbooks shall be displayed prominently at all times in all areas frequented by consumers. A sufficient number of copies shall be kept on hand in each of these areas in order that a copy may be readily available to anyone requesting one. In addition, all staff members who perform intake and screening functions for admission to Burke Center services shall also maintain a supply.

Upon admission into Burke Center services, each individual and their legally authorized representative (LAR), if applicable, shall be given a copy of the appropriate Rights Handbook by intake staff. Rights shall be reviewed orally using simple language and terms and explained in the primary language of the individual. The explanation includes a description of the circumstances under which those rights may be limited and an explanation of how a compliant may be filed.

Accommodations will be made for hearing or visual impairment or language barriers.

When an individual receiving services is unable or unwilling to sign a document confirming that rights have been explained, a brief explanation of the reason shall be entered into the client record along with the signatures of the staff member who explained the rights and a third-party witness.

If the individual does not appear to understand the rights explanation, staff will attempt to provide another explanation periodically until understanding is reached, or until discharge. The necessity for repeating the communication of rights is documented, signed, and dated by the staff member.

Staff will document each attempt to explain the individual their rights and may, if applicable, develop a goal on the individual's treatment plan to address the continuing need of the individual to be informed and understand their rights.

Oral communication of rights shall be documented on a form bearing the date and signature of the individual; and their LAR and the staff member who explained the rights. Initial and annual notification of rights shall be documented.

Changes in federal or state statues regarding rights will be communicated promptly to each clients and their LAR. Documentation of notification of any changes in client rights will be obtained.

Communication of Pain Management: Individuals served have the right to appropriate screening or assessment and referral for or provision of management of pain. Should individuals indicate that they are experiencing pain and/or have experienced pain in the recent past, the individual will be referred to a physician for evaluation and pain management. Individuals will receive education regarding their roles in managing pain and what to do should they experience pain.

RESTRICTION OF CONSUMER RIGHTS

Client rights are guaranteed under this provision of the Texas Administrative Code, although under special circumstances, certain rights can be limited. For an individual's personal safety or to modify behaviors, certain rights for persons with IDD may be limited. In these cases, it is mandatory to obtain informed consent when the limitation of rights is contemplated, as well as afford the individual due process.

The Human Rights Committee (HRC) meets monthly to consider rights restrictions. All restrictions are enacted only with due process and approval of the HRC. Rights restrictions are forwarded to the Rights Protection Officer and aggregated to identify trends in use.

Rights for children or adults in outpatient mental illness shall not be restricted under any circumstances. Rights for individuals in residential crisis services are restricted only by physician's order and in accordance with state law and Joint Commission standards.

INFORMED CONSENT

All individuals have the right to make informed decisions and to give informed consent regarding treatment. Informed consent is a process involving mutual understanding between the individual/LAR and the service provider. To be able to make informed decisions individuals should be given a clear, concise explanation of:

- their situation;
- proposed interventions, treatment, care, or services, or medications;
- potential benefits, risks or side effects;
- any limitations or confidentiality;
- the likelihood of success;
- any significant alternatives or interventions; and
- their right, to the extent permitted by law, to refuse interventions/treatment.

When asking individuals to give their informed consent staff should present the information to the individual in a manner in which they can understand and allow them the opportunity to seek more information prior to making an informed decision. Informed consent will be documented in the individual's record.

OPTIONS FOR REPORTING SUSPECTED VIOLATIONS OF CONSUMER RIGHTS

A consumer, family members of a consumer, a staff member, or other interested party have choices when reporting suspected violations of individual rights. Allegations may be reported to:

A. Burke Center Rights Protection Officer:

The Chief Executive Officer of the Center shall appoint a Rights Protection Officer. Individuals desiring to contact the RPO shall be allowed access to a Center telephone to do so. Duties of the RPO are specified by the CEO, and must include at least the following:

1. Receive complaints of violations of rights, allegations, of inadequate provision of services, and requests for advocacy from service recipients, their families, their friends, service providers, other Center staff, other agencies, the general public, and the DADS and DSHS Office of Consumer Services and Rights Protection.
2. The thorough investigation of each complaint.
3. Representing the expressed desires of the complainant and advocating for the resolution of their grievance.
4. Reporting the results of investigations to the complainants, consistent with the protection of the service recipient's right to have any identifying information remain confidential.
5. Ensuring that consumer rights have been thoroughly explained to center staff through periodic training.
6. Reviewing all policies, procedures, behavior management or therapy programs, and rules that affect the rights of consumers.

B. Office of Consumer Services and Rights Protection:

In addition to the Rights Protection Officer, complaints may be made to DADS and DSHS:

DADS: 800/458-9858
 DSHS: 800/252-8154

C. Advocacy Inc.

Advocacy, Inc. is a nonprofit corporation funded by the United States Congress to protect and advocate for the legal rights of people with disabilities in Texas:

7457 Harwin Drive, Suite 100
Houston, Texas 77036-2017
(800) 880-0821
V/TDD (713) 974-7691

D. The Joint Commission

The Joint Commission
One Renaissance Plaza
Oakbrook Terrace, Illinois 60181
Fax: 630-792-5636

PROCEDURES FOR REPORTING AND INVESTIGATING ALLEGATIONS OF CONSUMER RIGHTS VIOLATIONS TO THE BURKE CENTER RIGHTS PROTECTION OFFICER

Suspected violations of consumer rights will be reported to the Rights Protection Officer within 24 hours of the event. Individuals reporting rights violations will provide, at minimum, their name and phone number. Anonymous complaints will be investigated to the extent possible given limited information.

Rights investigations will begin within ten working days of receipt of the request for review and be completed within ten working days of the time it begins unless an extension is granted by the CEO or their designee. The investigation will begin immediately and be completed within 5 working days if the decision is related to a crisis service. Investigations are conducted by the RPO or their designee, but may not be conducted by a person involved in the complaint. The investigation will include a review of the original action or decision that led to a person's dissatisfaction, and result in a decision to uphold, reverse or modify the original decision. The individual will be provided opportunity to express their concern directly, and may appoint a representative to act in their behalf. Following investigation, the RPO will explain to the individual in writing and in person (if requested) the action taken, or, if no action will be taken, why the original decision will not be changed.

STAFF TRAINING

All new employees shall receive training on client rights during their orientation training and prior to beginning work.

Within 60 days of the effective date of new rights directives from DADS or DSHS, the RPO shall brief all employees of updates or changes.

In any program having special requirements related to consumer rights, training in those requirements is provided by the Service Director or designee within the first five working days of a new employee's employment. This training shall also be documented on the Staff Education and Training Record.

QUARTERLY REVIEW

All rights violation allegations are logged into a database by date, complainant, alleged perpetrator, program, type of complaint, and outcome of the investigation. Allegations are aggregated and compiled quarterly, and reviewed by the Compliance Committee to assess for training needs, trends, and/or situation that requires broader attention. Rights restrictions are also logged into a database by date, consumer, type of restriction and length of restriction. Allegations and rights restrictions are aggregated and compiled quarterly, and reviewed by the Compliance Committee to assess for training needs, trends, and/or situation that requires broader attention. An annual report of rights allegations and restrictions is also compiled. The Compliance Committee reports to the Senior Management Team and to the Board of Trustees quarterly.