

Hospice Policy and Procedure Manual

Patient Rights and Responsibilities

Purpose

To ensure all patients/legal guardians and Agency staff acknowledge, understand, observe and implement the patient's rights and responsibilities to protect and promote the patient's rights

Policy

- A. The patient has the right to be informed of his or her rights, and the hospice must protect and promote the exercise of these rights.
- B. Agency will comply with Section 1557 of the Affordable Care Act.
- C. A notice of nondiscrimination and the taglines that alert individuals with limited English proficiency (LEP) to the availability of language assistance services will be posted in a visible location, provided to patients, applicants and to the public on agency website and materials.

Procedure

- A. The Patient Bill of Rights, Patient Conduct and Patient Responsibilities will be available to staff.
- B. The Rights of the Elderly will be posted in a visible location in the Agency.
- C. A notice of nondiscrimination and the taglines that alert individuals with limited English proficiency (LEP) to the availability of language assistance services will be posted in a visible location, provided to patients, applicants and to the public on agency website and materials. The translated resources are available for use at:
<http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/index.html>
- D. Agency will post a notice of individuals' rights providing information about communication assistance for individuals with limited English proficiency and post taglines in the top 15 languages spoken by individuals with limited English proficiency in Texas.
- E. For small sized significant communications such as postcards; a nondiscrimination statement and taglines only require posting in at least the top two non-English languages spoken by individuals with limited English proficiency in Texas.
- F. The hospice will protect and promote the rights of all patients.
- G. The hospice will comply with the provisions of the Texas Human Resources Code, Chapter 102, Rights of the Elderly, which applies to a patient 60 years of age or older.
- H. Notice of rights and responsibilities:
 - 1. During the initial assessment visit in advance of furnishing care the hospice will provide the patient or representative with verbal (meaning spoken) and written notice of the patient's rights and responsibilities in a language and manner that the patient understands.
 - 2. The hospice will comply with the requirements of subpart I of part 489 of this chapter regarding advance directives. The hospice will inform and distribute written information to the patient concerning its policies on advance directives, including a description of applicable State law.

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3. The hospice will obtain the patient's or representative's signature confirming that he or she has received a copy of the notice of rights and responsibilities.
4. The hospice will provide a patient who receives hospice services with a written statement that informs the patient that a complaint against the agency may be directed to the:
 - a. The Texas Health and Human Services Commission's Consumer Rights and Services Division, P.O. Box 149030, Austin, Texas 78714-9030, toll free 1-800-458-9858.
 - b. Administrator of the agency, which also will include the time frame in which the agency will review and resolve the complaint.

Patient Rights

- A. A patient has the following rights:
 1. A patient 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 patient, either from the patient or their legal representative. The patient or the legal representative must sign or mark the consent form.
 2. A patient has the right to participate in planning the care or treatment and in planning a change in the care or treatment.
 - a. The hospice must advise or consult with the patient or legal representative in advance of any change in the care or treatment.
 - b. A patient has the right to refuse care and services.
 - c. A patient has the right to be informed, before care is initiated, of the extent to which payment may be expected from the patient, a third-party payer, and any other source of funding known to the agency.
 3. A patient has the right to have assistance in understanding and exercising the patient's rights. The agency must maintain documentation showing the patient demonstrates understanding of the patient's rights.
 4. A patient has the right to exercise rights as a patient of the agency.
 5. A patient has the right to have the patient's person and property treated with consideration, respect, and full recognition of the patient's individuality and personal needs.
 6. A patient has the right to be free from abuse, neglect, and exploitation by the hospice employee, volunteer, or contractor.
 7. A patient has the right to confidential treatment of the patient's personal and medical records.

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8. A patient 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.
 9. In the case of a patient adjudged incompetent, the rights of the patient are exercised by the person appointed by law to act on the patient's behalf.
 10. In the case of a patient who has not been adjudged incompetent, any legal representative may exercise the patient's rights to the extent permitted by law.
- B. Exercise of rights and respect for property and person.
1. The patient has the right:
 - a. To exercise his or her rights as a patient of the hospice;
 - b. To have his or her property and person treated with respect;
 - c. To voice grievances regarding treatment or care that is (or fails to be) furnished and the lack of respect for property by anyone who is furnishing services on behalf of the hospice; and
 - d. To not be subjected to discrimination or reprisal for exercising his or her rights.
 2. If a patient has been adjudged incompetent under state law by a court of proper jurisdiction, the rights of the patient are exercised by the person appointed pursuant to state law to act on the patient's behalf.
 3. If a state court has not adjudged a patient incompetent, any legal representative designated by the patient in accordance with state law may exercise the patient's rights to the extent allowed by state law.
 4. The hospice must:
 - a. Ensure that all alleged violations involving mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property by anyone furnishing services on behalf of the hospice, are reported immediately by hospice employees and contracted staff to the hospice administrator;
 - b. Immediately investigate all alleged violations involving anyone furnishing services on behalf of the hospice and immediately take action to prevent further potential violations while the alleged violation is being verified. Investigations and/or documentation of all alleged violations must be conducted in accordance with established procedures;
 - c. Take appropriate corrective action in accordance with state law if the alleged violation is verified by the hospice administration or an outside body having jurisdiction, such as the State survey agency or local law enforcement agency; and

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- d. Ensure that verified violations are reported to State and local bodies having jurisdiction (including to the State survey and certification agency) within 5 working days of becoming aware of the violation.
- C. The patient also has a right to the following:
1. Receive effective pain management and symptom control from the hospice for conditions related to the terminal illness;
 2. Be involved in developing his or her hospice plan of care;
 3. Choose his or her attending physician;
 4. Have a confidential clinical record. Access to or release of patient information and clinical records is permitted in accordance with 45 CFR parts 160 and 164.
 5. Be free from mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property;
 6. Receive information about the services covered under the hospice benefit;
 7. Receive information about the scope of services that the hospice will provide and specific limitations on those services.
- D. A patient will be informed of their right to file a grievance if they believe the Agency has failed to provide services or discriminated in another way on the basis of race, color, national origin, age, disability with:
1. The Civil Rights Coordinator, [Mailing Address], [Telephone number], [TTY number—if covered entity has one], [Fax], [Email]. The Civil Rights Coordinator can assist with filing a grievance in person or by mail, fax, or email if needed; or
 2. The U.S. Department of Health and Human Services, Office for Civil Rights:
 - a. Electronically through the Office for Civil Rights Complaint Portal <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>; or
 - b. By mail or phone at: U.S. Department of Health and Human Services:
200 Independence Avenue, SW Room 509F, HHH Building Washington, D.C. 20201
1-800-368-1019, 800-537-7697 (TDD).
 - c. Complaint forms are available at <http://www.hhs.gov/ocr/office/file/index.html>.

Patient Responsibilities

- A. The patient has the responsibility to participate in developing the plan of care to the degree that they are able.
- B. The patient has the responsible to complete a Face to Face encounter visit with physician for applicable payor sources.

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- C. Patients and their families have the responsibility to carry out the plan of care, as instructed, to arrive at the highest possible level of health, wellness and independence and to inform the agency when instructions are not followed.
- D. The patient has the responsibility to notify the agency of any changes in treatment or medication, health condition, admission to an inpatient facility, services provided by other providers or prior to initiation of new services that may not be covered if agency is unaware.
- E. The patient has the responsibility to disclose pertinent health related information accurately to plan and carry out care, including information on advanced directives.
- F. The patient has the responsibility to have and maintain contact with his/her physician to allow the physician to order and supervise care.
- G. The patient has the responsibility to notify the agency of a change in the primary physician.
- H. The patient has the responsibility to be available to the staff for home visits at a mutually agreed upon time.
- I. The patient has the responsibility to inform the agency of appointments that will alter a scheduled visit by the agency's staff.
- J. The patient has the responsibility to provide a safe working environment for the home health staff.
- K. The patient has the responsibility to provide information and releases when required for billing purposes.
- L. The patient has the responsibility to notify the agency of a change in insurance carriers, insurance plan, reduction in insurance benefits, or termination of benefits prior to such changes.
- M. The patient has the responsibility to allow the agency to act on his/her behalf in filing appeals of denied payments of service to the fullest extent possible.
- N. The patient has the responsibility to inform the agency of any dissatisfaction with service or care.
- O. The patient has the responsibility to inform agency personnel when instructions to the patient or patient's representative cannot be understood or followed.
- P. The patient has the responsibility to communicate in a respectful manner with staff and administration.

Section 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:

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- (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, has 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) 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.
- (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 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 rights of other persons.

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- (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 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.
- (j) 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:
 - (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 advance 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 psychological 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 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) Not later than the 30th 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

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- (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 individual'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 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:
 - (1) That the person providing services intends to transfer or to discharge the elderly individual;
 - (2) The reason for the transfer or discharge listed in Subsection (r);
 - (3) The effective date of the transfer or discharge;
 - (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 Subchapter B, Chapter 166, Health and Safety Code;
 - (2) Execute a medical power of attorney under Subchapter D, Chapter 166, Health and Safety Code; or
 - (3) Designate a guardian in advance of need to make decisions regarding the individual's health care should the individual become incapacitated.

Section 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.

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

Section 102.005 Rights Cumulative

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