

YOUR RIGHTS.....

**In
Intermediate
Care Facilities
for Individuals with an
Intellectual Disability or
Related Conditions
(ICF/IID) Programs**

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This book belongs to:

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A special note about your rights

This handbook tells you about the rights and privileges you have if you are receiving services in programs offered in the community through the Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICF/IID) program.

There are some basic ideas about your rights.

- 1 People have rights.** Rights are what you can do and how you are treated based on federal and state constitutions, laws and rules.
- 2 Rights cannot be limited without due process.** Due process is an opportunity to have a hearing or review to decide if there is a good reason to limit your rights or services.
- 3 People have the right to be free from abuse and neglect.**
- 4 People have responsibilities.** Responsibilities are your duties that you need to try to do, if you are able.

Staff can help you learn about your rights and responsibilities.



All services are provided in compliance with the Civil Rights Act of 1964, as amended, and in the Americans with Disabilities Act of 1990.

Important words and what they mean

Advocate – A person who helps you make decisions and looks out for your best interests, such as a family member or friend.

Appeal – To ask for a special meeting when you disagree about a decision.

Behavior Support Plan – A comprehensive, individualized plan that focuses on modifying your environment to teach or increase adaptive skills and builds on your strengths and preferences.

Consent (informed consent) – When you agree to do something or give permission to do something. You must understand what you are agreeing to, be 18 or older, and not have a guardian.

Due process – A review to make sure your rights are not taken away from you without a good reason.

Determination of an Intellectual Disability (ID) – An assessment by a qualified professional to determine if you have an intellectual disability or a related condition.

Guardian – Somebody appointed by the court, often your parent or another adult family member, or your parent or conservator if you are under age 18. Your guardian makes certain decisions for you, as described in the court papers. These decisions may be about your money, your rights and/or your physical needs.

Hearing – A special meeting to talk about something with which you or your guardian do not agree.

Planning meeting – A meeting with your team to develop service plans that will help you meet your goals. (This is sometimes called a “staffing”).

Qualified Intellectual Disability Professional (QIDP) – The staff member who arranges services to meet your needs and help you achieve your goals. Sometimes this person is known as your service coordinator.

Responsibilities – What you need to do in order to have your rights and to continue your services.

Rights – What you are allowed to do and how you should be treated.

Specially Constituted Committee (also known as Human Rights Committee) – A group of people that reviews, approves, and monitors behavior therapy programs or other programs that may involve a restriction to your rights.

Surrogate Decision-maker – An actively involved family member who can make certain decisions for you.

Surrogate Consent Committee – A group of trained volunteers who can make certain decisions for you.

Team (interdisciplinary team) – A group of people who help you decide what services and supports can be provided that will help you meet your goals or dreams. You and your guardian are also members of the team.

Treatment – This is something that is done for you, like providing you with training.

Your rights under Texas Health and Safety Code, Title 7, Subtitle D

If you have an intellectual disability and live in Texas, you have the following rights under state law:

- 1 You have the same rights all citizens have, unless some of these rights have been taken away by a judge. These rights include the right to vote, to practice a religion, to keep your own possessions, to contract for something (such as buying a house or a car), and to get married. You cannot be treated differently because of your disability.
- 2 No one has the right to hurt you, take advantage of you or ignore your needs.
- 3 You have the right to live and receive services where you can make as many of your own decisions as possible. This may be with your family, with your friends, alone, or where there are trained people to help you.
- 4 You have the right to go to public school until age 22.
- 5 Before you receive services, a doctor or a psychologist must determine that you have an intellectual disability or related condition and explain to you what that means. If you do not agree with them, you can ask for a meeting to review your case. You can ask for a second opinion that you would pay for with your own money. You can ask for services from other agencies and organizations.

- 6 For issues needing your consent, you should be able to understand what you are consenting to. If you have a guardian, he or she may make decisions for you.
- 7 Before a guardian is named, you will have a court hearing with a judge. Only a judge can give you a guardian. That guardian may be a parent or another adult. This hearing is considered due process.
- 8 If you are looking for a job and have the skills to do the job, you cannot be denied the job just because of your disability. Your employer must make reasonable changes to allow you to do the job.
- 9 You have the right to receive treatment and services that are best for you. You can change your mind about any or all of the services you receive.

Your rights in an ICF/IID program

If you receive services in a community-based ICF/IID program, you have all the rights listed in this handbook under Texas Health and Safety Code, Title 7, Subtitle D. You also have the following rights:

- 1 You have the right to live in a home that is clean and safe.
- 2 You, your guardian or advocate should be told about your medical condition, how you are doing, any challenging behaviors that interfere with living independently in the community, the risks of treatment and your right to refuse treatment.
- 3 You have the right to be free from unnecessary medications and physical restraints. If you try to hurt yourself or others, staff may stop you by physically

restraining you or by giving you medication to calm you. ICF/IID staff must use those procedures only if you are a risk to yourself or others. If your behavior requires medication or physical restraint a provider who has special skills may develop a behavior support plan to help you decrease behaviors that are harmful to you or others.

- 4 You have the right to receive services and supports to help you work at a regular job. You do not have to work without pay. You have the right to be at home when you are not working. Helping around the house, such as cooking or cleaning up, is not considered work, but is a responsibility. Responsibilities are what you need to do in order to have your rights and to continue your services.
- 5 You may meet with other people in a place where you can be alone.
- 6 You can send and receive your mail without anybody opening it. If you need help sending, opening, or reading your mail, you can ask someone to help you.
- 7 You have the right to choose and keep any objects and clothing that are yours. You have the right to wear clothing that fits, is in good condition, and keeps you warm or cool enough. If you don't have suitable clothing, it will be provided for you. You should also be provided a place to store your things.
- 8 If you are married and you both live in the same home, you have the right to share a room.
- 9 You should always be treated with respect. Other people should not hurt you, say mean things to you, be too personal with you by touching you in the wrong

way, exploit you, withhold basic and important needs such as food and clothing, or make you feel bad by what they say or do to you. All of those things are considered abuse. Tell staff, your parent, guardian or advocate if this happens. Report all abuse to the Texas Department of Family and Protective Services at 1-800-647-7418.

- 10** You have the right to have regular mealtimes. You, your doctor and/or nutritionist can help decide what kind of food is best for you.
- 11** You have the right to visit anyone you want. You can meet privately with visitors. Be careful not to bother the others in your home because of your visits. Your friends and family can visit you here and, if it is okay with your friends or family, you can go visit them.
- 12** You have the right to manage your money, receive training to manage your money or have help handling your money. You can ask staff if you need help or have questions. You can look at records that show how much money you have. If you have a guardian, they may decide how your money is managed.
- 13** You have the right to make and receive telephone calls in private. You can ask staff to help you.
- 14** You have the right to make decisions about your daily life, such as choosing what you want to wear.
- 15** You have the right to privacy during treatment and care of your personal needs and when you want to be alone. If staff help care for your personal needs,

they should close the door so other people cannot see you. Everybody should knock before entering, and wait for you to answer if you can, before entering your room.

- 16** You have the right to be out of bed and out of your bedroom during most of the day, moving around and doing things. Staff will help move you if you need help.
- 17** You should be provided with basic personal items and supplies, like shampoo and toothpaste. If you like a different brand or type of personal need item, you can buy the item you like better with your own money.
- 18** You have the right to receive medical and dental care just like everyone else in the community.
- 19** You have the right to have services and supports that will help you do things for yourself, such as caring for your own personal needs. You, your guardian and your team will develop a treatment plan for you. You have the right to go to meetings that concern you, including your annual planning meeting, and tell your team what you want to learn and be involved in. You may also invite a friend or advocate to your meetings.
- 20** You do not have to move from your home without a good reason, unless it is an emergency. You should be given enough time to get ready to move. If you feel you are being rushed, ask for more time to get ready to move.

Your responsibilities

Along with rights come certain responsibilities. Responsibilities are your duties that you need to try to do, if you are able. You may not be able to do all these things by yourself, and you can ask for help.

- 1** You should not hurt others.
- 2** You should follow the rules and regulations of your program.
- 3** You should tell staff what you need.
- 4** You should speak up at your planning meeting and tell your team about your goals and dreams.
- 5** You should try your best to follow the treatment plan developed by you, your guardian, and those who work with you. If you do not like your plan, you can ask that the plan be changed.
- 6** You should be on time.
- 7** You should help take care of the home where you live.
- 8** You should take care of your things and not bother other people's things.
- 9** If you leave, you should tell staff where you will be.
- 10** You may have other responsibilities, and staff can help you learn what they are.

Your guardian's rights and responsibilities

If you have a guardian, there are certain decisions they can make for you.

Your guardian might make decisions about

- your money
- where you live
- what services you will receive
- may consent to medical treatment

If you are able to make a choice about something, your guardian should let you.

Your guardian helps to protect your rights

Your guardian should participate in the planning meetings with you and your team. He or she has the right to look at your records and to talk with staff about you. Your guardian can file complaints for you.

Your guardian has to tell the court every year about how you are doing. For the guardian of the estate, this is called an annual accounting. For the guardian of the person, it is known as an annual report. The law requires all guardians to complete an annual accounting or report to the court, no matter how long they have been a guardian. When your guardian files the annual accounting or report, he or she is given letters from the court to show the guardianship is current. Your guardian needs to share this letter with your staff. Your guardian helps protect your rights.

Your rights under the Surrogate Decision-making Program

The Surrogate Decision-making Program does not apply to you if you have a guardian.

Major medical and dental treatment

If you need major medical or dental treatment such as surgery, the law requires the doctor or your team to explain why you need it and all the good or bad things that could happen if you agree to the treatment. Someone must also tell you what could happen if you decide not to have the treatment. Before the treatment can be done, you must agree to it and sign a consent form. This is called informed consent.

If you are not able to make a consent decision, you have the right to have assistance. Your team may ask an actively involved family member to sign the consent for you. This person is known as a surrogate decision-maker (SDM).

If you do not have an actively involved family member who can do this for you, your team may request a group of trained volunteers to meet and decide for you. This group is called a surrogate consent committee (SCC). You will be invited to attend the SCC hearing and say what you think about the treatment.

Psychoactive medication and highly restrictive procedures

If you take medicine for the treatment of a mental disorder, such as depression, bi-polar disorder, schizophrenia, or behavior management, such as self-injury or aggression,

you have to give informed consent, just as you do for major medical and dental treatment. If you cannot give informed consent, the team must ask an SCC to meet and decide for you if the medication is the best treatment for you.

If your behavior requires the use of a restrictive procedure to keep you or others safe, your team will work with someone with the skills to develop a behavior support plan, with input from you and others involved in your care. If a behavior support plan authorizes the use of a highly restrictive procedure, such as physical restraint and/or one-on-one staff intervention, you must be given information about the procedure. If you agree to the plan you will then need to give consent. An SCC will be appointed to decide for you if you cannot give your informed consent.

You must attend the committee hearing unless there is a good reason why you cannot. Your family cannot sign consents for psychoactive medication or a highly restrictive procedure but can be invited to attend the SCC hearing and give their opinion. You also have the right to ask a close friend, your advocate, or your family to attend SCC hearings.

Special meetings

Guardianship hearing

If you have a guardian, the guardian had to go to court to tell the judge why he or she wanted to be your guardian to help you make decisions. This process in the court is known as due process. If your guardian is given permission by the court to make certain decisions, then your staff will need your guardian's permission before restricting any of your rights in those areas. You have the right to know about your guardian's decisions.

Planning meeting

At least once per year, you, your guardian (if you have one), your QIDP, and the staff that work closely with you will meet to determine your individual program plan (IPP). This plan will determine what services your ICF/IID provider will give you over the next year. If you want to make changes in your plan, then you must have a meeting to discuss the changes. You can also invite a friend or advocate to the meeting.

Specially Constituted Committee (also known as Human Rights Committee)

The Specially Constituted Committee is made up of staff, parents, consumers, and others who review, approve, and monitor behavior support plans or other programs that may affect your rights. They do this even if you or your guardian agrees to the program. When you cannot give consent to the program, they review it so it can go to the Surrogate Consent Committee for approval.

How to make a complaint

If you have a complaint about your services or how you've been treated, you should call one of the following people or groups and tell them. Ask staff to help you do this if you need help.

Your QIDP

You can talk to your QIDP or the program director where you receive services. The number is written in the back of this book.

State offices

If you or your family members want help with complaints or violations of your rights regarding the ICF/IID program, you should call:

**Texas Department of Aging
and Disability Services (DADS)
Consumer Rights and Services 1-800-458-9858**

You may also email to report complaints or violations to your rights here:

crscomplaints@dads.state.tx.us

If you think staff have abused you, neglected you, or taken advantage of you, you should call:

**Texas Department of Family
and Protective Services (TDFPS) 1-800-647-7418**

If you are hearing impaired and need TDD to make a phone call, you can get help from:

Relay Texas (voice) 1-800-735-2988
(TDD) 1-800-735-2989

How to reach your QIDP

Your QIDP is:

Your QIDP's telephone number is:

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Texas Department of Aging and Disability Services

**DADS toll-free Consumer Rights
and Services number 1-800-458-9858**

Attention Medicaid Recipients

Under the Medicaid Estate Recovery Program, the state may file a claim against the estate of a deceased Medicaid recipient, age 55 and older, who applied for certain long-term care services on or after March 1, 2005.

**For more information call
1-800-458-9858**



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