

**SPINDLETOP CENTER  
POLICIES, PROCEDURES, AND PRACTICES**

<u>References:</u>	Policy No: 400.15
Texas Administrative Code (TAC) Title 25, Part 1, Ch. 448, Subchapter B & G	Subject: Rights Protection
TAC Title 25, Part 1, Ch. 404, Subchapter E	
TAC Title 25, Part 1, Ch. 411, Subchapter G	Origination Date: January 1, 2005
TAC Title 25, Part 1, Ch. 414, Subchapter L	Revised: April 14, 2023
TAC Title 26, Chapter 102	
TAC Title 40, Part 1, Ch. 4, Subchapter L	
TAC Title 40, Part 1 Ch. 9, Subchapter D & N	Originator: Patricia Allen
Texas Health & Safety Code Title 7, Ch. 592	
Americans with Disabilities Act	CEO:

**POLICY:**

This policy and procedure establishes the Center’s position regarding client education, the protection and advocacy of rights of clients, as well as methods of reporting and investigating suspected violations of those rights in accordance with the applicable laws and regulations of the Texas Administrative Code and accrediting agencies.

Client is defined as all individuals served within Spindletop Center, i.e. patient, client, individual, consumer or person served.

**PROCEDURE:**

**Communication of Client Rights:**

All individuals served by Spindletop Center will receive a copy of their rights before initiating services and at least annually thereafter. The rights are communicated in terms the individual can understand.

1. Within 24 hours of voluntary admission to Spindletop Center, each individual, parent, or conservator of a minor or legal guardian will receive a copy of the rights handbook (Your Rights as a Consumer of Spindletop Center) by a staff member.
2. Notification of rights will occur at least annually or upon any change, and this will be documented in the person's clinical record.
3. Rights will be reviewed orally using simple language and in the primary language of the person. The explanation will include the circumstances under which the rights may be limited and the procedure for filing complaints.
4. The method and format used to communicate will be designed for knowledgeable and effective communication, tailored to meet each person's ability to comprehend, and will be responsive to people with visual or hearing impairments. If a person does not appear to understand the rights explanation, staff will attempt to provide another explanation until understanding is reached or until discharge and will document appropriately.
5. If a person is manifestly unable to comprehend rights, staff will inform a parent of a minor child or a court-appointed guardian. Documented by a third party witness bearing; the date, signature of client or legally appointed representative, the staff member who explained the rights.
6. When a person is unwilling to sign a document confirming their rights have been explained, a brief explanation of the reason will be entered into the clinical record as "individual refused to sign" entered on the signature line of the document. If a person is unable to sign their name, a mark on the signature line of the receipt of information is acceptable followed by the signatures of two witnesses.

**Function and Contact Information of the Client Rights Division:**

Consumers of the Center shall by no means be denied the privilege or assistance to contact the Rights Protection Officer. Duties of the Rights Protection Officer designated by the CEO must include the following:

1. Receive complaints of violations of rights, allegations of inadequate provision of services, and requests for advocacy from service recipients, their families, friends, service providers, other staff, other agencies, the general public and the Office of Consumer Services and Rights Protection of HHSC.
2. Thoroughly investigating each such complaint received
3. Represent the expressed desire of the complainant and advocate for the resolution of his grievance,
4. Report the results of investigations and advocacy to the complainants, consistent with rules governing confidentiality.
5. Ensure that rights are thoroughly explained to staff through periodic training.

6. Review policies, procedures, behavior management or therapy programs, and rules, which affect the rights of persons receiving services.

Please refer to policy 400.01 Complaint Process for Local Mental Health Authority and policy 1200.16 Complaint Process for Local IDD authority regarding the investigation process.

## **INDIVIDUAL RIGHTS OF PERSONS SERVED BY SPINDLETOP CENTER**

Basic rights for all persons receiving mental health services include, but are not limited to:

1. all the rights of a citizen of the State of Texas and the United States of America, including property rights, guardianship rights including designating a representative, family rights, religious freedom, the right to register and vote, the right to sue and be sued, the right to sign contracts and all the rights relating to licenses, permits, privileges, and benefits under the laws as well as to be trained, manage, or have assistance with their financial affairs.
2. the right to be presumed mentally competent unless a court has ruled otherwise,
3. the right to be treated without discrimination due to gender, race, religion, ethnicity, nationality, age, sexual orientation, gender identity or disability (physical or mental), medical condition, including HIV diagnosis.
4. the right to a clean and humane environment in which he or she is protected from harm, has privacy with regard to personal needs and visitors, and is treated with respect and dignity, including the right to make individual choices, and participate in activities.
5. the right to appropriate treatment or services in the least restrictive, most appropriate setting available, and access to public accommodations.
6. the right to be free from mistreatment, humiliation, abuse, neglect, corporal punishment, financial or other exploitation,
7. the right to protection of personal property from theft or loss,
8. the right to be told in advance of all estimated charges being made, the cost of services provided, sources of the program's reimbursement, and any limitation on the length of service,
9. the right to fair compensation for certain labor performed for the Center in accordance with the Fair Labor Standards Act,
10. the right to be informed of all rules and regulations concerning expected conduct and course of treatment,
11. the right to review the information contained in his or her medical records,
12. the right to have medical records kept private and to be told about the conditions under which information can be disclosed without permission,
13. the right to be informed of the current and future use of products of special observation and audiovisual techniques, such as one-way mirrors, tape recorders, television movies, or photographs,

14. the right to give or to withhold consent to take psychoactive medications unless a court has ordered that the person take them when in an inpatient unit, or a doctor in an inpatient setting believes there is an emergency situation in which someone may be harmed,
15. the right to agree or refuse to take part in research without it affecting regular care,
16. the right to agree to refuse unusual medications, surgical procedures, or behavior therapy when aversive procedures are used or a right otherwise guaranteed is restricted, electroconvulsive therapy, hazardous assessment procedures, audiovisual equipment, or other procedures for which permission is required by law,
17. the right to withdraw permission or discharge from voluntary services at any time in any matters in which the person receiving services have previously granted consent without limiting or compromising access to services or other treatments,
18. the right to have a treatment plan that is solely for the person served. The right to take part in developing that plan including choosing a physician, as well the treatment plan for care after leaving the program. Parents or conservator (of a minor) or legal guardian, if one has been appointed, has the right to take part in the development of the treatment plan. The person served has the right to request that another person of their choosing (e.g. spouse, friend, relative, etc.) take part in development of the treatment plan.
19. the right to be told about the care, procedures, and treatment that will be given and the risks, side effects, and benefits of all medications and treatment including those that are unusual or experimental, other treatments that are available, and what may happen if treatment is refused,
20. the right to informed consent of refusal or expression of choice regarding: service delivery, release of information, concurrent services, composition of the service without the refusal being used as a reason to deny access to other services,
21. the right to meet with the staff responsible for care and to be told of their professional disciplines, job titles, and responsibilities,
22. the right to choose provider and clinic location from among those available
23. the right to request the opinion of another professional treatment provider at the consumer's expense,
24. the right to be told why one is being transferred to any program within or outside the Center, and the right to be free from seclusion or restraint unless ordered by a doctor in an emergency.

**Additional Rights of Persons Admitted to Inpatient or Residential Programs:**

1. the right to talk and write to people outside the residential program,
2. the right to give or withhold consent to take medication,
3. the right not to be mechanically restrained or secluded unless a doctor orders it in the person's medical record,
4. the right to keep and use personal possessions including the right to wear personal clothing and religious or other symbolic items unless Center staff believe that certain possessions can be used to harm oneself or others,
5. the right to opportunities for physical exercise and for going outdoors at least daily,

6. the right to exercise religious freedom,
7. the right to opportunities to meet with persons of the opposite sex with supervision as the treatment or planning team considers appropriate,
8. the right to request another room if a resident in the room is disturbing,
9. the right to receive treatment for physical problems which affect treatment or services while in an inpatient or residential program,
10. the right to be informed in writing about any prescription medications ordered by the treating physician,
11. The right to receive a written list of the medication prescribed within four hours of requesting it in writing,
12. The right to contact an attorney.
13. the right to have the Center staff notify one's family or someone else of ones choosing upon admission, (Inpatient only)
14. the right to be given information about making health care decisions and to execute advanced directives as allowed by law, (Inpatient only)

#### **Additional Rights of Persons Receiving Voluntary Inpatient Services:**

1. the right to request discharge from voluntary admission to an inpatient unit,
2. the right not to have an application for court-ordered services filed while receiving voluntary services unless a doctor determines the person meets the criteria for court-ordered services,-
3. the right to be free from threats or misleading statements about what might happen if one requests to be discharged from a voluntary admission to the inpatient program.

#### **Additional Rights of Persons under order of Protective Custody:**

1. the right to contact an attorney,
2. the right to be told in writing that one has been placed under an order of protective custody, why the order was issued, and the time and place of the hearing,
3. the right to a probable cause hearing within 72 hours of detention, and
4. the right to be released from custody if 72 hours have passed and a hearing has not taken place, an order for court-order mental health services has not been issued within 14 days of the filing of an application, or one's doctor finds that court-ordered mental health services are no longer needed.

#### **Special Rights Pertaining to Court-Ordered Services:**

Under most circumstances, a person may request at any time during commitment that a doctor re-examines him to determine whether he still meet the criteria for commitment. If the person is on a court order for extended mental health services, he may ask a judge to order a physician to re-examine him to determine whether he still meets the criteria for commitment. If the judge

agrees to review the commitment, a physician will file with the court a certificate of medical examination within ten days of the filing of the request. If the doctor believes, the person continues to meet the criteria for commitment, or if no certificate of medical examination was filed within ten days and the person has not been discharged, the judge will set a time and a place for a hearing on the request. If the doctor reports that the person does not meet the criteria for commitment, the discharged will occur.

**Rights of Persons Receiving Services with Intellectual & Development Disabilities (IDD) including the elderly 55 and older:**

1. all rights, benefits, and privileges guaranteed by the United States Constitution and laws,
2. the right to register to vote and the right to vote,
3. the right to acquire, use, and dispose of property, and to be trained, manage, or have assistance with their financial affairs
4. the right to sue and to be sued,
5. the rights related to licenses, permits, and privileges of the law,
6. the right to religious freedom, to make individual choices, and participate in activities
7. the right to be treated with dignity and respect, and protection from mistreatment, humiliation, abuse, neglect, financial or other exploitation, including free from corporal punishment
8. the right to live and receive services in the least restrictive setting appropriate to a person's need and abilities and the right to be served in the least intrusive manner appropriate to one's needs, and access public accommodations
9. the right to privacy with and without visitors, and have personal possessions
10. the right to education,
11. the right to equal opportunity in employment,
12. the right to equal housing opportunities,
13. the right to treatment and habilitation services, including choosing a physician or to refuse treatment and services
14. the right to determination of IDD,
15. the right to an administrative hearing to contest the findings of such determination,
16. the right to an independent determination of IDD,
17. the right to presumption of competence,
18. the right to due process in guardianship proceedings, and to designate a guardian or representative and in admission to residential services,
19. the right to fair compensation for labor,
20. the right to be free from discrimination on the basis of ones' disability in employment or in the provision of or eligibility for services. Additionally, the programs or activities will be provided in facilities which are accessible to and usable by persons with handicaps,
21. the right to be informed and participate in individual treatment, training, and action plan development, and to communicate in a language one desires
22. the right to periodic review and reevaluation,

23. the right to withdraw or discharge from voluntary services,
24. the right to give or withhold consent for services,
25. the right to be free from unnecessary and excessive medications, physical or chemical restraints
26. the right to initiate a complaint of any kind including regarding care and treatment without retaliation or barriers to service and to know how to contact a facility's Right Protection Officer (409-784-5550) and the HHSC Office of Ombudsman 1-800-252-8154,
27. the right to be informed of rights,
28. the right to access to one's own medical record except where lawfully restricted such as but not limited to when contraindicated by one's planning team,
29. the right to confidentiality of records except where disclosure is authorized under the current governing law, and
30. the right to an administrative hearing to consent or refuse a proposed transfer or discharge except when such a discharge is based on the person not being developmentally delayed.

#### **Additional Rights of Persons with IDD Receiving Residential Services:**

1. the right to due process in guardianship proceedings and in admission and to prompt, adequate, and necessary medical and dental care and treatment,
2. the right to normalization,
3. the right to a humane physical environment,
4. the right to communication and visits, and
5. the right to personal property.

#### **Reporting Alleged Rights Violations and Complaints:**

Staff, volunteers, contractors, providers or agents who suspect or have knowledge of alleged rights violations or who receive a complaint are required to follow the Center's Incident Reporting Policy 400.05.

Any client who has a rights violation complaint with an employee, service or services has the right to file a complaint directly with any of the following oversight agencies, without retaliation or barriers to service. Staff will provide access, assistance or referral to the following agencies upon request in order for our clients to receive appropriate representation and advocacy support services.

- a. Rights Protection Officer of Spindletop Center in person, in writing at 655 S. 8<sup>th</sup> Street, Beaumont, TX 77701, or by phone.
- b. Office of the Ombudsman with Health and Human Service Commission (HHSC)-Mental Health Unit at 1-800-252-8154.
- c. Consumer Rights Intellectual Disabilities Unit with HHSC at 1-800-458-9858

- d. Substance Use with HHSC at 1-800-832-9623 or 1-888-973-0022
- e. Disability Rights Texas at 1-800-252-9108
- f. Texas Department of Insurance at 1-800-252-3439.
- g.

The reporting policy does not include reporting abuse, neglect or exploitation. Please refer to Spindletop Center Abuse, Neglect, and Exploitation Policy 400.13.

**Staff Education:**

Each new employee will receive training on the content of this policy, as part of the New Employee Orientation process. New employees may not assume job responsibilities prior to Client Rights training.

Within 60 days of the effective date of new rights directives from HHSC, the Client Rights Officer will brief all employees of updates or changes. Annually, each employee will receive refresher training in individual rights and confidentiality. Such training is documented and tracked by the Human Resources Department.

**Required Posting:**

The Center is required to post rights protection and advocacy information at each service site, which is accessible to all staff, clients, the families of clients, and other interested parties. Each program, including programs operated by contract, shall post:

1. The name, address and telephone number of the Center's Rights Protection Officer
2. HHSC Office of the Ombudsman Behavioral Health
3. HHSC Consumer Rights and Services Intellectual Disability
4. Department of Family Protective Service
5. Disability Rights Texas
6. Civil Rights Office