



HOUSTON HOSPICE  
*Life Matters*

# REGULATORY COMPLIANCE DOCUMENTS

Scope of Services

Advance Directives Policy

Human Resources Policies & Procedures

Rights of the Individual

Rights of the Elderly

Reporting of Child or Adult Abuse, Neglect or Exploitation

Medication Disposal

Important Contact Listings

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## Scope of Services Provided by Houston Hospice

Visits by Houston Hospice nurses, social workers, chaplains, home health aides and volunteers are scheduled based on patient/family needs and the Hospice plan of care. If care needs exceed specified insurance coverage, other options may be explored with the team. Physical therapy, speech therapy, occupational therapy, or a nutritional consult for the Hospice diagnosis may be provided according to patient need and the Hospice plan of care. The family and significant others can receive bereavement support from Houston Hospice for at least one year after the patient's death.

Houston Hospice does not discontinue or reduce care provided to a Medicare or Medicaid beneficiary patient because of the beneficiary patient's inability to pay for that care. Houston Hospice has a plan for maintaining continuity of care in the event of a patient's declining or lack of financial resources.

### Medications, Medical Supplies & Equipment and Caregivers

These items and services are provided according to individual benefit plan requirements. Over the counter medications related to the Hospice diagnosis are covered by Houston Hospice.

### Levels of Care

Hospice provides four levels of care, based on specific guidelines and criteria: Routine Home Care, General Inpatient Care, Crisis Care and Respite Care. Inpatient and Crisis Care are short term, and eligibility will be re-evaluated daily. The hospice team will determine when a change in the level of care is needed. For example, some patients may be moved from inpatient setting to home setting.

#### 1. Routine Home Care

Intermittent visits by hospice team members, plus nurse available by phone around the clock, to assist in management and care for the Hospice patient.

#### 2. Crisis Home Care

A minimum of 8 hours of care per day of nursing care may be provided short term during periods of symptom crisis in order to maintain the patient at home. Eligibility is reviewed daily, and Routine Home Care is resumed once the symptom crisis is under control.

#### 3. Respite Care

Up to 5 days of care provided at a contracted facility to provide rest for family and caregivers.

#### 4. Inpatient Care

Admission to Houston Hospice Inpatient Unit or contracted facility short term for unrelieved symptoms that cannot be managed in another setting. Eligibility is reviewed daily, and Routine Home Care is resumed once the symptom is under control. Some patients may be moved from inpatient setting to home setting.

## Services Not Covered Under Routine Hospice Care

The Hospice philosophy is based on supportive care and symptom management rather than curative care. Hospice is reimbursed through Medicare, Medicaid, private insurance, or self-pay on a per diem basis. **Coverage for medications, medical supplies, equipment and caregivers is provided according to the patient's individual benefit plan.**

The following items or services are **NOT COVERED** by Houston Hospice under routine Hospice care:

- Prescription medications for illnesses other than the Hospice diagnosis
- Medical supplies for conditions other than the Hospice diagnosis
- Unapproved medications
- Tube feedings, therapeutic dietary formulas or over-the-counter supplements (unless approved in advance by Houston Hospice and are related to Hospice care)
- Personal hygiene products or charges for grooming services
- Sitter services or around-the-clock paid caregivers
- Charges for Nursing Facility services (except in specific Medicaid Hospice contracts)
- Dentist, physician or podiatrist services unrelated to the terminal diagnosis
- Physician services not pre-approved by Hospice
- Hospital services not pre-approved by Hospice
- Ambulance services not pre-approved by Hospice
- Aggressive or curative therapies
- Assisted ventilation (i.e., ventilator) unless approved in advance

If the patient or family desires any of the above non-covered items, the patient/family have a choice of either reinstating the patient's traditional health benefits, thus discontinuing Hospice services, or paying for the non-covered services.

## Honoring Your Advance Directives

- It is the policy of Houston Hospice to comply with the Advance Directives Act CHAPTER 166, HEALTH AND SAFETY CODE regarding Advance Directives and Out of Hospital Do Not Resuscitate Orders.
- Houston Hospice complies with the Federal and State law of informed consent and the patient's right to accept or refuse medical treatment.
- Only RNs and LVNs employed at Houston Hospice are required to be CPR certified. If a patient has an advance directive desiring cardiopulmonary resuscitation or has no advance directive and wants to be resuscitated upon cessation of pulse or respirations, and the nurse is in the home at the time of the event, the nurse will initiate basic CPR and call 911. If CPR is desired while the patient is in our inpatient facility, 911 will be called and RNs and LVNs will initiate basic CPR.
- No advance life support is provided by Houston Hospice. For example, we do not provide heart monitors, intubation, or ventilators during an event. Basic life support includes only chest compressions, mouth-to-mouth breathing and a call to 911.
- If the patient has an advance directive, Houston Hospice will honor that advance directive. Please see the "Advance Directives Policy" on page 4 of this admission document.

## Advance Directives Policy

**Policy:** Each patient has the right to make decisions involving his/her health care. The patient has the right to formulate advance directives and appoint a representative to make health care decisions on his/her behalf to the extent permitted by the law.

**Procedure:**

1. The provision of patient care shall not be conditioned on the existence of an advance directive.
2. To the extent that a treatment decision or an advance directive validly executed or issued conflicts with another treatment decision or an advance directive executed or issued, the treatment decision made or instrument executed later in time controls.
3. At the time of the patient's admission, printed and verbal information on advance directives shall be provided to the patient. If, at the time, the patient is incompetent or otherwise incapacitated and unable to receive the information, Houston Hospice shall provide the required written information, in the following order of preference, to:
  - a. The individual's legal guardian;
  - b. A person responsible for the health care decisions of the individual;
  - c. The individual's spouse;
  - d. The individual's adult child;
  - e. The individual's parent; or
  - f. The person admitting the individual.
  - g. If Houston Hospice is unable, after diligent search, to locate an individual listed above, the health care provider is not required to provide the notice.
  - h. If the patient was incompetent or otherwise incapacitated and unable to receive the information upon admission but later becomes able to receive the information, Houston Hospice shall provide the written information at the time the patient becomes able to receive it.
4. Houston Hospice will inquire whether the patient has an advance directive at the time of the initial assessment.
  - a. If an advance directive is not in place and the patient expresses the desire to establish an advance directive, then a medical social services referral may be initiated.
  - b. If an advance directive is in place, Houston Hospice will make every effort to obtain a copy of the advance directive and file it in the medical record.

5. A competent adult may at any time execute a written directive.
  - a. The declarant (patient) must sign the directive in the presence of two witnesses.
    - i. Each witness must be a competent adult; and at least one of the witnesses must be a person who is not:
      1. A person designated by the declarant (patient) to make a treatment decision;
      2. A person related to the declarant (patient) by blood or marriage;
      3. A person entitled to any part of the declarant's (patient's) estate after the declarant's death under a will or codicil executed by the declarant or by operation of law;
      4. The attending physician;
      5. An employee of the attending physician;
      6. An employee of a health care facility in which the declarant is a patient if the employee is providing direct patient care to the declarant or is an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility; or
      7. A person who, at the time the written advance directive is executed or, if the directive is a non-written directive issued under this chapter, at the time the non-written directive is issued, has a claim against any part of the declarant's (patient's) estate after the declarant's (patient's) death.
    - ii. The witnesses must sign the directive, OR the declarant (patient), in lieu of signing in the presence of witnesses, may sign the directive and have the signature acknowledged before a notary public.
  - b. A declarant (patient) may include in a directive directions other than those provided by Texas Health and Safety Code Section 166.033 and may designate in a directive a person to make a treatment decision for the declarant (patient) in the event the declarant (patient) becomes incompetent or otherwise mentally or physically incapable of communication.
  - c. A declarant (patient) shall notify the attending physician of the existence of a written directive. If the declarant (patient) is incompetent or otherwise mentally or physically incapable of communication, another person may notify the attending physician of the existence of the written directive. The attending physician shall make the directive a part of the declarant's medical record.
6. A competent qualified adult patient may issue a directive by a non-written means of communication when he/she communicates the directive in the presence of the attending physician and two qualified witnesses. The physician shall document the existence of such a directive and the names of the witnesses in the patient's record.
  - a. A qualified patient is a patient with a terminal or irreversible condition that has been diagnosed and certified in writing by the attending physician.
  - b. Witness must apply as described above in 5.a.i.
7. The following persons may execute a directive on behalf of a qualified patient who is younger than 18 years of age:
  - a. The patient's spouse, if the spouse is an adult;
  - b. The patient's parents; or
  - c. The patient's legal guardian.

8. The desire of a qualified patient, including a qualified patient younger than 18 years of age, supersedes the effect of a directive. (A qualified patient is a patient with a terminal or irreversible condition that has been diagnosed and certified in writing by the attending physician.)
9. When an adult qualified patient has executed or issued a directive and is incompetent or otherwise mentally or physically incapable of communication:
  - a. If the adult qualified patient has designated a person to make a treatment decision as authorized by Texas health and Safety Code Section 166.032(c), the attending physician and the designated person may make a treatment decision in accordance with the declarant's (patient's) directions.
  - b. If the adult qualified patient has not designated a person to make a treatment decision, the attending physician shall comply with the directive unless the physician believes that the directive does not reflect the patient's present desire.
10. When patient has not executed or issued a directive and is incompetent or incapable of communication:
  - a. If an adult qualified patient has not executed or issued a directive and is incompetent or otherwise mentally or physically incapable of communication, the attending physician and the patient's legal guardian or an agent under a medical power of attorney may make a treatment decision that may include a decision to withhold or withdraw life-sustaining treatment from the patient. (A qualified patient is a patient with a terminal or irreversible condition that has been diagnosed and certified in writing by the attending physician.)
  - b. If the patient does not have a legal guardian or an agent under a medical power of attorney, the attending physician and one person, if available, from one of the following categories, in the following priority, may make a treatment decision that may include a decision to withhold or withdraw life-sustaining treatment:
    - i. The patient's spouse;
    - ii. The patient's reasonably available adult children;
    - iii. The patient's parents; or
    - iv. The patient's nearest living relative.
  - c. A treatment decision made must be based on knowledge of what the patient would desire, if known.
  - d. A treatment decision made must be documented in the patient's medical record and signed by the attending physician.
  - e. If the patient does not have a legal guardian and a person listed in above in (b) is not available, a treatment decision made must be concurred in by another physician who is not involved in the treatment of the patient or who is a representative of an ethics or medical committee of the health care facility in which the person is a patient.
  - f. The fact that an adult qualified patient has not executed or issued a directive does not create a presumption that the patient does not want a treatment decision to be made to withhold or withdraw life-sustaining treatment.
  - g. A person listed in above in (b) who wishes to challenge a treatment decision made under this section must apply for temporary guardianship under Section 875, Texas Probate Code.

11. Patient certification and prerequisites for complying with directive:
  - a. An attending physician who has been notified of the existence of a directive shall provide for the declarant's certification as a qualified patient on diagnosis of a terminal or irreversible condition.
  - b. Before withholding or withdrawing life-sustaining treatment from a qualified patient under this subchapter, the attending physician must determine that the steps proposed to be taken are in accord with this subchapter and the patient's existing desires.
12. Duration of directive: A directive is effective until it is revoked as prescribed by Texas Health & Safety Code Section 166.042.
  - a. A declarant may revoke a directive at any time without regard to the declarant's mental state or competency. A directive may be revoked by:
    - i. The declarant or someone in the declarant's presence and at the declarant's direction canceling, defacing, obliterating, burning, tearing, or otherwise destroying the directive;
    - ii. The declarant signing and dating a written revocation that expresses the declarant's intent to revoke the directive; or
    - iii. The declarant orally stating the declarant's intent to revoke the directive.
  - b. A written revocation executed as prescribed by Subsection (a)(2) takes effect only when the declarant or a person acting on behalf of the declarant notifies the attending physician of its existence or mails the revocation to the attending physician. The attending physician or the physician's designee shall record in the patient's medical record the time and date when the physician received notice of the written revocation and shall enter the word "VOID" on each page of the copy of the directive in the patient's medical record.
  - c. An oral revocation issued as prescribed by Subsection (a)(3) takes effect only when the declarant or a person acting on behalf of the declarant notifies the attending physician of the revocation. The attending physician or the physician's designee shall record in the patient's medical record the time, date, and place of the revocation, and, if different, the time, date, and place that the physician received notice of the revocation. The attending physician or the physician's designees shall also enter the word "VOID" on each page of the copy of the directive in the patient's medical record.
  - d. Except as otherwise provided by this subchapter, a person is not civilly or criminally liable for failure to act on a revocation made under this section unless the person has actual knowledge of the revocation.
13. Reexecution of a directive: A declarant may at any time reexecute a directive in accordance with the procedures prescribed by Texas health and Safety Code Section 166.032, including reexecution after the declarant is diagnosed as having a terminal or irreversible condition.
14. Assistance on the execution of these documents shall be provided if requested.
15. The advance directives completed by the patient/patient's legal representative shall be noted in the electronic medical record (EMR). The EMR shall also note Houston Hospice employee who discussed advance directives and provided written information regarding advance directives with patient/patient's legal representative



16. Completed copies of the advance directive(s) shall be placed in the medical record. If a patient is transferred to another agency or facility and has completed directives, a copy of such directives shall be sent with the patient.
17. Interdisciplinary team members shall be informed when there is a change in the patient's advance directives.
18. If, at any time, a patient refuses medical treatment, Houston Hospice staff will discuss the refusal with the physician and document both the refusal and the physician notification in the EMR.
19. Houston Hospice will not provide any medical treatment that the patient has not consented to receive.
20. Houston Hospice will honor advance directives as evidence of the patient's desire to have medical treatment withheld or discontinued.
21. Houston Hospice will provide education to Houston Hospice staff on advance directives.
22. Houston Hospice staff (when qualified) shall initiate cardiopulmonary resuscitation and immediately call 911 if a patient desires/requires this intervention and does not have a 'Do Not Resuscitate' order.

## Human Resources Policies & Procedures

### Drug-Free Workplace/Chemical Abuse Policy 2.080

**Applicable To:** All employees, volunteers, contract workers and visitors.

#### Purpose

To maintain a drug-free workplace in compliance with the requirements of the Drug-Free Workplace Act of 1988.

#### Process

Houston Hospice prohibits individuals, including employees, volunteers, patients, visitors and contractors from possessing, manufacturing, distributing, using or consuming illegal drugs or controlled substances, drug paraphernalia, alcoholic beverages, or chemical inhalants on Houston Hospice owned or leased property, or while performing agency business, or representing Houston Hospice at a function. Reporting to work or performing agency-related duties while under the influence of any of the above-listed items is also prohibited.

The legal use of prescribed medication is permitted on the job only if the medications do not hinder or affect the employee, volunteer and/or contractor in performing required job duties.

#### Testing of Employees

For the protection of both patients and staff, drug testing is a condition of employment. Houston Hospice also reserves its right to have drug testing performed on employees under the following conditions:

- A. When there is a reasonable suspicion that an employee/volunteer is under the influence of drugs or alcohol;
- B. When an employee is found in possession of alcohol, drugs, or drug paraphernalia in violation of this policy, or when such alcohol, drugs, or paraphernalia are found in an area controlled by the employee (e.g., employee's locker or desk);
- C. Following any near-miss or actual accident that could or does result in injury requiring treatment or damage to property or a liability claim;
- D. In the event of a missing medication from a patient's room or home, and the employee/volunteer was the assigned caregiver during the time of the disappearance of the medication;
- E. In the event of a pharmacy discrepancy in the IPU medication inventory;
- F. As part of a physical examination of all job applicants to whom a job offer has been made, where the applicant has been informed that such test is a condition of employment; or
- G. As part of any periodic medical examinations required or provided.

Houston Hospice will under no circumstances perform a drug test on an employee without first obtaining the employee's signed consent. Signed consent will also be obtained for release of the test results. Should an employee refuse to submit to a drug test or authorize release of the test results, the employee shall be informed that such refusal constitutes grounds for disciplinary action, which may include termination of employment. The consent form will be designed to allow the employee or applicant to indicate any type of medication they may be on, or otherwise provide information that might be relevant to the reliability of the test.

Any drug test that is performed on an employee will be performed utilizing the services of a registered testing laboratory, and shall consist of an initial screening test, and a confirmatory test on any sample taken from an employee that produces a positive test result on the initial screening.

If an employee states on the consent form that he or she is taking a medication prescribed to the employee by a physician, the employee will be asked to take the test anyway. If the test reveals the presence of the prescribed drug, the employee will not be subject to discipline unless the levels show purposeful abuse. Even in the absence of purposeful abuse, the prescribed drug may make the employee unfit for work, in which case the employee may be asked to go home and will not be allowed to report to work when under the influence of the prescribed drug.

The fact of the test, and any test results, will be kept strictly confidential. Human Resource personnel will be designated to receive test results.

### **Consequences of a Positive Test Result**

Should an employee have a test result confirmed positive which indicates the presence of drugs or alcohol, the employee is subject to disciplinary measures which may include termination of employment. In the event of a confirmed positive test result, the employee/applicant will be given an opportunity to explain the results of the drug test, and may be granted any other appeal procedures deemed appropriate by Human Resources and the President/CEO prior to the commencement of any disciplinary/other appropriate measures resulting from the drug test.

## Policy or State/Federal Drug Statutes Violations

A violation by an employee of any of the provisions of the Drug-Free Workplace/Chemical Abuse Policy may result in disciplinary measures against the employee, which may include termination of employment.

Any employee convicted on a charge of illegal possession, use, distribution, purchase or sale of any drug or alcohol, either on or off Houston Hospice property, must report such conviction to Houston Hospice within five (5) calendar days of the conviction. Any employee so convicted will be subject to discipline, which may include satisfactory participation and completion of a drug abuse assistance or rehabilitation program, or termination of employment if it is determined that such conduct adversely affects patient care or employee safety. Any costs associated with such treatment or rehabilitation will be the responsibility of the employee.

Any employee successfully completing a drug abuse assistance or rehabilitation program as a condition of continuation of employment at Houston Hospice will be subject to random drug screens for the next five (5) years of employment. Any positive drug test results from the random drug testing that are in violation of this policy will result in immediate termination of employment.

Patients and/or visitors found in violation of this policy may be asked to leave the premises and may be reported to local law enforcement authorities.

## Definitions

1. An employee is considered to be ***“on the job”*** for purpose of this policy whenever he or she is:
  - a. On Houston Hospice property, including parking lots, at any time;
  - b. Driving or riding as a passenger in a Houston Hospice vehicle; or
  - c. Acting on behalf of Houston Hospice in his or her role as a Houston Hospice employee, whether on or off Houston Hospice property, at any time
2. ***“Drug”*** includes alcoholic beverages, chemical inhalants, illegal drugs and prescription drugs, unless such prescription drugs are taken as directed by the employee’s physician.
3. ***“Illegal Drug”*** includes any drug which:
  - a. is not legally obtainable;
  - b. may be legally obtainable, but is not legally obtained; or
  - c. is being used in a manner or for a purpose other than as prescribed.
4. ***“Alcohol”*** is any intoxicating substance or beverage containing alcohol.
5. ***“Employee”*** means any person who performs services for Houston Hospice for compensation or under any contract for hire, either part or full-time.
6. ***“Drug test”*** means any test administered to determine the presence or absence of a drug or a drug metabolite in a person’s urine or blood.

7. "**Controlled Substances**" are defined by the Attorney General of the United States under the Controlled Substances Act of 1970. They include, but are not limited to, the following actual or synthetic drugs;

- marijuana
- heroin
- hashish
- cocaine
- hallucinogens
- depressants and stimulants

and any other prescription drug not prescribed for current personal treatment for the employee, patient, contractor, or visitor by an accredited physician.

## Rights of the Individual

### HOUSTON HOSPICE PROTECTS AND PROMOTES THE RIGHTS OF EACH INDIVIDUAL UNDER ITS CARE.

An 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.

Prior to the initiation of care, you have the right to:

- Receive written notice of policies governing your conduct, rights and responsibilities
- Be informed, before care is initiated, of the extent to which payment may be expected from you, a third-party payer, and any other source of funding known to the agency.

Regarding the care to be provided, you have the right to be informed in advance about:

- The care to be provided
- The plan of care
- Expected outcomes
- Barriers to treatment
- Any changes in the care to be provided

Care is to be initiated only after you or your legal representative has given written informed consent for the type of care and services that may be provided by the agency. You or your legal representative must sign or mark the consent form.

You have the right to participate in:

- The planning of the care or treatment
- The planning of changes in the care or treatment

You have the right to:

- Be advised or consulted with in advance of any changes in the care or treatment.
- Have assistance in understanding and exercising your rights
- Exercise your rights as a client of the agency
- Have your person and property treated with consideration, respect and full recognition of your individuality and personal needs
- Confidential treatment of your personal and medical records
- Voice grievances regarding treatment or care that is or fails to be provided, or regarding the lack of respect for property by anyone who is providing services on behalf of the agency without fear of discrimination or reprisal for doing so
- To be free from abuse, neglect and exploitation by an agency employee, volunteer or contractor
- Have his or her property and person treated with respect.
- Receive effective pain management and symptom control from the hospice for conditions related to terminal illness.
- Be involved in developing his or her hospice plan of care.

- Refuse care, services, or treatment.
- Choose his or her attending physician.
- 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.
- Be free from mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property.
- Receive information about the services covered under the hospice benefit.
- Receive information about the scope of services that the hospice will provide and specific limitations on those services.
- Be advised that Houston Hospice complies with Subpart 1 of 42 CFR 489 and receive a copy of the organization's written policies and procedures regarding advance directives, including a description of an individual's right under applicable state law and how such rights are implemented by Houston Hospice.
- Receive written information describing the organization's grievance procedure which includes the contact information, contact phone number, hours of operation, and mechanism(s) for communicating problems.
- Receive an investigation by the organization of complaints made by the patient or the patient's family or guardian regarding treatment or care and that the organization will document the existence of the complaint and the resolution of the complaint.
- Receive information addressing any beneficial relationship between the organizations and referring entities.

The patient has the right to expect that hospice will:

- Protect and promote the patient's right to exercise the rights.
- Ensure 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 Houston Hospice, are reported immediately by hospice employees and contracted staff to the hospice administrator.
- 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.
- 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.
- 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.

If you have been adjudged *incompetent* these rights are exercised by the *person appointed by law* to act on your behalf.

If you have *not* been adjudged *incompetent*, any *legal representative* may exercise these rights to the extent permitted by law.

## PATIENTS AND FAMILIES HAVE RESPONSIBILITIES

It is your responsibility to:

- Give accurate and complete health information and assist in developing and maintaining a safe home environment
- Participate in the development and update of the plan of care
- Adhere to the plan of care
- Notify the Hospice staff in advance if the patient will not be available for the next scheduled visit and if medication and/or supplies will be required for treatment
- Cooperate with the doctor, staff and other caregivers and treat Hospice staff in a courteous and respectful manner
- Return all medical equipment in the same condition it was provided
- Allow Hospice personnel reasonable time to respond to patient needs and notify Houston Hospice prior to transport to a hospital (Failure to do so will result in patient or responsible party liability for the full hospital charges and transport)
- Report problems to Houston Hospice staff as outlined above

## PLEASE NOTIFY US OF ANY PROBLEMS IN A TIMELY MANNER

- Discuss complaints with any member of your Hospice team, including the Patient Care Manager
- If the problem is not resolved, we encourage you to notify the *Quality Assurance Coordinator at 713-467-7423* for assistance. Complaint investigations shall be initiated within 10 days and completed within 30 days. A complaint against the agency may also be directed to the *President and CEO of Houston Hospice at 713-467-7423*
- Complaints may be directed to:

Texas Health and Human Services  
 Consumer Rights and Services — Complaint Intake Unit  
 Mail Code E249  
 P.O. Box 149030  
 Austin, TX 78714-9030  
 Fax: 512-438-2724 or 512-438-2722

CHAP Hotline  
 1275 K Street NW, Ste. 800  
 Washington, DC 20005  
 24-Hour toll free number 800-656-9656  
 You may call to file a complaint or if you have questions regarding the organization.



## Rights of the Elderly

### Definitions

- **Convalescent and nursing home** is an institution licensed by the Texas Department of Human Services
- **Home health services** are the provisions of health service for pay or other consideration in a patient's residence regulated under the Health and Safety Code
- **Alternate care** are services provided within an elderly individual's own home, neighborhood or community including: day care, foster care, alternative living plans, including personal care services and supportive living services, including attendant care, residential repair or emergency response services
- **Person providing services** is an individual, corporation, association, partnership or other private or public entity providing convalescent and nursing home services, home health services or alternate care services
- **Elderly individual** is an individual 60 years of age or older

### Prohibition

- A person providing services to the elderly may not deny an elderly individual a right guaranteed by the Health and Safety Code
- Each agency that licenses, registers or certifies a person providing services shall require the person to implement and enforce the Health and Safety Code. A violation of this is grounds for suspension or revocation of the license, registration or certification of a person providing services

### Rights of the Elderly

An elderly individual has the following rights:

- Rights, benefits, responsibilities and privileges granted by the constitution and laws of this state and the United States, except where lawfully restricted
- Right to be free of interference, coercion, discrimination and reprisal in exercising civil rights
- 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** Right to be free from abuse, neglect and exploitation; **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
- 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

- 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.
- 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
- An elderly person 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 services 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
- 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
- An elderly individual may participate in activities of social, religious or community groups unless the participation interferes with the rights of other persons
- 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 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 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 guardian is designated by a court, the guardian shall manage the individual's money in accordance with the Probate Code and other applicable laws
- 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
- 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
- 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
- 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
- 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; **2** acknowledges that the individual clearly understands the consequences of refusing treatment

- 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
- An elderly individual may refuse to perform services for the person providing services.
- Not later than the 30<sup>th</sup> day after 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; **2** which items and services are covered by these benefits, including items or services which the elderly individual may not be charged
- 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 participate in the program that reimburses the person providing services for the elderly individual's treatment or care; **5** the elderly individual fails, after reasonable and appropriate notices, to pay for services
- 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 to discharge the elderly individual; **2** the reason for the transfer or discharge listed above; **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; **5** the individual's right to appeal the action and the person to whom the appeal should be directed
- 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.

### List of Rights

- A person providing services shall provide each elderly individual with a written list of the individual's rights and responsibilities, including each provision of the Rights of the Elderly cited in the Health and Safety Code by the Texas Department of Human Services, before providing services, or as soon after providing services as possible, and shall post the list in a conspicuous location
- A person providing services must inform an elderly individual of changes or revisions in the list

### Rights Cumulative

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

## Reporting of Child or Adult Abuse, Neglect or Exploitation

To be in compliance with the Texas Penal Code, which requires certain persons, including any child care custodian, medical practitioner or nonmedical practitioner who has knowledge or observes a child/adult in his/her professional capacity or within the scope of his/her employment whom he/she reasonably suspects has been the victim of child/adult abuse, neglect or exploitation, to report suspected instances of child/adult abuse, neglect or exploitation call Texas Department of Family and Protective Services at 1-800-252-5400.

All Houston Hospice employees are required to comply with the above-mentioned section of the Texas Penal Code if, within his/her professional capacity or within his/her scope of employment, child/adult abuse, neglect or exploitation is suspected.

Houston Hospice shall report any employee suspected of abuse, neglect or exploitation of a client to the appropriate protective agency as well as Texas Health and Human Services.

## Medication Disposal

Policy Title: Safe Use and Disposal of Controlled Drugs in the Home		Policy Number: 6.970	
	Federal Regs.	State Regs.	CHAP
Reference:	CFR 42:418.106.e	97.860(f-n)	HII.2d.4 HII.5i

### Policy

Houston Hospice promotes the safe use of controlled substances and supports Federal guidelines for proper disposal of unused, unneeded, or expired controlled drugs to reduce the misuse of prescription drugs.

### Procedure

1. Houston Hospice shall:
  - a. Provide this policy at the time when controlled drugs are first ordered to the patient/patient's legal representative;
  - b. Discuss this policy with the patient/patient's legal representative in a language and manner that the patient/patient's legal representative understands to ensure education regarding safe use and disposal of controlled drugs.
2. In the home setting, the hospice nurse shall determine the ability of the patient/caregiver to safely self-administer drugs to the patient.
3. Oversight review of medication shall occur every two weeks by the physician in the interdisciplinary team meeting.
4. If there is reason to suspect that someone is abusing the medication, the matter will be discussed with the interdisciplinary team and appropriate action taken.
5. When death occurs in the home setting, the hospice nurse shall follow Federal guidelines in recommending that the unused controlled substance be flushed, if authorized.
6. When disposing of medications in the home, the caregiver legally authorized to dispose of medications will be instructed in the following procedure:
  - a. Take unused, unneeded, or expired drugs out of their original containers. (patches should be cut up or aspirated, injectables should be drawn from the bottle).
  - b. Mix the drugs with an undesirable substance, like used coffee grounds or cat litter, and put them in impermeable, nondescript containers, such as empty cans or sealable bags, further ensuring that the drugs are not diverted or accidentally ingested by children or pets. For added security, the container may be taped closed.
  - c. Throw these containers in the outside trash,
  - d. Drugs may be flushed down the toilet only if the accompanying patient information specifically instructs it is safe to do so.
  - e. Upon the patient's death, medications will be disposed of unless the family refuses. Documentation of disposal or family refusal will appear on the last visit note.
7. When Houston Hospice has provided medications to hospice patients in contracted facilities, such as hospitals or nursing facilities, the agency will abide by that contracted facility's policy on disposal of medications.

## Important Contact Listings

Quality Assurance Coordinator	713-467-7423
Development Office	713-467-7423
Medical Records	713-467-7423
	800-630-7894

### Rights of the Individual

Texas Health and Human Services	800-458-9858
CHAP	800-656-9656

### Reporting of Child or Adult Abuse, Neglect or Exploitation

Texas Department of Family and Protective Services (DFPS)	800-252-5400
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HOUSTON HOSPICE  
*Life Matters*

Houston Hospice, a 501(c)(3) organization, is community-based, community-supported, not for profit.

Member of the Texas Non-Profit Hospice Alliance, Texas & New Mexico Hospice Organization, The Texas Medical Center, Independent Charities of America, Visiting Nurse Associations of America and National Hospice and Palliative Care Organization.

Houston Hospice maintains patient privacy protection and adheres to the Health Insurance Portability and Accountability Act of 1996 (HIPPA).

