

CHAPTER 2

RIGHTS PROTECTION

REFERENCE CODE	GUIDELINES	CRITERIA	INFORMATION SOURCES
2.1 Client Rights	2.1 Agency will provide the client or the client's legal guardian with a copy and explanation of the client rights. Receipt of information will be documented in the client record. Copies of the Client Rights Statement are posted in various areas of the Agency.	2.1 (a) The Agency will ensure that upon clients' admission into services, they or their legal guardian will receive a copy and explanation of their rights. There is documentation in the client record that they or their legal guardian received this information.	<ul style="list-style-type: none"> • Refer to the RWGA Policy and Procedure for Client Rights • Review of Agency P&P • Review of Client Records
		2.1 (b) Copies of the Client Rights Statement are posted in various areas of the Agency which are accessible to clients.	<ul style="list-style-type: none"> • Refer to the RWGA Policy and Procedure for Client Rights • Review of Agency P&P • Review of Client Records
2.2 Confidentiality	2.2 Agency will ensure that client information is kept confidential. All Agency employees will adhere to all Federal and Texas State laws relating to confidentiality.	2.2 Client information will only be disclosed according to Federal and Texas State laws.	<ul style="list-style-type: none"> • Refer to the RWGA Policy and Procedure for Confidentiality • Review of Agency P&P • Review of Client Records • Review of Texas Health and Safety Code Title 7
2.3 Clients' Access to their Medical Records	2.3 Agency will comply with the <u>Texas Medical Practice Act</u> , Section 5.08(k).	2.3 Agency will comply with the <u>Texas Medical Practice Act</u> , Section 5.08(k). Agency will ensure that (patients) have a right of access to their own medical records unless a physician determines that access to the information would be harmful to the physical, mental, or emotional health of the patient.	<ul style="list-style-type: none"> • Refer to the RWGA Policy and Procedure for Confidentiality • Review of Agency P&P • Review of Client Records
2.3a Clients' Access to their Mental Health Records	2.3a Agency will comply with the <u>Texas Health and Safety Code</u> , Section 611.0045. Agency will ensure that (patients) have a right of access to their own mental health records unless it is determined by a licensed professional that access to the information (as a whole or in part) would be harmful to the physical, mental, or emotional health of the patient.	2.3a Upon a client's request to view his or her mental health record, the record will be made available to the client unless a licensed professional provides written documentation that access to such information would be harmful to the physical, mental, or emotional health of the (patient).	<ul style="list-style-type: none"> • Refer to the RWGA Policy and Procedure for Confidentiality • Review of Agency P&P • Review of Client Records

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2.4 Complaint and Grievance Policy and Procedures	2.4 Agency will have and implement a Policy and Procedures addressing client complaints and grievances.	2.4 (a) Agency has a Policy and Procedures for Client Complaints and Grievances.	<ul style="list-style-type: none"> • Refer to the RWGA Policy and Procedure for Complaints & Grievances • Review of Agency P&P • Review of Client Records
		2.4 (b) Agency implements this P&P.	<ul style="list-style-type: none"> • Refer to the RWGA Policy and Procedure for Complaints & Grievances • Review of Agency P&P • Review of Client Records
		2.4 (c) Agency will maintain documentation of all complaints, grievances and resolutions on a standardized form and in a language and format understandable to the client. The resolution of each grievance/complaint is also documented on the standardized form and a copy given to the client.	<ul style="list-style-type: none"> • Refer to the RWGA Policy and Procedure for Complaints & Grievances • Review of Agency P&P • Review of Client Records • Review of Agency Complaint & Grievance File
		2.4 (d) Agency will post the Complaints & Grievances poster provided by RWGA in areas that are visible to clients. For Agencies that provide services to clients in their natural environment, agency staff will provide the clients with a flyer containing the information on the poster and maintain documentation of clients' signed receipt of such.	<ul style="list-style-type: none"> • Refer to the RWGA Policy and Procedure for Complaints & Grievances • Review of Agency P&P • Review of Client Records

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2.5 Reports of Abuse, Neglect, or Exploitation of Elderly and Disabled Individuals	2.5 Agency will comply with the <u>Texas Human Resources Code</u> , Chapter 48. The Agency will also maintain documentation of all reports made to the appropriate agencies and authorities.	<p>2.5(a) The Agency will ensure that all employees comply with Chapter 48 of the <u>Human Resources Code</u>, Section 48.051: Report, which states:</p> <p>(a) <i>Except as prescribed by Subsection (b), a person having reasonable cause to believe that an elderly or disabled person is in the state of abuse, neglect, or exploitation shall report the information required by Subsection (d) immediately to the department.</i></p> <p>(b) <i>If a person has cause to believe that an elderly or disabled has been abused, neglected, or exploited in a facility operated, licensed, certified, or registered by a state agency other than the Texas Department of mental Health and Mental Retardation, the person shall report the information to the state agency that operates, licenses, certifies, or registers the facility for investigation by that agency.</i></p> <p>(c) <i>The duty imposed by Subsections (a) and (b) applies without exception to a person whose professional communications are generally confidential, including an attorney, clergy member, medical practitioner, social worker, and mental health professional.</i></p> <p>(d) <i>The report may be made orally or in writing. It shall include:</i></p> <ol style="list-style-type: none"> (1) <i>the name, age, and address of the elderly or disabled person;</i> (2) <i>the name and address of any person responsible for the elderly or disabled person's care;</i> (3) <i>the nature and extent of the elderly or disabled person's condition;</i> (4) <i>the basis of the reporter's knowledge; and</i> (5) <i>any other relevant information.</i> <p>Section 48.052: Failure to Report, states:</p> <p>(a) <i>A person commits an offense if the person has cause to believe that an elderly or disabled person has been abused, neglected, or exploited or is in the state of abuse, neglect, or exploitation and knowingly fails to report in accordance with this chapter. An offense under this subsection is a Class A misdemeanor.</i></p> <p>[Please note that the Agency is responsible for knowledge of this regulation in its entirety and that the above is only an excerpt from the regulation.]</p>	<ul style="list-style-type: none"> ● Review of Agency P&P ● Interviews with staff ● Review of client records ● Review of other documentation

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2.5 Reports of Abuse, Neglect, or Exploitation of Elderly and Disabled Individuals	2.5 Agency will comply with the <u>Texas Human Resources Code</u> , Chapter 48. The Agency will also maintain documentation of all reports made to the appropriate agencies and authorities.	2.5 (b) The Agency will maintain documentation of all reports made to the appropriate agencies and authorities.	<ul style="list-style-type: none"> ● Review of Agency P&P ● Interviews with staff ● Review of client records ● Review of other documentation
2.6 Reports of Abuse, Neglect, or Exploitation of Children	2.6 Agency will comply with the <u>Texas Family Code</u> , Title 5, and Subtitle E: Protection of the Child, Chapter 261: Investigation of Report of Child Abuse or Neglect. The Agency will also maintain documentation of all reports made to the appropriate agencies and authorities.	<p>2.6 (a) The Agency will ensure that all employees comply with the <u>Texas Family Code</u>, Title 5, Subtitle E: Protection of the Child, Chapter 261: Investigation of Report of Child Abuse or Neglect. Section 261.101: Persons Required to Report; Time to Report, states:</p> <p>(a) <i>A person having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.</i></p> <p>(b) <i>If a professional has cause to believe that a child has been or may be abused or neglected, the professional shall make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected. A professional may not delegate to or rely on another person to make the report. In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, juvenile probation officers, and juvenile detention or correctional officers.</i></p>	<ul style="list-style-type: none"> ● Review of Agency P&P ● Interviews with staff ● Review of client records

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2.6 Reports of Abuse, Neglect, or Exploitation of Children	2.6 Agency will comply with the <u>Texas Family Code</u> , Title 5, and Subtitle E: Protection of the Child, Chapter 261: Investigation of Report of Child Abuse or Neglect. The Agency will also maintain documentation of all reports made to the appropriate agencies and authorities.	<p>2.6 (a) (continued)</p> <p>(c) <i>The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, and an employee of a clinic or health care facility that provides reproductive services.</i></p> <p>(d) <i>The identity of an individual making a report under this chapter is confidential and may be disclosed only on the order of a court rendered under Section 261.201 or to a law enforcement officer for the purposes of conducting a criminal investigation of the report.</i></p> <p>Section 261.102: Matters to be Reported, states:</p> <p><i>A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect.</i></p> <p>Section 261.103: Report Made to Appropriate Agency, states:</p> <p><i>A report shall be made to :</i></p> <ol style="list-style-type: none"> (1) <i>any local or state law enforcement agency;</i> (2) <i>the department if the alleged or suspected abuse involves a person responsible for the care, custody, or welfare of the child;</i> (3) <i>the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or</i> (4) <i>the agency designated by the court to be responsible for the protection of children.</i> 	<ul style="list-style-type: none"> ● Review of Agency P&P ● Interviews with staff ● Review of client records

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2.6 Reports of Abuse, Neglect, or Exploitation of Children	2.6 Agency will comply with the <u>Texas Family Code</u> , Chapter 34: Report of Child Abuse, § 34.01: Persons Required to Report, § 34.02: Contents of Report: To Whom Made, and § 34.07: Failure to Report: Penalty. The Agency will also maintain documentation of all reports made to the appropriate agencies and authorities.	<p>2.6 (a) (continued)</p> <p>Section 261.104: Contents of Report, states:</p> <p><i>The person making a report shall identify, if known:</i></p> <ol style="list-style-type: none"> (1) <i>the name and address of the child;</i> (2) <i>the name and address of the person responsible for the care, custody, or welfare of the child; and</i> (3) <i>any other pertinent information concerning the alleged or suspected abuse or neglect.</i> <p>Section 261.106: Immunities, states:</p> <ol style="list-style-type: none"> (a) <i>A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or imposed.</i> (b) <i>Immunity from civil and criminal liability extends to an authorized volunteer of the department or a law enforcement officer who participates at the request of the department in an investigation of alleged or suspected abuse or neglect or in an action arising from an investigation if the person was acting in good faith and in the scope of the person's responsibilities.</i> (c) <i>A person who reports the person's own abuse or neglect of a child or who acts in bad faith or with malicious purpose in reporting alleged child abuse or neglect is not immune from civil or criminal liability.</i> 	<ul style="list-style-type: none"> ● Review of Agency P&P ● Interviews with staff ● Review of client records

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2.6 Reports of Abuse, Neglect, or Exploitation of Children	2.6 Agency will comply with the <u>Texas Family Code</u> , Chapter 34: Report of Child Abuse, § 34.01: Persons Required to Report, § 34.02: Contents of Report: To Whom Made, and § 34.07: Failure to Report: Penalty. The Agency will also maintain documentation of all reports made to the appropriate agencies and authorities.	<p>2.6 (a) (continued)</p> <p>Section 261.107: False Report: Penalty, states:</p> <p><i>A person commits an offense if the person knowingly or intentionally makes a report as provided in this chapter that the person knows is false or lacks factual foundation. The first offense under this section is a Class A misdemeanor; a subsequent offense under this section is a state jail felony.</i></p> <p>Section 261.109. Failure to Report; Penalty, states:</p> <p>(a) <i>A person commits an offense if the person has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report as provided in this chapter.</i></p> <p>(b) <i>An offense under this section is a Class B misdemeanor.</i></p> <p>[Please note that the Agency is responsible for knowledge of this regulation in its entirety and that the above is only an excerpt from the regulation.]</p>	<ul style="list-style-type: none"> ● Review of Agency P&P ● Interviews with staff ● Review of client records
		<p>2.6 (b) The Agency will maintain documentation of all reports made to the appropriate agencies and authorities.</p>	<ul style="list-style-type: none"> ● Review of Agency P&P ● Interviews with staff ● Review of client records
2.7 Consent for Services	2.7 Consent for services will be obtained from the client or the client's legal guardian.	2.7 The Agency will ensure that upon admission of a client into services, consent for services will be obtained from the client or the client's legal guardian. This consent for services will be filed in the client record.	<ul style="list-style-type: none"> ● Review of Agency P&P ● Review of client records