**Section 380.140 Consumer Rights and Choices**

a) *Consumers served by a facility under* the *Act* and this Part *shall have all the rights guaranteed pursuant to Chapter II, Article I of the Mental Health and Developmental Disabilities Code, a list of which shall be prominently posted in English and any other language representing at least 5% of the county population in which the specialized mental health rehabilitation facility is located*. (Section 3-101 of the Act)

1) *Each consumer and consumer's guardian or other person acting on behalf of the consumer shall be given a written explanation of all of his or her rights. The explanation shall be given at the time of admission to a facility or as soon thereafter as the condition of the consumer permits, but in no event later than 48 hours after admission and again at least annually thereafter*, except for triage. *If a consumer is unable to read* the *written explanation, it shall be read to the consumer in a language the consumer understands*. (Section 3-209 of the Act)

2) *The facility shall ensure that its staff is familiar with and observes the rights and responsibilities enumerated in Article 3* of the Act. (Section 3-210 of the Act)

b) *A consumer shall be permitted to manage his or her own financial affairs unless he or she or his or her guardian authorizes the executive director of the facility in writing to manage the consumer's financial affairs*. (Section 3-102 of the Act)

c) *To the extent possible, each consumer shall be responsible for his or her own moneys and personal property or possessions in his or her own immediate living quarters unless deemed inappropriate by a physician or other facility* LPHA *clinician and so documented in the consumer's record. In the event the moneys or possessions of a consumer come under the supervision of the facility, either voluntarily on the part of the consumer or so ordered by a facility physician or other* LPHA *clinician, each facility to whom a consumer's moneys or possessions have been entrusted shall comply with the following*:

1) *No facility shall commingle consumers' moneys or possessions with those of the facility; consumers' moneys and possessions shall be maintained separately, intact, and free from any liability that the facility incurs in the use of the facility's funds*;

2) *The facility shall provide reasonably adequate space for the possessions of the consumer; the facility shall provide a means of safeguarding small items of value for its consumers in their rooms or in any other part of the facility so long as the consumers have reasonable and adequate access to* their *possessions*; *and*

3) *The facility shall make reasonable efforts to prevent loss and theft of consumers' possessions; those efforts shall be appropriate to the particular facility and particular living setting within each facility and may include staff training and monitoring, labeling possessions, and frequent possession inventories; the facility shall develop procedures for investigating complaints concerning theft of consumers' possessions and shall promptly investigate all complaints*. (Section 3-103 of the Act)

d) *Every consumer, except those in triage centers, shall be permitted unimpeded, private, and uncensored communication of his or her choice by mail, telephone, Internet, or visitation*.

1) *The executive director shall ensure that correspondence is conveniently received and reasonably accessible*.

2) *The executive director shall ensure that consumers may have private visits at any reasonable hour unless visits are restricted due to the treatment plan of the consumer*.

3) *The executive director shall ensure that space for visits is available and that facility personnel reasonably announce their intent to enter, except in an emergency, before entering any consumer's room during visits*.

4) *Consumers shall be free to leave at any time. If a consumer in a triage center expresses a desire to contact a third party for any purpose, the facility staff shall contact that third party on behalf of the consumer*. (Section 3-108 of the Act)

e) *A consumer shall be permitted the free exercise of religion. Upon a consumer's request, and if necessary, at the consumer's expense, the executive director may make arrangements for a consumer's attendance at religious services of the consumer's choice. However, no religious beliefs or practices or attendance at religious services may be imposed upon any consumer*. (Section 3-109 of the Act)

f) *Access to Consumers*

1) *Any employee or agent of a public agency, any representative of a community legal services program, or any other member of the general public shall be permitted access at reasonable hours to any individual consumer of any facility, unless the consumer is receiving care and treatment in triage centers*. This subsection (f)(1) shall not be construed to limit the Department's ability to conduct off-hour surveys or inspections.

2) *All persons entering a facility under* the Act and *this* subsection (f) *shall promptly notify appropriate facility personnel of their presence. They shall, upon request, produce identification to establish their identity. No person shall enter the immediate living area of any consumer without first identifying himself or herself and then receiving permission from the consumer to enter. The rights of other consumers present in the room shall be respected. A consumer may terminate at any time a visit by a person having access to the consumer's living area under* the Act and *this* subsection.

3) *This* subsection (f) *shall not limit the power of the Department or other public agency otherwise permitted or required by law to enter and inspect a facility*.

4) *Notwithstanding subsection* (f)(1), *the executive director of a facility may refuse access to the facility to any person if the presence of that person in the facility would be injurious to the health and safety of a consumer or would threaten the security of the property of a consumer or the facility, or if the person seeks access to the facility for commercial purposes*.

5) *Nothing in this* subsection (f) *shall be construed to conflict with, or infringe upon, any court orders or consent decrees regarding access*. (Section 3-110 of the Act)

g) *A consumer shall be permitted to present grievances on behalf of himself or herself or others to the executive director, the consumers' advisory council (see subsection (j)), State governmental agencies, or other persons without threat of discharge or reprisal in any form or manner whatsoever. The executive director shall provide all consumers or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged*. (Section 3-112 of the Act) All facilities shall display contact information and make it accessible and visible to consumers and visitors with a minimum of interaction with staff.

h) *A consumer may refuse to perform labor for a facility*. (Section 3-113 of the Act)

i) *No consumer shall be subjected to unlawful discrimination as defined in Section 1-103 of the Illinois Human Rights Act by any owner, licensee, executive director, employee, or agent of a facility. Unlawful discrimination does not include an action by any licensee, executive director, employee, or agent of a facility that is required by* the *Act or* by this Part. (Section 3-114 of the Act)

j) Except for triage centers and crisis stabilization units*, each facility shall establish a consumers' advisory council* consisting of at least five consumers chosen by consumers. If there are not five consumers capable of functioning on the consumers' advisory council, as determined by the interdisciplinary team, consumers' substitute decision makers shall take the place of the required number of consumers. *The executive director shall designate a member of the facility staff* other than the executive director *to coordinate the establishment of, and render assistance to, the council*.

1) *No employee or affiliate of a facility shall be a member of the council*.

2) *The council shall meet at least once each month with the staff coordinator, who shall provide assistance to the council in preparing and disseminating a report of each meeting to all consumers, the executive director, and the staff*.

3) *Records of council meetings shall be maintained in the office of the executive director*, subject to compliance with the Health Insurance Portability and Accountability Act and Mental Health and Developmental Disabilities Confidentiality Act.

4) *The consumers' advisory council may communicate to the executive director the opinions and concerns of the consumers. The council shall review procedures for implementing consumer rights and facility responsibilities, and make recommendations for changes or additions that will strengthen the facility's policies and procedures as they affect consumer rights and facility responsibilities*.

5) *The council shall be a forum for*:

A) *Obtaining and disseminating information*;

B) *Soliciting and adopting recommendations for facility programming and improvements*; *and*

C) *Early identification and for recommending orderly resolution of problems*.

6) *The council may present complaints on behalf of a consumer to the Department or to any other person it considers appropriate*, without retaliation of any kind from the facility or any facility employee. (Section 3-203 of the Act)

k) A facility shall provide language assistance services in accordance with the Language Assistance Services Act and the Language Assistance Services Code.

l) A facility shall inform a consumer of his or her right to designate a substitute decision maker in writing and shall assist the consumer in naming a substitute decision maker, if the consumer requests it.

m) Pursuant to Section 380.600(g), all facilities shall conspicuously display a poster informing consumers of their right to explore or decline community transition and their right to be free from retaliation. This notice shall include a telephone number for reporting retaliation to the Department and shall include the steps a consumer should take if retaliation does occur.

n) All facilities shall provide educational materials and information to all newly admitted Williams Consent Decree Class Members within one to three days of admission, informing them of their rights and services under the Williams Consent Decree, as prescribed by the Williams Lead Defendant Agency. All facilities shall provide verification that the educational materials and information were given to a Williams Class Members, as requested by a Williams Defendant Agency.

(Source: Amended at 46 Ill. Reg. 16870, effective September 26, 2022)