



COMMISSIONER  
Jon Weizenbaum

December 19, 2012

To: Nursing Facility Providers

Subject: Information Letter 12-90 – Access to facilities by Disability Rights Texas

The purpose of this letter is to remind nursing facilities of requirements to provide immediate access to a resident by a representative of Disability Rights Texas (DRTx), the state's designated protection and advocacy agency. DRTx was known formerly as Advocacy, Incorporated.

The facility must provide access by DRTx in accordance with:

- 42 Code of Federal Regulations (CFR) Sections 483.10(j)(v) and (vi) which require Medicaid nursing facilities to provide immediate access to a resident by the state's designated protection and advocacy agency to safeguard the well-being of individuals with disabilities living in institutions; and
- Department of Aging and Disability (DADS) rules at 40 Texas Administrative Code (TAC) Section 19.413, Access and Visitation Rights, which specifies that a resident has a right to and the facility must provide immediate access to a resident as follows:
  - Section 19.413(5) to a representative of Advocacy, Incorporated, which is responsible for the protection and advocacy system for developmentally disabled individuals established under the Developmental Disabilities Assistance and Bill of Rights Act, part C; and
  - Section 19.413(6) to a representative of Advocacy, Incorporated, which is responsible for the protection and advocacy system for mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act;

Reference to Advocacy, Incorporated (i.e., DRTx) occurs in:

- 40 TAC Section 19.502(f)(6) relating to Transfer and Discharge in Medicaid-certified facilities which is based on 42 CFR Sections 483.12(a)(6)(vi) and (vii); and
- 40 TAC Section 19.403(j)(2) relating to Notice of Rights and Services which applies to all facilities, the reference is to "the protection and advocacy network" (i.e., DRTx). The federal reference for a Medicaid-certified facility is 42 CFR Section 483.10(b)(7)(iii)(F156).

DADS will update the name of the protection and advocacy network as rules are amended.

If you have questions regarding this letter, please contact DADS at: [NF.Policy@dads.state.tx.us](mailto:NF.Policy@dads.state.tx.us)

Sincerely,

*[signature on file]*

Chris Adams  
Director  
Center for Policy and Innovation

701 W. 51st St. ★ P.O. Box 149030 Austin, Texas 78714-9030 ★ (512) 438-3011 ★ [www.dads.state.tx.us](http://www.dads.state.tx.us)

*An Equal Opportunity Employer and Provider*