

# Objective 2: Supports & Services

Elizabeth Hart, LMSW – IPR

Texas Guardianship Association – 2024 Annual Conference – San Antonio, Texas



# Texas Estates Code

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Sec. 1002.031. SUPPORTS AND SERVICES. "Supports and services" means available formal and informal resources and assistance that enable an individual to:

- (1) meet the individual's needs for food, clothing, or shelter;
- (2) care for the individual's physical or mental health;
- (3) manage the individual's financial affairs; or
- (4) make personal decisions regarding residence, voting, operating a motor vehicle, and marriage.



# Texas Estates Code

## SUBCHAPTER B. APPLICATION FOR COMPLETE RESTORATION OF WARD'S CAPACITY OR MODIFICATION OF GUARDIANSHIP

### Sec. 1202.051. APPLICATION AUTHORIZED.

(a) Notwithstanding Section [1055.003](#), a ward or any person interested in the ward's welfare may file a written application with the court for an order:

(1) finding that the ward is no longer an incapacitated person and ordering the settlement and closing of the guardianship;

(2) finding that the ward lacks the capacity, or lacks sufficient capacity with supports and services, to do some or all of the tasks necessary to provide food, clothing, or shelter for himself or herself, to care for the ward's own physical health, or to manage the ward's own financial affairs and granting additional powers or duties to the guardian; or

(3) finding that the ward has the capacity, or sufficient capacity with supports and services, to do some, but not all, of the tasks necessary to provide food, clothing, or shelter for himself or herself, to care for the ward's own physical health, or to manage the ward's own financial affairs and:

(A) limiting the guardian's powers or duties; and

(B) permitting the ward to care for himself or herself, make personal decisions regarding residence, or manage the ward's own financial affairs commensurate with the ward's ability, with or without supports and services.

(b) If the guardian of a ward who is the subject of an application filed under Subsection (a) has resigned, was removed, or has died, the court may not require the appointment of a successor guardian before considering the application.



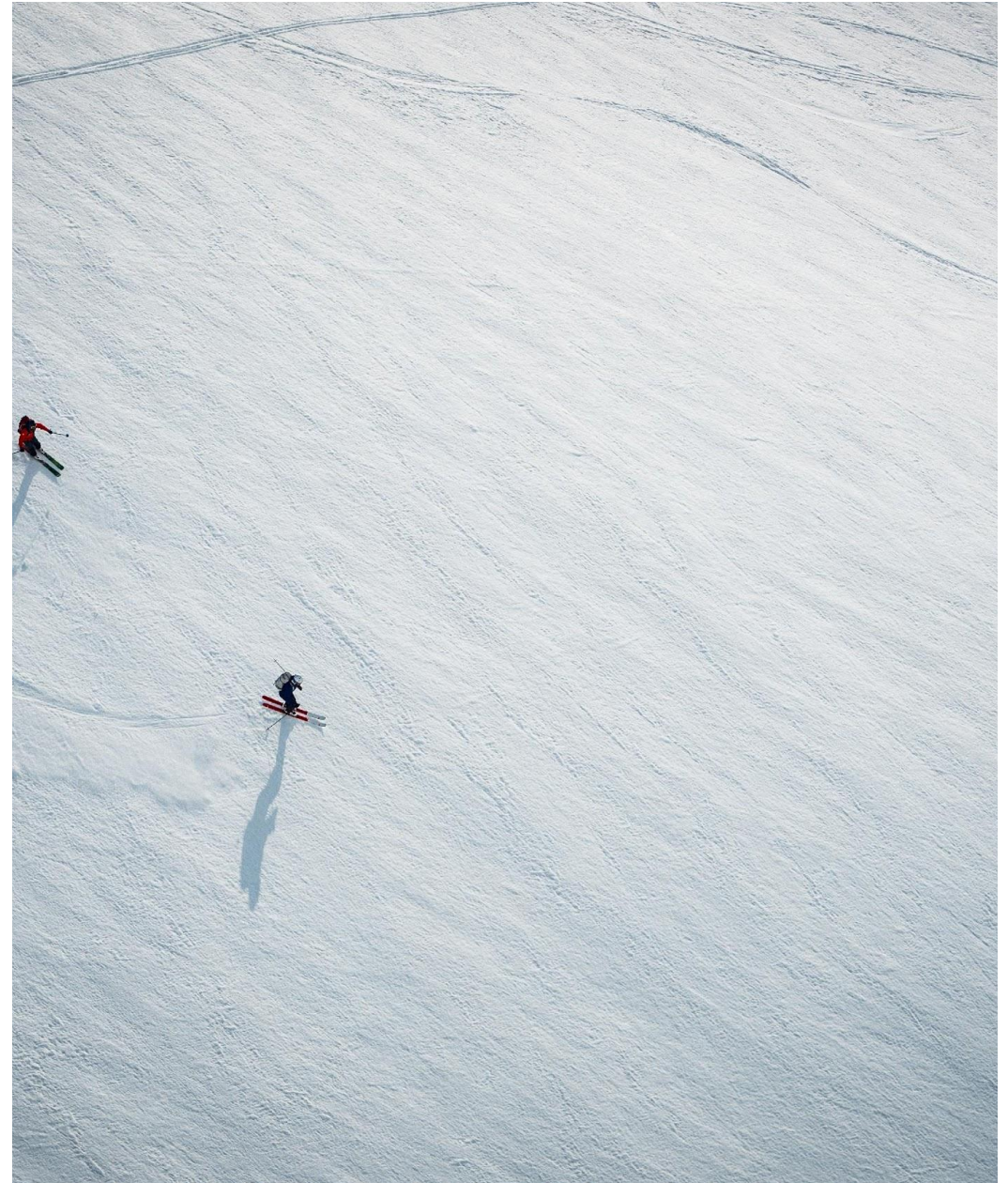
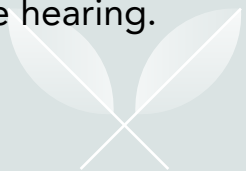
# Texas Estates Code

Sec. 1202.152. LETTER OR CERTIFICATE REQUIRED.

(a) Except as provided by Section 1202.1521, the court may not grant an order completely restoring a ward's capacity or modifying a ward's guardianship under an application filed under Section 1202.051 unless the applicant presents to the court a written letter or certificate from a physician licensed in this state that is dated:

(1) not earlier than the 120th day before the date the application was filed; or

(2) after the date the application was filed but before the date of the hearing.



# Texas Estates Code

(a) Subject to Section 1202.1521, the applicant must present to the court and the court shall consider a written letter or certificate as evidence of capacity, or sufficient capacity with supports and services, at a hearing under Section 1202.151 from:

(1) a physician licensed in this state, if the ward's incapacity resulted from a physical condition or mental condition; or

(2) a psychologist licensed in this state or certified by the Health and Human Services Commission to perform the examination, in accordance with rules adopted by the executive commissioner of the commission governing examinations of that kind, if the ward's incapacity resulted from a mental condition.

(a-1) The physician or psychologist who provides the letter or certificate under Subsection (a) must:

(1) have experience examining individuals with the physical or mental condition resulting in the ward's incapacity; or

(2) have an established patient-provider relationship with the ward.

(a-2) The letter or certificate required by Subsection (a) must be:

(1) signed by the physician or psychologist; and

(2) dated:

(A) not earlier than the 120th day before the date the application was filed; or

(B) after the date the application was filed but before the date of the hearing.

(a-3) The court may consider the following evidence of capacity, or sufficient capacity with supports and services, at a hearing under Section 1202.151:

(1) a statement from a representative of the local mental health authority or the local intellectual and developmental disability authority listing services received by the ward and the effectiveness of those services;

(2) medical records;

(3) affidavits of treating professionals regarding the effectiveness of supports and services the ward is receiving;

(4) documentation from a health care provider providing supports or services to the ward under Medicaid, including a Medicaid waiver program authorized under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n);

(5) an affidavit of the ward's employer or day habilitation program manager regarding the ward's ability to perform the necessary tasks;

(6) documentation from the United States Social Security Administration identifying the ward's representative payee; or

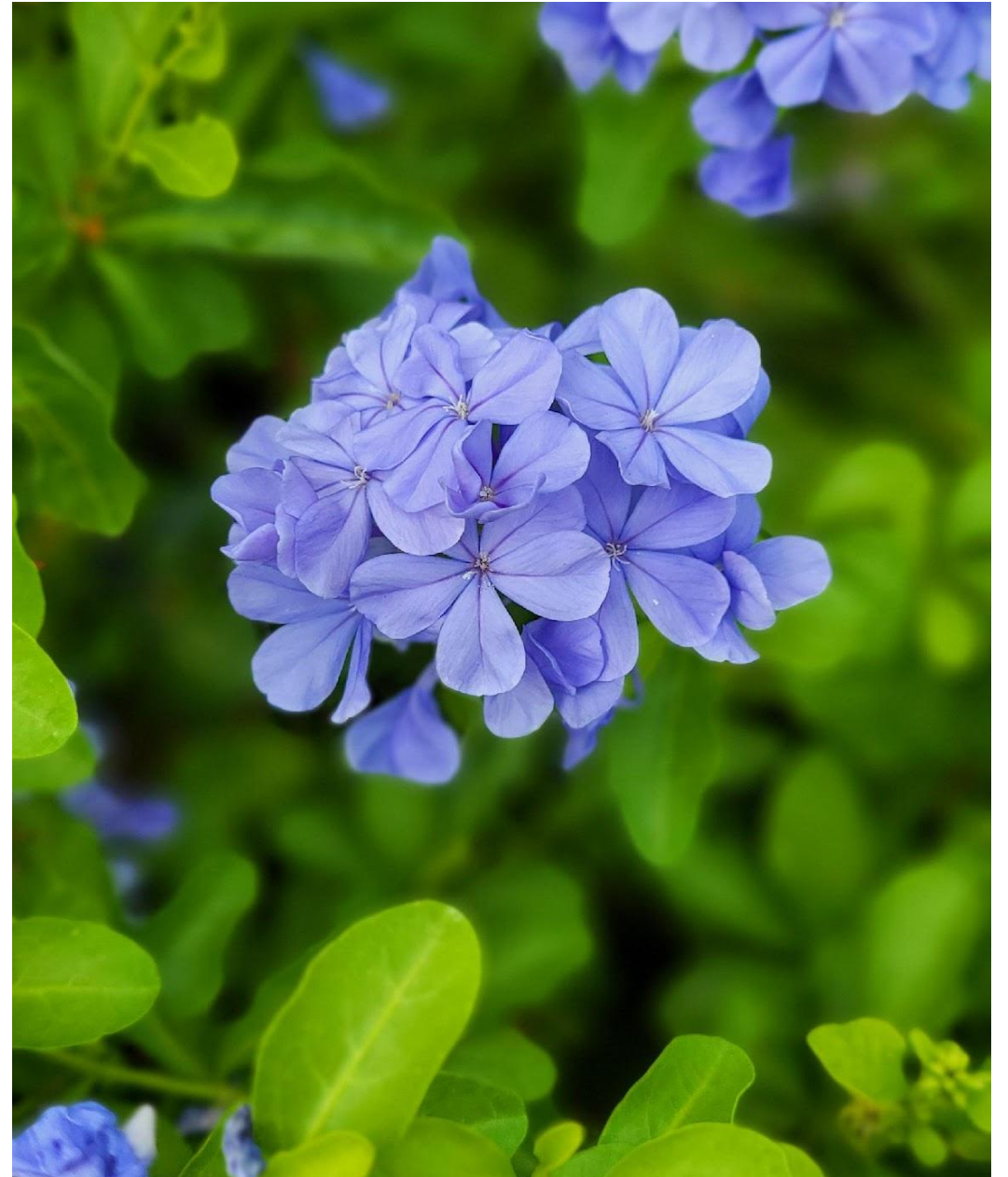
(7) any other evidence demonstrating the ward's capacity.





# American Bar Association

[HTTPS://WWW.AMERICANBAR.ORG/GROUPS/LAW\\_AGING/RESOURCES/GUARDIANSHIP\\_LAW\\_PRACTICE/SUPPORTED-DECISION-MAKING/](https://www.americanbar.org/groups/law_aging/resources/guardianship_law_practice/supported-decision-making/)



# PRACTICAL Tool for Lawyers: Steps in Supporting Decision-Making

The PRACTICAL Tool aims to help lawyers identify and implement decision-making options for persons with disabilities that are less restrictive than guardianship. It is a joint product of four American Bar Association entities – the Commission on Law and Aging, Commission on Disability Rights, Section on Civil Rights and Social Justice, and Section on Real Property, Trust and Estate Law, with assistance from the National Resource Center for Supported Decision-Making. Learn more about the PRACTICAL Tool and Resource Guide at [www.ambar.org/practicaltool](http://www.ambar.org/practicaltool).

<b>PRESUME</b> guardianship is not needed.	
<ul style="list-style-type: none"> <li>Consider less restrictive options like financial or health care power of attorney, advance directive, trust, or supported decision-making</li> <li>Review state statute for requirements about considering such options</li> </ul>	<b>Observations and Notes:</b>

<b>REASON.</b> Clearly identify the reasons for concern.	
<p>Consider whether the individual can meet some or all of the following needs:<sup>1</sup></p> <p><b>Money Management:</b></p> <ul style="list-style-type: none"> <li>Managing accounts, assets, and benefits</li> <li>Recognizing exploitation</li> </ul> <p><b>Health Care:</b></p> <ul style="list-style-type: none"> <li>Making decisions about medical treatment</li> <li>Taking medications as needed</li> <li>Maintaining hygiene and diet</li> <li>Avoiding high-risk behaviors</li> </ul> <p><b>Relationships:</b></p> <ul style="list-style-type: none"> <li>Behaving appropriately with friends, family, and workers</li> <li>Making safe decisions about sexual relationships</li> </ul> <p><b>Community Living:</b></p> <ul style="list-style-type: none"> <li>Living independently</li> <li>Maintaining habitable conditions</li> </ul>	<b>Observations and Notes (List supports needed.):</b>

<sup>1</sup> Adapted from University of Missouri Kansas City, Institute for Human Development, "MO Guardianship: Understanding Your Options & Alternatives," <http://moguardianship.com>.

<ul style="list-style-type: none"> <li>Accessing community resources</li> </ul> <p><b>Personal Decision-Making:</b></p> <ul style="list-style-type: none"> <li>Understanding legal documents (contracts, lease, powers of attorney)</li> <li>Communicating wishes</li> <li>Understanding legal consequences of behavior</li> </ul> <p><b>Employment:</b></p> <ul style="list-style-type: none"> <li>Looking for, gaining, and retaining employment</li> </ul> <p><b>Personal Safety:</b></p> <ul style="list-style-type: none"> <li>Avoiding common dangers</li> <li>Recognizing and avoiding abuse</li> <li>Knowing what to do in an emergency</li> </ul>	
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<b>ASK</b> if a triggering concern may be caused by temporary or reversible conditions. Look for steps to reverse the condition or postpone a decision until the condition improves.	
<p>Are concerns the result of or related to temporary or reversible conditions such as:</p> <ul style="list-style-type: none"> <li><b>Medical conditions:</b> Infections, dehydration, delirium, poor dental care, malnutrition, pain</li> <li><b>Sensory deficits:</b> hearing or vision loss</li> <li><b>Medication side effects</b></li> <li><b>Psychological conditions:</b> stress, grief, depression, disorientation</li> <li><b>Stereotypes or cultural barriers</b></li> </ul>	<b>Observations and Notes:</b>

<b>COMMUNITY.</b> Determine if concerns can be addressed by connecting the individual to family or community resources and making accommodations. Ask "what would it take?" to enable the person to make the needed decision(s) or address the presenting concern.	
<p>Might any of the following supports meet the needs:</p> <p><b>Community Supports:</b></p> <ul style="list-style-type: none"> <li>In-home care, adult day care, personal attendant, congregate and home delivered meals, transportation</li> <li>Care management, counseling, mediation</li> <li>Professional money management</li> </ul> <p><b>Informal Supports from Family/Friends:</b></p> <ul style="list-style-type: none"> <li>Assistance with medical and money management</li> </ul>	<b>Observations and Notes:</b>

<ul style="list-style-type: none"> <li>• Communication assistance</li> <li>• Identifying potential abuse</li> </ul> <p><b>Accommodations:</b></p> <ul style="list-style-type: none"> <li>• Assistive technology</li> <li>• Home modifications</li> </ul> <p><b>Residential Setting:</b></p> <ul style="list-style-type: none"> <li>• Supported housing or group home</li> <li>• Senior residential building</li> <li>• Assisted living or nursing home</li> </ul>	
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<p><b>TEAM.</b> Ask the person whether he or she already has developed a team to help make decisions.</p>	
<ul style="list-style-type: none"> <li>• Does the person have friends, family members, or professionals available to help?</li> <li>• Has the person appointed a surrogate to help make decisions?</li> </ul>	<p><b>Observations and Notes:</b></p>

<p><b>IDENTIFY abilities.</b> Identify areas of strengths and limitations in decision-making if the person does not have an existing team and has difficulty with specific types of decisions.</p>	
<p>Can the individual:</p> <ul style="list-style-type: none"> <li>• Make decisions and explain his/her reasoning</li> <li>• Maintain consistent decisions and primary values over time</li> <li>• Understand the consequences of decisions</li> </ul>	<p><b>Observations and Notes:</b></p>

<p><b>CHALLENGES.</b> Screen for and address any potential challenges presented by the identified supports and supporters.</p>	
<p>Screen for any of the following challenges:</p> <p><b>Possible challenges to identified supports:</b></p> <ul style="list-style-type: none"> <li>• Eligibility, cost, timing or location</li> <li>• Risk to public benefits</li> </ul> <p><b>Possible concerns about supporters:</b></p> <ul style="list-style-type: none"> <li>• Risk of undue influence</li> <li>• Risk of abuse, neglect, exploitation (report suspected abuse to adult protective services)</li> <li>• Lack of understanding of person’s medical/mental health needs</li> </ul>	<p><b>Observations and Notes:</b></p>

<ul style="list-style-type: none"> <li>• Lack of stability, or cognitive limitations of supporters</li> <li>• Disputes with family members</li> </ul>	
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<p><b>APPOINT</b> legal supporter or surrogate consistent with person’s values and preferences.</p>	
<p>Could any of these appointments meet the needs:</p> <ul style="list-style-type: none"> <li>• Agent under health care power of attorney or advance directive</li> <li>• Health care surrogate under state law</li> <li>• Agent under financial power of attorney</li> <li>• Trustee</li> <li>• Social Security representative payee</li> <li>• VA fiduciary</li> <li>• Supporter under representation agreement, legally or informally recognized</li> </ul>	<p><b>Observations and Notes:</b></p>

<p><b>LIMIT</b> any necessary guardianship petition and order.</p>	
<p>If a guardian is needed:</p> <ul style="list-style-type: none"> <li>• Limit guardianship to what is absolutely necessary, such as:             <ul style="list-style-type: none"> <li>• Only specific property/financial decisions</li> <li>• Only property/finances</li> <li>• Only specific personal/health care decisions</li> <li>• Only personal/health care decisions</li> </ul> </li> <li>• State how guardian will engage and involve person in decision-making</li> <li>• Develop proposed person-centered plan</li> <li>• Reassess periodically for modification or restoration of rights</li> </ul>	<p><b>Observations and Notes:</b></p>

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LIDDA

LOCAL  
INTELLECTUAL/DEVELOPMENTAL  
DISABILITY AUTHORITY



# Supports and Services

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What do they look like in your life?

# Supports & Services

FORMAL

INFORMAL

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Supports are:

- Typically, informal
- Naturally occurring for many, i.e. - family
- Familiar
- Accessible to most people, both neurotypical and neurodivergent

Services are:

- Typically, formal
- Require enrollment
- Criteria for eligibility
- Can change with legislature; state or federal
- May require recipient to authorize or accept the service

# Know where to find services and explanations



<https://www.hhs.texas.gov/services/disability/intellectual-or-developmental-disabilities-idd-long-term-care>

Texans affected by severe storms can dial 2-1-1 to find services in their area.

## Intellectual or Developmental Disabilities (IDD) - Long-term Care

### Customer Service Survey

Provide feedback on your experience with HHS facilities, staff, communication, and services. [Please take this short survey.](http://HHSC.2024.HHS-CustomerSurvey.alchemer.com/s3/) [http://HHSC.2024.HHS-CustomerSurvey.alchemer.com/s3/]

### What is IDD?

[\[/about/find-us/where-can-i-find-services\]](#)

An intellectual or developmental disability, also called IDD, includes many severe, chronic conditions that are due to mental and/or physical impairments. IDD can begin at any time, up to 22 years of age. It usually lasts throughout a person's lifetime. People who have IDD have problems with major life activities such as:

- Language
- Mobility
- Learning
- Self-help
- Independent living

The [Explanation of IDD Services and Supports \(PDF\)](#) [sites/default/files/documents/doing-business-with-hhs/providers/long-term-care/idda/iddserviceseng.pdf] describes programs to help people with IDD.

### Who Can Get Help?

Each IDD service has its own rules. Most programs require that:

- You have limited income and assets.
- You show a need for services.
- You be a U.S. citizen or a qualified legal alien who lives in Texas.

Some services — such as those for children — have age limits. Others are for people of all ages.

In Texas, your local IDD authority will determine if you can get services. To get services, **one of the following must apply:**

- You must have a diagnosis of Intellectual Developmental Disorder (formally known as Intellectual Disability or ID).
- You must have a Autism Spectrum Disorder, as defined in the current edition of the Diagnostic and Statistical Manual.
- You must have a related condition and be eligible for, and enroll in, an HHSC program that serves people with IDD.
- You must be a nursing home resident with a diagnosis of IDD or a related condition.
- You must be eligible for [Early Childhood Intervention services](#) [services/disability/early-childhood-intervention-services].

### Where Can I Get Services if I Have IDD?

People with IDD can choose where to live. Where you live depends on what you want, as well as which services you qualify for. You can live in:

# Explanation of Services and Supports

Intellectual and Developmental  
Disabilities

Health and Human Services Commission

June 2019



TEXAS  
Health and Human  
Services

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## Overview

This is a brief description of intellectual and developmental disability (IDD) services and supports provided by Texas Health and Human Services Commission (HHSC). Some services and supports have interest lists because they do not have immediate openings available. Persons who want particular services or supports should add their names to the appropriate interest list as soon as possible. Persons who are now receiving particular services or supports may add their names to the interest list for other services and supports.

For more information about services and supports, including a list of providers in your area, please contact your local IDD authority (LIDDA). You can find your LIDDA's contact information at <https://apps.hhs.texas.gov/contact/search.cfm>.

## Services and supports provided through HHSC

Following are descriptions of services and supports organized by funding source (state or federal) and by program type. They range from community-based services and supports allowing persons to remain in their own or their family's homes, to residential services in which persons live in a structured setting with 24-hour supervision.

### General Revenue (GR) funded services (state funded)

GR funded services are primarily intended to help persons remain in their own or their family's home. Not all GR funded services described in this section are available in all areas of the state. These services are provided by or through a LIDDA. Except for crisis services and a "determination of eligibility for IDD services and supports," to receive state-funded services, a person who lives in a LIDDA's service area must meet one of the following:

1. Have a diagnosis of an intellectual disability, which is based on:
  - measure of the person's IQ;
  - a determination of the person's adaptive behavior level (ABL); and
  - evidence of the disability that originated before the person's 18th birthday.

# Provider Regulations

[HTTPS://WWW.HHS.TEXAS.GOV/REGULATIONS/HANDBOOKS](https://www.hhs.texas.gov/regulations/handbooks)



Texans affected by severe storms can dial 2-1-1 to find services in their area.

## Handbooks

HHS has many handbooks, which outline the rules employees and contracted providers are held accountable for when providing services to eligible Texans. We provide these for all Texans to view as part of our effort to be transparent in service delivery.

### Assistive Services Providers

- The [Assistive Technology Trainer Guidelines and Procedures](#) [/handbooks/assistive-technology-trainer-guidelines-procedures] is used to prepare people who are blind to effectively use assistive technology in employment or in educational settings after high school.
- The [Board for Evaluation of Interpreters \(BEI\) Handbook](#) [/handbooks/board-evaluation-interpreters] outlines the general operations and procedures of the BEI general interpreter certification program and provides guidance for both current and prospective BEI-certified interpreters for people who are deaf and hard of hearing in Texas.
- The [Comprehensive Rehabilitation Services \(CRS\) Standards for Providers Manual](#) [/handbooks/comprehensive-rehabilitation-services-crs-standards-providers] is the official reference document of provider requirements for contracted goods and services for the CRS program.
- The [Independent Living Base/Operational Grant Standards for Services Providers](#) [/handbooks/independent-living-baseoperational-grant-standards-service-providers] outlines the general operations and procedures for the Centers for Independent Living receiving operational funds to provide core services.
- The [Independent Living Services Standards for Providers](#) [/handbooks/independent-living-services-standards-providers] describes steps for providing the services that help consumers live more independently.
- The [Office for Deaf and Hard of Hearing Services Manual](#) [/handbooks/office-deaf-hard-hearing-services-manual] outlines procedures for the Deaf and Hard of Hearing program.

### Contracting and Procurement

- The [HHS Procurement and Contract Management Handbook \(PDF\)](#) [/sites/default/files/documents/pcs-procurement-contract-management-handbook.pdf] is the comprehensive handbook of all purchasing and contract management policies and procedures that must be followed by HHS agencies. It serves as a purchasing guide for HHS agencies and establishes requirements for interface between the Procurement and Contracting Services Division of and HHS agencies for purchases conducted by PCS on behalf of the agencies.

### Fair Hearings and Fraud

- The [Fair and Fraud Hearings Handbook](#) [/handbooks/fair-fraud-hearings-handbook] includes policies, procedures, and responsibilities for handling client and contract appeals, detecting and handling potential fraud cases, and protecting the civil rights of clients.
- The [Security and Accountability Handbook](#) [/handbooks/security-accountability-handbook] contains procedures for safeguarding program benefits from fraud, abuse, and misuse.

### Guardianship Handbooks

- The [Guardianship Provider Handbook](#) [/handbooks/guardianship-provider-handbook] contains procedures relating to referrals, billing and payment, and contract monitoring for guardianship providers.

### Long-term Care Community-based Programs

- The [Community Care Services Eligibility Handbook](#) [/handbooks/community-care-services-eligibility-handbook] contains eligibility criteria, policy and procedures for agency programs. HHSC provides an array of services and community supports that enable people who are elderly or who have disabilities to avoid institutionalization.
- The [Consumer Directed Services Handbook](#) [/handbooks/consumer-directed-services-handbook] includes rules and procedures for consumers, employers, Consumer Directed Service Agency (CDSA) staff, case managers, contract managers, staff and other interested parties.
- The [Consumer Managed Personal Attendant Services Provider Manual](#) [/handbooks/consumer-managed-personal-attendant-services-provider-manual] provides information to licensed agencies under contract to provide personal assistance services to individuals who have physical disabilities and who are able to supervise an attendant or have someone who can supervise the attendant for them.
- The [Contracting to Provide Primary Home Care Services Handbook](#) [/handbooks/contracting-provide-primary-home-care-services] contains rules for provider agencies contracting to provide Community Care for the Aged and Disabled Primary Home Care services.
- The [Contracting to Provide Special Services to Persons with Disabilities \(SSPD\) Handbook](#) [/handbooks/contracting-provide-special-services-persons-disabilities] contains rules for adult day care facilities and other provider agencies contracting to provide SSPD and SSPD 24-hour shared attendant care.
- The [Day Activity and Health Services \(DAHS\) Provider Manual](#) [/handbooks/day-activity-health-services-provider-manual] contains rules and procedures for administering the DAHS Program. It is incorporated by reference as a part of the DAHS contract.
- The [Emergency Response Services \(ERS\) Provider Manual](#) [/handbooks/emergency-response-services-provider-manual] contains rules and procedures for administering the ERS Program. It is incorporated by reference as a part of the ERS contract.
- The [Electronic Visit Verification Policy Handbook \(EVV\)](#) [/handbooks/electronic-visit-verification-policy-handbook] contains EVV utilization standards and policy requirements for provider agencies who are contracted HHSC and Managed Care Organizations (MCOs) to adhere to.
- The [Habilitation Coordination Billing Guidelines](#) [/handbooks/habilitation-coordination-billing-guidelines] informs local intellectual and development disability authorities about billing and system reporting requirements regarding habilitation coordination provided through the Preadmission Screening and Resident Review program.
- The [Home-Delivered Meals Provider Manual](#) [/handbooks/home-delivered-meals-provider-manual] applies to provider agencies that receive Title XX and/or Title XIX funding and to the Title XX/Title XIX funded portion of a common provider. This document replaces the Contracting to Provide Home-Delivered Meals Handbook.
- The [Intellectual and Developmental Disability Preadmission Screening and Resident Review \(IDD-PASRR\) Handbook](#) [/handbooks/intellectual-developmental-disability-preadmission-screening-resident-review-idd-pasrr-handbook] contains policies and procedures regarding the responsibilities of local intellectual and developmental disability authorities related to the PASRR program.
- The [Local Intellectual and Developmental Disability Authority Handbook](#) [/handbooks/local-intellectual-developmental-disability-authority-handbook] includes forms and publications for use by LA staff.
- The [Medicaid Hospice Provider Manual](#) [/handbooks/medicaid-hospice-provider-manual] contains policy that providers must follow when administering the program and meeting the needs of hospice recipients.
- The [Preadmission Screening and Resident Review Mental Illness Handbook](#) [/handbooks/preadmission-screening-resident-review-mental-illness-handbook] provides instructions and procedures for local mental health authorities and local behavioral health authorities in implementing PASRR requirements.
- The [Transition Assistance Services Orientation Handbook](#) [/handbooks/transition-assistance-services-orientation-handbook] outlines the delivery of transition assistance services.

### Long-term Care Facility-based Programs

- The [Licensed Intermediate Care Facility for Individuals with an Intellectual Disability or Related Conditions \(ICF/IID\) Provider Manual](#) [/handbooks/licensed-icfiid-provider-manual] is a guide for providers contracting with HHSC to provide 24-hour residential care and treatment services to individuals who have a diagnosis of an intellectual disability or a related condition.

### Long-term Care Waiver Programs





# Alternatives, Supports & Services across codes

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Supported Decision Making

Texas Estates Code § 1357.002(3)



Surrogate Decision Maker

Texas Health & Safety Code § 313.002 (10)





# Thank you!

Elizabeth Hart, LMSW – IPR

Assistant Court Investigator

Tarrant County

Probate Court No. 2

o/f 817-212-7041