

Nursing Home Residents' Rights



**Board on Aging
and Long Term Care
Ombudsman Program**

**Advocates for the
Long Term Care
Consumer 60 years
of age or older**



All residents in facilities have basic human and civil rights guaranteed to them under Federal and State law.

These rights belong to each resident, regardless of physical or mental disability. Although a court finding of incompetence may result in a resident's

loss of certain rights, all of the rights set out below are either retained by an incompetent resident or may be exercised by their legal guardian.

The long term care Ombudsman is designated by state and federal law to assist residents to exercise their rights.

The facility's basic principle for operation must be resident rights, and all staff members must take an active role in respecting, protecting and promoting the rights of all residents. This booklet provides information about the rights of a facility resident.

The resident has the right to be free from interference, coercion, discrimination, and reprisal when exercising their rights as a resident of the facility and as a citizen of the United States.



DIGNITY

- Every facility resident has the right to be treated as an individual, with courtesy, respect and dignity.
- The facility must maintain or enhance each resident's dignity and self-worth. No one should humiliate, harass, or threaten a resident.
- All residents have the responsibility to be respectful to each other and not infringe on the rights, health or safety of other residents. If there is a situation where two residents' rights are in conflict, it is necessary to find a balance or compromise between the two residents.
- The resident has the right to be free from financial, verbal, sexual, physical and mental abuse, punishment and isolation.
- The resident has the right to be free from any physical or chemical (drugs) restraints imposed for purposes of discipline or convenience. Restraints must be ordered by a physician, can only be used to treat the resident's medical symptoms, and the resident must consent to any use of restraints.

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PRIVACY

- Every resident has the right to privacy. No one should enter a resident's room without first knocking on the door, waiting for a response and only entering with permission. If there is no response, then people should knock again, and announce their name and the reason for entering the room.
- All personal cares and treatments should be provided in a private area, with the door and curtains closed, and only the number of people in the room necessary to provide the care.
- The resident has the right to privacy in written communications, including the right to promptly send and receive mail that is unopened, without interference.
- The resident has the right to unrestricted access to the private use of a telephone.
- Residents must be offered the opportunity for private visits with whomever they wish.
- Every resident has the right to confidentiality of personal and medical records.
- Married couples and consenting adults have the right to share a room if both agree to this arrangement.



SELF-DETERMINATION

- Every resident has the right to make choices about aspects of their life in the facility that are significant to the resident. This includes choosing activities, schedules and health care consistent with personal beliefs, interests, assessments, and plans of care.
- Each resident has the right to participate in planning their care and treatment, including the right to refuse care and treatment. The facility staff has the responsibility to provide adequate information so the resident can make an informed decision.
- Even residents who are confused or have difficulty expressing themselves should have the opportunity to give input about care and treatment to the extent they are able.
- A resident has the right to receive services in the facility with reasonable accommodation of individual needs and preferences.
- The resident has the right to choose a personal attending physician and other health care providers. The resident also has the right to change providers if not satisfied.
- Each resident has the right to manage their finances.
- The resident has the right to refuse to perform services for the facility. If a resident chooses to perform services for the facility, this must be documented in the plan of care, indicating the need or desire for work, the nature of the services to be performed, and whether voluntary or paid.
- Each resident has the right to self-administer medications unless the facility's interdisciplinary team has determined, based on specified criteria, that this practice is unsafe for this resident. The resident must be informed as to why self-administration is not possible and the reasons must be documented in the resident's record. If a resident so chooses, the facility must continue efforts to teach the resident to self-administer medications.

ACCESS



- Every resident has the right to be fully informed before or at the time of admission, both orally and in writing, of the resident rights, the services available and any related charges, and the facility's rules and regulations.
- The facility must provide information and assist the resident in obtaining Medicare or Medicaid (Medical Assistance) payment for services. Facilities cannot require residents or potential residents to waive their rights to either of these programs, nor may facilities charge or accept from Medicaid recipients more than what the person is required to pay under the State Plan.
- A resident's private funds, insurer, Medicare or Medicaid is responsible for payment to the facility as a condition of admission or continued stay in the facility.
- If the facility holds any of the resident's personal funds in safe-keeping, the resident must have reasonable access to these funds and must receive at least a quarterly accounting of expenditures and the remaining balance.
- Each resident has the right to retain and use personal possessions including some furnishings and clothing.
- A resident has the right to participate in social, religious, and community activities both inside and outside of the facility. This includes a resident's right to vote (provided there is no court finding prohibiting this).
- The resident has the right to be fully informed in advance about care and treatment and any changes in that care or treatment.
- The resident has the right to examine the results of the most recent facility regulatory survey conducted by Federal or State Surveyors and the facility's plan to correct any deficiencies. Facilities must post a notice that this information is available for review. The survey results must be in a location readily accessible to residents.

- The resident has the right to receive information from agencies that serve as client advocates and must have the opportunity to contact these agencies. The resident has the right to immediate access to the following: any representative of the Centers for Medicare and Medicaid (CMS); any representative of the State of Wisconsin survey and certification agency or licensure office; the State's Long Term Care Ombudsmen; and the protection and advocacy agencies for developmentally disabled and mentally ill individuals. The contact information for these advocacy agencies must be posted and available to residents.
- The resident has the right to have access to paper and postage stamps at a reasonable charge from the facility.
- The resident has the right to receive notice before the resident's room or roommate in the facility is changed.
- Residents have the right to equal access to quality care. A facility must establish and maintain identical policies and practices regarding the services they provide to each resident, regardless of source of payment.
- A resident has the right to organize and participate in resident groups or councils in the facility, with or without facility staff present. A resident's family has the right to meet in the facility with the families of other residents, again with or without facility staff present.
- The purposes of resident and family councils are to protect and improve the quality of life in the facility and within the long term care system as a whole, and to give residents and families a voice in decisions that affect them. The facility must provide private space for councils, and designate a staff member responsible for providing assistance and responding to written requests that result from group meetings. The facility must listen to the views, act upon the grievances and recommendations, and respond back to the residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility.



GRIEVANCES

- Every resident has the right to voice grievances about the care and treatment they receive without discrimination or reprisal; and the right to prompt efforts by the facility to resolve any concerns or complaints.
- Every resident has the right to contact an Ombudsman to assist them in resolving grievances without fear of reprisal.

You have the right to contact an Ombudsman to assist you. The Ombudsman who provides services in your area can be reached at 800-815-0015

TRANSFER & DISCHARGE

- The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:
 1. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
 2. The transfer and discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;
 3. The safety or health of other residents is endangered;
 4. The resident has failed, after reasonable and appropriate notice, to pay for (or have paid under Medicare or Medicaid) a stay at the facility; or
 5. The facility ceases to operate.



- Before a facility transfers or discharges a resident, the facility must give at least 30 days written notice (except in situations when the safety or health of the resident or other residents would be compromised) to the resident, the resident's physician, and a family member or responsible person or legal representative, providing reasons for the move, the effective date, and the location to which the resident is to be transferred or discharged.
- The discharge notice must also include a statement that the resident has the right to appeal and an explanation of how to appeal the action to the State Regulatory agency, the Bureau of Quality Assurance (BQA). It must provide the address and phone number of the nearest BQA regional office, provide the name, address and phone number of the Ombudsman, and the name, address and phone number of any other appropriate advocacy agencies.
- Fourteen days prior to discharge or transfer, a planning conference must be held with the resident, the resident's guardian or legal representative if any, any appropriate county agency, and others designated by the resident, including the resident's physician, family and Ombudsman, to review the need for relocation, assess the effect of relocation on the resident, discuss alternative placements and develop a relocation plan.



- To appeal an involuntary transfer or discharge, a resident must send a letter to the State BQA regional office within 7 days after receiving the notice, with a copy to the facility administrator, asking for a review of the decision. The letter must indicate why the discharge should not take place. This action will stop the transfer or discharge until the BQA has reviewed the case. Within 5 days after receiving a copy of the resident's written appeal, the facility must provide written information to the BQA.
- The facility must provide written information to the BQA, indicating its justification for the transfer or discharge. Within 14 days of receiving this information, BQA will issue its written decision to both the resident and the facility. Either one may, within 5 days, appeal BQA's decision to the Department of Administration Division of Hearing and Appeals. These appeal procedures do apply even if an emergency transfer has occurred.
- Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the facility must provide written information to the resident and a family member or legal representative that specifies the duration and terms (including cost) of the bed-hold during which the resident is permitted to return and resume residence in the facility. Bed-hold is a resident choice.
- A private pay resident may choose to hold their bed for as long as they wish to pay the facility's set bed-hold rate. If the resident is on Medicaid there is a 15 day bed-hold paid for by that program. The resident/family may voluntarily pay to save the bed after the 15 day bed-hold expires. In cases where bed-hold options have been waived or exhausted, the facility must admit the resident to the first available semi-private room.

OMBUDSMAN

(OM-BUDZ-MAN)

The word Ombudsman is Scandinavian. In this country the word has come to mean an advocate or helper. An Ombudsman protects and promotes the rights of long-term care consumers, working with residents and families to achieve quality care and quality of life. The program is required by both federal and state law. In Wisconsin the Board on Aging and Long Term Care operates the program statewide.

If you have a question or concern about resident rights please call our toll free number: 1-800-815-0015



State of Wisconsin
Board on Aging and Long Term Care
Ombudsman Program
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