



Resident's Rights

To promote the interests and well-being of the residents in long-term care facilities, all facilities must treat residents in accordance with the following resident's rights:

(1) Each resident shall have the right to receive considerate, respectful, and appropriate care, treatment and services, in compliance with relevant federal and state law and regulations, recognizing each person's basic personal and property rights which include dignity and individuality.

(2) Each resident and the authorized representative under § 1122 of this title of such resident shall, prior to or at the time of admission, receive a written statement of the services provided by the facility including those required to be offered on an "as needed" basis, and a statement of related charges for services not covered under Medicare or Medicaid, or not covered by the facility's basic per diem rate. Upon receiving such statement, the resident and the resident's authorized representative under § 1122 of this title representative shall sign a written receipt which must be retained by the facility in its files.

(3) After admission, each facility shall submit to the resident or authorized representative, on a monthly basis, a written, itemized statement detailing, in language comprehensible to the ordinary layperson, the charges and expenses the resident incurred during the previous month.

a. The statement shall contain a description of specific services, equipment and supplies received, and expenses incurred for each such item.

b. The statement shall include an explanation of any items identified by code or by initials, but shall not include nursing home based physician charges if billed separately.

c. The facility shall make reasonable efforts to communicate the contents of the individual written statement to persons who it has reason to believe cannot read the statement.

(4) Each resident shall receive from the attending physician or facility physician complete and current information concerning the resident's diagnosis, treatment, and prognosis in terms and language the resident can reasonably be expected to understand, unless medically inadvisable.

(5) Each resident shall participate in the planning of the resident's medical treatment, including attendance at care plan meetings.

(6) Each resident may refuse medication or treatment and must be informed of the medical consequences of all medication and treatment alternatives.

(7) Each resident shall give prior informed consent to participation in any experimental research after a complete disclosure of the goals, possible effects on the resident and whether or not the resident can expect any benefits or alleviation of the resident's condition.

a. In any instance of any type of experiment or administration of experimental medicine, there shall be written evidence of compliance with this section, including the signature of the resident or the resident's authorized representative if the resident has been adjudicated incompetent.

b. A copy of signed acknowledgment or informed consent, or both when required, shall be forwarded to each signer and a copy shall be retained by the facility.

(8) At the bedside of each resident, the facility shall place and maintain in good order the name, address, and telephone number of the physician responsible for the resident's care.

(9) Each resident shall receive respect and privacy in the resident's own medical care program. Case discussion, consultation, examination, and treatment shall be confidential, and shall be conducted discreetly.

a. At the resident's discretion, persons not directly involved in the resident's care may not be permitted to be present during such discussions, consultations, examinations or treatment, except with the consent of the resident.

b. Personal and medical records shall be treated confidentially, and shall not be made public without the consent of the resident, except such records as are needed for a resident's transfer to another health-care institution or as required by law or third-party payment contract.

c. No personal or medical records shall be released to any person inside or outside the facility who has no demonstrable need for such records.

(10) Each resident shall be free from chemical and physical restraints imposed for purposes of discipline and convenience, and not necessary to treat the resident's medical condition.

(11) Each resident shall receive from the administrator or staff of the facility a courteous, timely, and reasonable response to requests, and the facility shall make prompt efforts to resolve grievances. Responses to requests and grievances shall be made in writing upon written request by the resident.

(12) Each resident shall be provided with information as to any relationship the facility has with other health-care and related institutions or service providers, including pharmacy and rehabilitation services, to the extent the resident is offered care or services from these related entities. Such information shall be provided in writing upon admission, and thereafter when additional services are offered.

(13) Each resident shall receive care that meets professional standards of care.

- (14) a. Each resident may associate and communicate, including visits and visitation, privately and without restriction with persons and groups of the resident's own choice, on the resident's own or their initiative, at any reasonable hour.
- b. Nothing in 77 Del. Laws, c. 49 precludes a long-term care facility, as defined in § 1102 of this title, from restricting visitations due to attempts to interfere with resident care, the presentation of a threat to staff, and residents, or personnel, or other actions disruptive to the facility's operations.
- (15) Each resident may send and shall receive mail promptly and unopened.
- (16) Each resident shall have access at any reasonable hour to a telephone where the resident may speak privately.
- (17) Each resident shall have access to writing instruments, stationery, postage, and the Internet.
- (18) Each resident has the right to manage the resident's own financial affairs.
- a. If, by written request signed by the resident, or by the authorized representative of a resident who has been adjudicated incompetent, the facility manages the resident's financial affairs, it shall have available for inspection a monthly accounting, and shall furnish the resident and the resident's authorized representative with a quarterly statement of the resident's account.
- b. The resident shall have unrestricted access to such account at reasonable hours.
- (19) If married, a resident shall enjoy privacy in visits by the resident's spouse, and, if spouses are both residents of the facility, they shall be afforded the opportunity where feasible to share a room, unless medically contraindicated.
- (20) Each resident has the right of privacy in the resident's own room, and personnel of the facility shall respect this right by knocking on the door before entering the resident's room.
- (21) Each resident has the right, personally, through other persons, or in combination with others to do any the following:
- a. Exercise the resident's own rights.
- b. Present grievances.
- c. Recommend changes in facility policies or services on behalf of the resident's self or others.
- d. Present complaints or petitions to the facility's staff or administrator, the Department of Health and Social Services, the protection and advocacy agency, or other persons or groups without fear of reprisal, restraint, interference, coercion, or discrimination.
- (22) A resident may not be required to perform services for the facility.

(23) Each resident shall have the right to retain and use the resident's own personal clothing and possessions where reasonable, and shall have the right to security in the storage and use of such clothing and possessions.

(24) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility, except as provided in § 1127 of this title.

(25) Each resident has the right to inspect all records pertaining to the resident, upon oral or written request, within 24 hours of notice to the facility. Each resident has the right to purchase photocopies of such records or any portion of them, at a cost not to exceed the community standard, upon written request and 2 working days' advance notice to the facility.

(26) Each resident must be fully informed, in plain language and in a language in which the resident is fluent, of the resident's rights and all rules and regulations governing resident conduct and the resident's responsibilities during the stay at the facility. This must be provided in a format that is accessible to the patient and any authorized representative.

(27) Each resident has the right to choose a personal attending physician.

(28) Each resident has the right to examine the results of the most recent survey of the facility conducted by federal or state surveyors and any plan of correction in effect with respect to the facility.

(29) Each resident has the right to receive information from the protection and advocacy agency and agencies acting as client advocates and be afforded the opportunity to contact those agencies.

(30) Each resident shall be free from verbal, physical or mental abuse, cruel and unusual punishment, involuntary seclusion, withholding of monetary allowance, withholding of food, and deprivation of sleep.

(31) Each resident shall be free to make choices regarding activities, schedules, health care, and other aspects of the resident's life that are significant to the resident, as long as such choices are consistent with the resident's interests, assessments, and plan of care and do not compromise the health or safety of the individual or other residents within the facility.

(32) Each resident has the right to participate in an ongoing program of activities designed to meet, in accordance with the resident's individualized assessments and plan of care, the resident's interests and physical, mental, and psychosocial well-being.

(33) Each resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents.

(34) Each resident shall receive notice before the resident's room or roommate is changed, except in emergencies. The facility shall endeavor to honor the room or roommate requests of the resident whenever possible.

(35) Each resident shall be encouraged to exercise the resident's own rights as a citizen of this State and the United States of America.

(36) Each resident has the right to request and receive information regarding minimum acceptable staffing levels as it relates to the resident's own care.

(37) Each resident has the right to request and receive the names and positions of staff members providing care to the resident.

(38) Each resident has the right to request and receive an organizational chart outlining the facility's chain of command for purposes of making requests and asserting grievances.

(39) Each resident has the right to compliance with the resident's advance health-care directive, power of attorney, Delaware Medical Orders for Scope of Treatment, or similar document in accordance with and subject to Chapter 49 of Title 12 and Chapter 25 of this title.

(40) If a resident is adjudicated incompetent, is determined to be incompetent by the resident's attending physician, or is unable to communicate, the resident's rights shall devolve to the resident's authorized representative, as established under any of the following:

a. An advance health-care directive.

b. A medical durable power of attorney for health-care decisions.

c. A court-appointed guardian under Chapters 39 and 39A of Title 12, in accordance with the authority granted by the appointing court.

d. A surrogate appointed under Chapter 25 of this title.

e. An individual who is otherwise authorized under applicable law to make the health-care decisions being made by execution of the DMOST form on the patient's behalf under Chapter 25A of this title.

(41) Each resident must be provided care which recognizes cultural differences and preferences.