Resident Rights in Nursing Homes

Nursing home residents have patient rights and certain protections under the law. The nursing home must list and give all new residents a copy of these rights.

Resident rights usually include:

Respect: Residents have the right to be treated with dignity and respect.

Services and Fees: The resident has must be informed in writing about services and fees before they enter the nursing home.

Money: Residents have the right to manage their own money or to choose someone else they trust to do this for them.

Privacy: Residents have the right to privacy, and to keep and use their personal belongings and property as long as it doesn't interfere with the rights, health, or safety of others.

Medical Care: Residents have the right to be informed about their medical condition, medications, and to see their own doctor. They also have the right to refuse medications and treatments.

What are a resident's rights in a nursing home?

Residents of a nursing home have the same rights and protections as all United States citizens. Nursing home residents have certain rights and protections under the law. Each resident has a right to a dignified existence, self-determination, and communication with and access to people and services inside and outside the nursing home. These rights are specified in the Medicare program and can also vary under state law.

The nursing home must tell residents their rights and give them a written description of their legal rights in a language that they understand. They must also provide residents all the rules and regulations regarding their conduct and responsibilities during their stay in the home. This must be done before or at the time they are admitted and also during their stay. Each resident must acknowledge in writing that they received this information.
At a minimum, Federal law specifies that a nursing home must protect and promote the following rights of each resident:

Freedom from Discrimination: Nursing homes don’t have to accept all applicants, but they must comply with Civil Rights laws that don’t allow discrimination based on race, color, national origin, disability, age, or religion under certain conditions.

Respect: Residents have the right to be treated with dignity and respect. Residents have the right to make their own schedule, including when they go to bed, rise in the morning, and eat their meals. They have the right to choose the activities which they want to go to. Also, the nursing home can’t interfere with, coerce, discriminate or retaliate against residents in exercising their rights.

Freedom from Abuse and Neglect:

Residents have the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion by anyone. This includes, but isn’t limited to, nursing home staff, other residents, consultants, volunteers, staff from other agencies, family members or legal guardians, friends, or other individuals.

If a resident feels that they have been abused or neglected, they can make a report to the nursing home, their family, their local Long-Term Care Ombudsman, or State Survey Agency. It may be appropriate for the resident to report the incident of abuse to local law enforcement or the Medicaid Fraud Control Unit. Their telephone number should be posted in the nursing home.

The nursing home must investigate and report to the proper authorities all alleged violations and any injuries of unknown origin within five working days of the incident.

Freedom from Restraints:

A physical restraint is any manual method or physical or mechanical device, material, or equipment attached or next to the resident’s body that the resident can’t remove easily, which restricts freedom of movement or normal access to one’s own body. A chemical restraint is a drug that is used for discipline or convenience and not required to treat medical symptoms. It is against the law for a nursing home to use physical or chemical restraints, unless they are necessary to treat the resident’s symptoms.

Restraints may not be used for punishment, or for the convenience of the nursing home staff. A resident has the right to refuse restraint, except if they are at risk of harming themselves or others.

Information on Services and Fees:

Residents must be informed in writing about all facility services (those that are charged and not charged to them) and fees before they move into the nursing home. The nursing home
can’t require a minimum entrance fee as a condition of admission if their care is paid for by Medicare or Medicaid. Also, residents must be informed when any services and fees change. They also have the right to chose to either work or not work for the facility.

Money:

Residents have the right to manage their own money or to choose someone they trust to do this for them. If a resident asks the nursing home to hold, safeguard, manage, and account for their personal funds that are deposited with the facility, they must sign a written statement that allows the nursing home to do this. However, the nursing home can’t require a resident to deposit their personal funds with the facility and they must allow them access to their bank accounts, cash, and other financial records.

A resident's money (over $50) must be placed by the nursing home in a separate account than the nursing home’s that will provide interest to the resident on their money. The nursing home has to have a system that ensures full accounting for those funds and must not mingle them with the nursing home’s or other residents’ funds. If the nursing home puts many residents’ funds together, the nursing home must account for each person’s funds separately.

The nursing home must provide each resident quarterly statements and the individual financial record must be given to the resident when they or their legal representative asks for it. The nursing home must protect the funds from any loss by buying a surety bond or providing other similar acceptable protections. If a resident with a fund dies, the nursing home must return the funds with a final accounting to the person or court handling the resident’s estate within 30 days. Regarding Medicaid residents, the nursing home has to provide certain information regarding a resident with funds of certain balances.

Privacy, Property, and Living Arrangements:

Residents have the right to privacy and to keep and use personal belongings and property as long as they don’t interfere with the rights, health, or safety of others. They have the right to send and receive mail and nursing home staff should never open a resident's mail without permission. Residents have the right to use a telephone and talk privately. Some nursing homes may provide you with greater rights and protections of your health information.

The nursing home must protect residents' property from theft. This may include a safe in the facility or cabinets with locked doors in resident rooms. If residents are married to each other, and live in the same nursing home, they are entitled to share a room (if they both agree to do so). Residents also have the right to reject a move to an inappropriate room. The nursing home has to notify residents before their room or their roommate is changed. Residents also have the right to review the nursing home’s health and fire safety inspection results.
Medical Care:

Residents have the right to be fully informed in a language they understand about their total health status, including their medical condition and medications. They also have the right to see their own doctor.

Residents have the right to take part in developing their care plan. They can also express any grievances they may have about your care and treatment. Residents have the right to create an advance directive.

Residents have the right to self-administer medications unless the nursing home finds this unsafe. Residents also have the right to refuse medications and treatments and refuse to participate in experimental treatments. Residents have the right to access all their records and reports, including clinical records (medical records and reports), within 24 hours. They also have the right to photocopy their records for a standard fee when they provide two days notice to the nursing home.

Finally, the nursing home must notify the resident's physician and, if known, their legal representative or an interested family member when (1) the resident is involved in an accident that resulted in an injury or may require a physician's intervention; (2) a deterioration of their health, mental, or psychosocial status in a life threatening condition or clinical complications; (3) their treatment needs to change significantly; (4) or when the nursing home decides to transfer or discharge the resident from the home.

Visitors:

Residents have the right to spend private time with visitors. The nursing home must permit a resident's family to visit at any time, as long as the resident wishes to see them. Residents don't have to see any visitor they don't wish to see. Any person who gives a resident help with their health, social, legal, or other services may visit at any reasonable time. This includes the resident's doctor, representative from the health department, and their Long-Term Care Ombudsman, among others.

Social Services:

The nursing home must provide residents with any needed social services, including counseling, help solving problems with other residents, help in contacting legal and financial
professionals, and discharge planning. The nursing home must also provide residents with an appropriate activities program designed to meet the needs of its residents.

Leaving the Nursing Home:

Living in a nursing home is the resident's choice. A resident can choose to move to another place. However, the nursing home may have a policy that requires a resident to tell them before the resident actually leaves. If a resident's health allows and their doctor agrees, they can spend time away from the nursing home visiting friends or family during the day or overnight. This is called a leave of absence. Residents should talk to the nursing home staff a few days ahead of time so medication and care instructions can be prepared.

However: If a resident's nursing home care is covered by certain health insurance, they may not be able to leave for visits without losing their coverage.

Complaints:

Residents have the right to make a complaint to the staff of the nursing home, or any other person, without fear of punishment. The nursing home must resolve the issue promptly.

Protection Against Unfair Transfer or Discharge:

A resident can't be sent to another nursing home, or made to leave the nursing home, unless any of the following are true:

- It is necessary for the welfare, health, or safety of the resident or others

- The resident's health has declined to the point that the nursing home can't meet their care needs

- The resident's health has improved to the point that nursing home care is no longer necessary

- The nursing home hasn't been paid for services the resident received

- The nursing home closes

Except in emergencies, nursing homes must give a 30-day written notice of their plan and reason to discharge or transfer a resident. The nursing home has to safely and orderly transfer or discharge the resident and give proper notice of bed-hold and/or readmission requirements. The resident has the right to appeal a transfer to another facility. A nursing home can't make a resident leave if they are waiting to get Medicaid. The nursing home should work with other state agencies to get payment if a family member or other individual is holding the resident's money.
Family and Friends:

Family members and legal guardians may meet with the families of other residents and may participate in family councils. By law, nursing homes must develop a plan of care (care plan) for each resident. The resident has the right to take part in this process, and family members can help with the care plan with the resident's permission. If the relative is a legal guardian, he or she has the right to look at all medical records about the resident and make important decisions on their behalf. Family and friends can help make sure a resident get good quality care. They can visit and get to know the staff and the nursing home’s rules.

Resident Groups:

Residents have a right to form a resident group to discuss issues and concerns about the nursing home’s policies and operations. Most home have such groups, often called a resident council. The home must provide a meeting space, and must listen to and act upon grievances and recommendations of the group.

For people seeking admission to the nursing home, the nursing home must provide (orally and in writing) and prominently display written information about how to apply for and use Medicare and Medicaid benefits. They must also provide information on how to receive refunds for previous payments covered by such benefits.