

## Residents' Rights Regarding Grievances

The resident has the right to:

- Exercise rights, voice grievances and recommend changes in policies and services to the staff and/or outside representatives of the resident's choice, free from restraint, interference, coercion, discrimination or reprisal
- Prompt efforts by the facility to resolve grievances the resident may have, including those having to do with other residents.

For more information on how to file a complaint, please call (310)394-9871, ext. 432 or email [ombudsman@wiseandhealthyaging.org](mailto:ombudsman@wiseandhealthyaging.org)

## Residents' Rights Regarding Access and Visitation

The resident has the right and the facility must provide—subject to the resident's right to deny or withdraw consent at any time—immediate access to any resident by:

- Long-Term Care Ombudsman
- Immediate family or other relatives of the resident.
- Others who are visiting with the consent of the resident, subject to reasonable restrictions.
- The facility must provide reasonable access to any resident by any entity or individual that provides health, social, legal or other services to the resident.
- If a resident is married, he or she and their spouse must be assured privacy and to be able to share a room if both are residents in the facility and both agree to do so.

## Residents' Rights Regarding Admission Agreements

The resident has rights related to admission agreement contracts that are signed when the resident enters the nursing home:

- The contract may not require that the resident pay with private funds (those that are not Medicare or Medi-Cal) for a specified time prior to accessing Medi-Cal benefits.
- The contract may not require the resident at the time of admission to give notice that he or she intends to convert to Medi-Cal status.
- The contract may not require the resident to promise not to apply for Medicare or Medi-Cal benefits.
- The contract may not require third party guarantee of payment as a condition of admission or expedited admission. A family member should not be required to spend their own funds as a condition of their loved one staying at the nursing home.
- A resident has the right to have his or her security deposit returned when he or she converts to Medi-Cal.

## Residents' Rights Regarding Chemical & Physical Restraints and Abuse

The resident has the right to:

- Be free from verbal, sexual, physical, and mental abuse, corporal punishment and involuntary seclusion.
- Be free from any physical or chemical restraints — either psychotherapeutic or antipsychotic drugs — imposed for patient discipline or staff convenience. (Physical or chemical restraints may be used when required to treat the resident's medical symptoms, or in an emergency that threatens to bring immediate injury to the resident or others.)
- Be given the necessary information to be able to refuse or accept the use of psychotherapeutic drugs, physical restraints or the prolonged use of a device that may lead to the inability to regain

use of normal bodily functions. This information should be what is necessary to allow the resident to give informed consent about the use of these methods.

Based on a comprehensive assessment of a resident, the facility must ensure that:

- Residents who have not used antipsychotic drugs are not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition.
- Residents who use antipsychotic drugs receive gradual dose reductions or behavioral programming in an effort to discontinue these drugs, unless clinically contraindicated.
- The facility must ensure that each resident's drug regimen is free from unnecessary drugs.

### Residents' Rights Regarding Dignity and Privacy

The resident has the right to be treated with consideration, respect and full recognition of dignity and individuality. This includes the right to:

- Privacy during treatment and personal care.
- Receive and make phone calls in private.
- Send and receive mail unopened.
- Associate privately with persons of the resident's choice, inside or outside the facility.

### Residents' Rights Regarding Free Choice and Participation

The resident has the right to:

- Refuse to perform services for the facility.
- Choose activities and schedules consistent with his or her interests and care plan and to receive services with reasonable accommodation of individual needs and preferences.
- Participate in resident groups and in activities of social, religious and community groups of their choice.
- Communicate with persons of one's choice inside or outside of the facility.
- Retain and use personal clothing and possessions, as space permits, so long as it does not infringe upon the rights or health and safety of other residents.

### Residents' Rights Regarding Medical Condition and Treatment

The resident has the right to:

- Be fully informed by a doctor of his or her total health status.
- Must be given the opportunity to participate on an immediate and ongoing basis in the total plan of care.
- Be fully informed in advance about care and treatment and any changes in care or treatment that may affect the resident.
- Participate in planning care and treatment or changes in care or treatment unless the resident has been legally found to be incompetent or is otherwise incapacitated under California law.
- Give him or herself medications, unless doing so would be dangerous.
- Choose a personal attending physician.
- Consent to or refuse any treatment or procedure or take part in experimental research.
- Receive all information that is material to his or her decision concerning whether to accept or refuse any proposed treatment or procedure.

### Residents' Rights Regarding Protection of Their Personal Funds

The resident has the right to:

- Manage his or her financial affairs. A facility may not require residents to deposit their personal funds with the facility, although a resident can if he or she so desires.
- Have funds entrusted to the facility held separately from the funds of both the facility and other residents. The resident has a right to have an accurate accounting of those funds. Funds over \$50 must be held in an account that earns interest.
- Be informed when the amount in the resident's account, if managed by the facility, reaches \$200 less than the \$2,000 Medi-Cal resource limit and be told that exceeding this limit may cause the resident to be disqualified from Medi-Cal.

### Residents' Rights Regarding Resident and Family Councils

Residents have the right to organize and participate in resident groups in the facility:

- The facility must provide a resident group with private space.
- Staff or visitors may attend meetings at the group's invitation only.
- The facility must provide a designated staff person responsible for providing assistance and responding to written requests from the resident council.
- The nursing home must listen to the views, and act upon the grievances and recommendations of a resident council, concerning policies affecting resident care and life in the facility.

A resident's family has the right to meet in the facility with families of other residents. A nursing home may not prohibit the creation of a family council.

- A family council may be made up of family members, friends, or representatives of residents.
- The family council must be allowed to meet in a common meeting room of the nursing home at least once a month, and to meet in private without nursing home staff present.
- Staff or visitors may attend family council meetings, at the group's invitation.
- The nursing home is required to consider the views, and act upon the grievances and recommendations of a family council, concerning proposed policy and operational decisions affecting resident care and life in the facility.
- The nursing home is required to respond within 10 working days to written requests or concerns of the family council.

### Residents' Rights Regarding Residents' Records

The resident has the right to:

- Personal privacy and confidentiality of his or her personal and medical records.
- Review all records pertaining to the resident upon oral or written request within 24 hours, and to purchase photocopies of these records with two days advance notice.
- Approve or refuse release of records to any individual or agency outside the facility except when transferred or required by law.

### Residents' Rights Regarding Transfer and Discharge

The resident has the right to be transferred or discharged only if:

- He or she has recovered to the point of not needing nursing home care.
- It is necessary for the resident's welfare and her/his needs cannot be met in the facility.
- The health or safety of others is endangered.
- He or she has failed to pay for care.
- The facility ceases to operate.

Other rights regarding transfer or discharge from a nursing home:

- A nursing home must give both the resident and a family member or legal representative advance notice of the transfer or discharge within at minimum, 30 days, or as soon as practicable.
- A nursing home that participates in the Medi-Cal program may not transfer or seek to evict a resident when he or she changes from private pay or Medicare to Medi-Cal, or while the Medi-Cal application is pending.
- The nursing home must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.
- The nursing home must produce a discharge summary that includes a post-discharge plan of care that is developed with the participation of the resident and his or her family, which will assist the resident to adjust to his or her new living arrangement.
- The resident has a right to a seven-day bedhold and immediate readmission when transferred to a general acute care hospital, if he or she continues to pay for the nursing home bed.
- After a hospitalization, the resident has the right to be readmitted to the nursing home's first available bed, if the nursing home fails to give written notice of the resident's right to a seven-day bedhold.
- After a hospitalization, a resident who is a Medi-Cal recipient has the right to the nursing home's first available bed even if he or she is absent from the nursing home for more than seven days.