

|->

Chapter 411@ DEPARTMENT OF HUMAN SERVICES, AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

|->

Division 85@ NURSING FACILITIES/LICENSING - GENERALLY

|->

Section 411-085-0310@ Residents' Rights: Generally

411-085-0310 Residents' Rights: Generally

The facility must protect, encourage, and assist the resident in exercising the rights identified in OAR 411-085-0300 - OAR 411-085-0350. Each resident and the resident's legal representative, as appropriate, have the right to:

(1)

Be encouraged and assisted while in the facility to exercise rights as a citizen or resident of Oregon and of the United States.

(2)

Be fully informed, orally and in writing, in a language the resident understands of these rights, and of all facility guidelines for resident conduct and responsibilities. This must be documented by the resident's written acknowledgment, before or at the time of admission.

(3)

Be fully informed, before or at the time of admission and during the resident's stay, of services available in the facility, including Medicaid and Medicare certification status and the potential consequences thereof to the resident. The facility must assist the resident to apply for Medicaid and Medicare benefits, by ensuring the resident is able to contact the local Medicaid agency, whenever a resident may be eligible.

(4)

Be fully informed of his or her total health status, including, but not limited to

medical status. The resident must be informed of the right to choose his or her own physician and to be fully informed in advance of any changes in care or treatment. The facility staff must encourage the resident to exercise the right to make his or her own decisions and fully participate in care and care planning unless the resident has been found legally incapable of doing so.

(5)

Refuse any medication, treatment, care, or any participation in experimental research unless the resident has been found legally incapable of doing so.

(6)

Be encouraged, but not required, to perform activities for therapeutic purposes when identified in the resident's care plan.

(7)

Be free from verbal, sexual, mental and physical abuse, corporal punishment, and involuntary seclusion. Chemical and physical restraints may only be used to ensure the physical safety of the residents and may not be used for discipline or convenience. Except as provided in OAR 411-086-0140, restraints may only be used on order of a physician.

(8)

Be transferred or discharged only in accordance with the Aging and People with Disabilities transfer and discharge rules in OAR chapter 411, division 088.

(9)

Not be reassigned to a new room within the facility without cause and without adequate preparation for the move in order to avoid harmful effects. (a) Involuntary reassignment of rooms may only be made after reasonable advance notification (oral or written) and preparation. Unless there is clear and adequate written justification for a shorter time frame, "reasonable advance notification"

means no less than 14 days. (b) Residents must not be involuntarily reassigned rooms within the facility if such reassignment may have a significant adverse impact on the resident's medical or psychological status. (c) Moving residents on the basis of source of payment is not just cause for intra-facility transfers. (d) Residents and significant others must receive prior notice of any move and any change in roommate assignment.

(a)

Involuntary reassignment of rooms may only be made after reasonable advance notification (oral or written) and preparation. Unless there is clear and adequate written justification for a shorter time frame, "reasonable advance notification" means no less than 14 days.

(b)

Residents must not be involuntarily reassigned rooms within the facility if such reassignment may have a significant adverse impact on the resident's medical or psychological status.

(c)

Moving residents on the basis of source of payment is not just cause for intra-facility transfers.

(d)

Residents and significant others must receive prior notice of any move and any change in roommate assignment.

(10)

Voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal. The facility staff must listen to and act promptly upon grievances and recommendations received from residents and family groups.

(11)

Be treated with consideration, respect, and dignity and assured complete privacy during treatment and when receiving personal care.

(12)

Associate and communicate privately with persons of the resident's choice, to send and receive personal mail unopened, and to have regular access to the private use of a telephone.

(13)

Be provided privacy for visits when requested, including meetings with other residents and family groups.

(14)

Have clinical and personal records kept confidential. Copies of the records must not be transferred outside the facility unless the resident is transferred, or examination of the records is required by the attending physician, the third party payment contractor, Aging and People with Disabilities, Type B Area Agency on Aging, or the Long Term Care Ombudsman. Nothing in this rule is intended to prevent a resident from authorizing access to the resident's clinical and personal records by another person.

(15)

Promptly inspect all records pertaining to the resident.

(16)

Purchase photocopies of records pertaining to the resident. Photocopies requested by the resident must be promptly provided, but in no case require more than two business days (days excluding Saturdays, Sundays and state holidays).

(17)

Participate in social, religious, and community activities at the discretion of the

resident.

(18)

Keep and use personal clothing and possessions as space permits unless to do so infringes on other residents' rights. The resident must be permitted to have a lockable storage space for personal property. Both the resident and facility management may have keys.

(19)

Be free of retaliation. After the resident, or the resident's legal representative, has exercised rights provided by law or rule, the facility, or any person subject to the supervision, direction, or control of the facility, shall not retaliate by: (a) Increasing charges or decreasing services, rights, or privileges; (b) Threatening to increase charges or decrease services, rights, or privileges; (c) Taking or threatening any action to coerce or compel the resident to leave the facility; or (d) Abusing, harassing, or threatening to abuse or harass a resident.

(a)

Increasing charges or decreasing services, rights, or privileges;

(b)

Threatening to increase charges or decrease services, rights, or privileges;

(c)

Taking or threatening any action to coerce or compel the resident to leave the facility;
or

(d)

Abusing, harassing, or threatening to abuse or harass a resident.

(20)

Not be required to sign any contract or agreement that purports to waive any resident's right, including the right to collect payment for lost or stolen articles.

(21)

Be fully informed of the facility policy on possession of firearms and ammunition within the facility.

(22)

Receive care from facility staff trained to provide care that is specific to the resident's disease or medical condition.

(23)

Receive a modified or special diet that meets the specific requirements of the resident's disease or medical condition.