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Title 28@ HEALTH AND SAFETY

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Part IV@ Health Facilities

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Subpart C@ Long-Term Care Facilities

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Chapter 201@ APPLICABILITY, DEFINITIONS, OWNERSHIP AND GENERAL OPERATION OF LONG-TERM CARE NURSING FACILITIES

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Section 201.29@ Resident rights

201.29 Resident rights

(a)

The governing body of the facility shall establish written policies regarding the rights and responsibilities of residents as provided for in 42 CFR 483.10 (relating to resident rights) and this section. Through the administrator, the governing body shall be responsible for development of and adherence to procedures implementing the policies. The written policies shall include a mechanism for the inclusion of residents, or a resident representative, in the development, implementation and review of the policies and procedures regarding the rights and responsibilities of residents.

(b)

Policies and procedures regarding rights and responsibilities of residents shall be available to residents and members of the public.

(c)

Policies of the facility shall be available to staff, residents, consumer groups and the interested public, including a written outline of the facility's objectives and a statement of the rights of its residents. The policies shall set forth the rights of the resident and prohibit mistreatment and abuse of the resident.

(c.1)

The facility shall post in a conspicuous place near the entrances and on each floor of the facility a notice which sets forth the list of resident rights. The posting of

resident rights shall include the rights under subsection (c.3) and 42 CFR 483.10.

(c.2)

A facility shall provide personal notice of a resident's rights in accordance with 42 CFR 483.10(g)(16). A certificate of the provision of personal notice shall be entered in the resident's medical record.

(c.3)

In addition to the resident rights set forth in 42 CFR 483.10, residents have a right to the following: (1) If changes in charges occur during the resident's stay, the resident, or resident representative, shall be advised verbally and in writing reasonably in advance of the change. "Reasonably in advance" shall be interpreted to be 30 days prior to the change unless circumstances dictate otherwise. If a facility requires a security deposit, the written procedure or contract that is given to the resident, or resident representative, shall indicate how the deposit will be used and the terms for the return of the deposit. A security deposit is not permitted for a resident receiving medical assistance. (2) Prior to transfer, the facility shall inform the resident, or the resident representative, as to whether the facility where the resident is being transferred is certified to participate in the Medicare and the Medical Assistance Programs. (3) Experimental research or treatment in a facility may not be carried out without the approval of the Department, including the Department's Institutional Review Board, and without the written approval and informed consent of the resident, or resident representative, obtained prior to participation and initiation of the experimental research or treatment. The following apply: (i) The resident, or resident representative, shall be fully informed of the nature of the experimental research or treatment and the possible consequences, if any, of participation. (ii) The resident, or resident representative, shall be given the opportunity to refuse to

participate both before and during the experimental research or treatment. (iii) For the purposes of this subsection, "experimental research" means the development, testing and use of a clinical treatment, such as an investigational drug or therapy that has not yet been approved by the United States Food and Drug Administration or medical community as effective and conforming to medical practice. (4) A resident has the right to care without discrimination based upon race, color, familial status, religious creed, ancestry, age, sex, gender, sexual orientation, gender identity or expression, national origin, ability to pay, handicap or disability, use of guide or support animals because of the blindness, deafness or physical handicap of the resident or because the resident is a handler or trainer of support or guide animals.

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(2)

Prior to transfer, the facility shall inform the resident, or the resident representative, as to whether the facility where the resident is being transferred is certified to participate in the Medicare and the Medical Assistance Programs.

(3)

Experimental research or treatment in a facility may not be carried out without the approval of the Department, including the Department's Institutional Review Board, and

without the written approval and informed consent of the resident, or resident representative, obtained prior to participation and initiation of the experimental research or treatment. The following apply: (i) The resident, or resident representative, shall be fully informed of the nature of the experimental research or treatment and the possible consequences, if any, of participation. (ii) The resident, or resident representative, shall be given the opportunity to refuse to participate both before and during the experimental research or treatment. (iii) For the purposes of this subsection, "experimental research" means the development, testing and use of a clinical treatment, such as an investigational drug or therapy that has not yet been approved by the United States Food and Drug Administration or medical community as effective and conforming to medical practice.

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(iii)

For the purposes of this subsection, "experimental research" means the development, testing and use of a clinical treatment, such as an investigational drug or therapy that has not yet been approved by the United States Food and Drug Administration or medical community as effective and conforming to medical practice.

(4)

A resident has the right to care without discrimination based upon race, color, familial status, religious creed, ancestry, age, sex, gender, sexual orientation, gender identity or expression, national origin, ability to pay, handicap or disability, use of guide or support

animals because of the blindness, deafness or physical handicap of the resident or because the resident is a handler or trainer of support or guide animals.

(d)

[Reserved].

(e)

[Reserved].

(f)

[Reserved].

(g)

[Reserved].

(h)

[Reserved].