

0720-18-.12 RESIDENT RIGHTS

(1)

The nursing home shall establish and implement written policies and procedures setting forth the rights of residents for the protection and preservation of dignity, individuality and, to the extent medically feasible, independence. Residents and their families or other representatives shall be fully informed and documentation shall be maintained in the resident's file of the following rights: (a) To privacy in treatment and personal care; (b) To privacy, if married, for visits by his/her spouse; (c) To share a room with his/her spouse (if both are residents); (d) To be different, in order to promote social, religious and psychological well being; (e) To privately talk and/or meet with and see anyone; (f) To send and receive mail promptly and unopened; (g) To be free from mental and physical abuse. Should this right be violated, the facility must notify the department within five (5) working days. The Tennessee Department of Human Services, Adult Protective Services shall be notified immediately as required in T.C.A. § 71-6-103; (h) To be free from chemical and physical restraints; (i) To meet with members of and take part in activities of social, commercial, religious and community groups. The administrator may refuse access to the facility to any person if that person's presence would be injurious to the health and safety of a resident or staff, or would threaten the security of the property of the resident, staff or facility; (j) To form and attend resident council meetings. The facility shall provide space for meetings

and reasonable assistance to the council when requested; (k) To retain and use personal clothing and possessions as space permits; (l) To be free from being required by the facility to work or perform services; (m) To be fully informed by a physician of his/her health and medical condition. The facility shall give the resident and family the opportunity to participate in planning the resident's care and medical treatment; (n) To refuse treatment. The resident must be informed of the consequences of that decision. The refusal and its reason must be reported to the physician and documented in the medical record; (o) To refuse experimental treatment and drugs. The resident's or health care decision maker's written consent for participation in research must be obtained and retained in his or her medical record; (p) To have their records kept confidential and private. Written consent by the resident must be obtained prior to release of information except to persons authorized by law. If the resident lacks capacity, written consent is required from the resident's health care decision maker. The nursing home must have policies to govern access and duplication of the resident's record; (q) To manage personal financial affairs. Any request by the resident for assistance must be in writing. A request for any additional person to have access to a resident's funds must also be in writing; (r) To be told in writing before or at the time of admission about the services available in the facility and about any extra charges, charges for services not covered under Medicare or Medicaid, or not included in the facility's bill; (s) To be free from discrimination because of the exercise of the right to speak and voice complaints; (t) To exercise his/her own independent judgment by executing any documents, including admission forms; (u) To have a free choice of providers of medical services, such as physician and pharmacy. However, medications must be supplied in packaging consistent with the medication system of the nursing home; (v) To be free from involuntary transfer

or discharge, except for these reasons: 1. Medical reasons; 2. His/her welfare or that of the other residents; or 3. Nonpayment, except as prohibited by the Medicaid program; (w) To voice grievances and complaints, and to recommend changes in policies and services to the facility staff or outside representatives of the resident's choice. The facility shall establish a grievance procedure and fully inform all residents and family members or other representatives of the procedure; (x) To have appropriate assessment and management of pain; and (y) To be involved in the decision making of all aspects of their care.

(a)

To privacy in treatment and personal care;

(b)

To privacy, if married, for visits by his/her spouse;

(c)

To share a room with his/her spouse (if both are residents);

(d)

To be different, in order to promote social, religious and psychological well being;

(e)

To privately talk and/or meet with and see anyone;

(f)

To send and receive mail promptly and unopened;

(g)

To be free from mental and physical abuse. Should this right be violated, the facility must notify the department within five (5) working days. The Tennessee Department of Human Services, Adult Protective Services shall be notified immediately as required in T.C.A. § 71-6-103;

(h)

To be free from chemical and physical restraints;

(i)

To meet with members of and take part in activities of social, commercial, religious and community groups. The administrator may refuse access to the facility to any person if that person's presence would be injurious to the health and safety of a resident or staff, or would threaten the security of the property of the resident, staff or facility;

(j)

To form and attend resident council meetings. The facility shall provide space for meetings and reasonable assistance to the council when requested;

(k)

To retain and use personal clothing and possessions as space permits;

(l)

To be free from being required by the facility to work or perform services;

(m)

To be fully informed by a physician of his/her health and medical condition. The facility shall give the resident and family the opportunity to participate in planning the resident's care and medical treatment;

(n)

To refuse treatment. The resident must be informed of the consequences of that decision. The refusal and its reason must be reported to the physician and documented in the medical record;

(o)

To refuse experimental treatment and drugs. The resident's or health care decision maker's written consent for participation in research must be obtained and retained in his or her medical record;

(p)

To have their records kept confidential and private. Written consent by the resident must be obtained prior to release of information except to persons authorized by law. If the resident lacks capacity, written consent is required from the resident's health care decision maker. The nursing home must have policies to govern access and duplication of the resident's record;

(q)

To manage personal financial affairs. Any request by the resident for assistance must be in writing. A request for any additional person to have access to a resident's funds must also be in writing;

(r)

To be told in writing before or at the time of admission about the services available in the facility and about any extra charges, charges for services not covered under Medicare or Medicaid, or not included in the facility's bill;

(s)

To be free from discrimination because of the exercise of the right to speak and voice complaints;

(t)

To exercise his/her own independent judgment by executing any documents, including admission forms;

(u)

To have a free choice of providers of medical services, such as physician and pharmacy. However, medications must be supplied in packaging consistent with the medication system of the nursing home;

(v)

To be free from involuntary transfer or discharge, except for these reasons: 1. Medical reasons; 2. His/her welfare or that of the other residents; or 3. Nonpayment, except as

prohibited by the Medicaid program;

1.

Medical reasons;

2.

His/her welfare or that of the other residents; or

3.

Nonpayment, except as prohibited by the Medicaid program;

(w)

To voice grievances and complaints, and to recommend changes in policies and services to the facility staff or outside representatives of the resident's choice. The facility shall establish a grievance procedure and fully inform all residents and family members or other representatives of the procedure;

(x)

To have appropriate assessment and management of pain; and

(y)

To be involved in the decision making of all aspects of their care.

(2)

The rights set forth in this section may be abridged, restricted, limited or amended only as follows: (a) When medically contraindicated; (b) When necessary to protect and preserve the rights of other residents in the facility; or (c) When contradicted by the explicit provisions of another rule of the board.

(a)

When medically contraindicated;

(b)

When necessary to protect and preserve the rights of other residents in the facility; or

(c)

When contradicted by the explicit provisions of another rule of the board.

(3)

Any reduction in residents' rights based upon medical consideration or the rights of other residents must be explicit, reasonable, appropriate to the justification, and the least restrictive response feasible. They may be time-limited, shall be explained to the resident, and must be documented in the individual resident's record by reciting the limitation's reason and scope. Medical contraindications shall be supported by a physician's order. At least once each month, the administrator and the director of nursing shall review the restriction's justification and scope before removing it, amending it, or renewing it. The names of any residents in the facility whose rights have been restricted under the provisions of this rule shall be maintained on a separate list which shall be available for inspection by the department and by the area long-term care ombudsman.