

Residents' Rights *For Residents in Kentucky Long-Term Care Facilities*

*This document combines both Federal and Kentucky statutes, as well as information from the
National Citizens' Coalition for Nursing Home Reform at www.nccnhr.com*



Residents' Rights

- Residents' Rights were part of the Nursing Home Reform Law enacted in 1987 by the U.S. Congress.
- Are also incorporated into Kentucky Regulatory Statutes
 - These laws require nursing homes and other long-term care health facilities to promote and protect the rights of each resident;
 - These are their rights as residents of the facility, and as citizens of the United States, and the Commonwealth of Kentucky.
 - And they place a strong emphasis on individual dignity and self-determination.
 - Nursing homes must meet residents' rights requirements to participate in Medicare or Medicaid.

Kentucky State Resident Rights

Every resident in a long-term-care facility shall have at least the following rights:

(1) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all services available at the long-term-care facility. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his

guardian, of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530.

Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member, or his guardian, prior to or at the time of admission and quarterly during the resident's stay at the facility, of all service charges for which the resident or his responsible family member or his guardian is responsible for paying. The resident and the responsible party or his responsible family member or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or administrative regulation. Reasonable notice of such action shall be given to the resident and the responsible party or his responsible family member or his guardian.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to

facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident or his responsible family member or his guardian shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or administrative regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and the responsible party or his responsible family member or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions, and any unused balance of moneys from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions, and funds that the facility is not liable for shall be

promptly returned to the resident's responsible party or family member, or his guardian, or his executor.

(9) If a resident is married, privacy shall be assured for the spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

(16) The resident and the responsible party or his responsible family member or his guardian shall be permitted the choice of a physician.

(17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and the responsible party or his responsible family member or his guardian has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible party or family member or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the Cabinet for Health Services.

(24) Each resident and the responsible party or his responsible family member or his guardian has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident.

Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.

Federal Resident Rights

Our residents have rights under federal law. Each state has outlined specific rights as well.

The Facility shall protect and promote the rights of each Resident, including each of the following rights:

(1) **The Resident has a right** to a dignified existence, self-determination and communication with, and access to, persons and services inside and outside the Facility.

(2) **The Resident has a right** to exercise his or her rights as a Resident of the Facility and as a citizen or resident of the United States.

(3) **The Resident has the right** to be free of interference, coercion, discrimination or reprisal from the Facility in exercising his or her rights.

(4) **The Resident has the right** to be fully informed, in a language he or she can understand, of his or her total health status, including, but not limited to, his or her medical condition.

(5) **The Resident has the right** to refuse treatment and to refuse to participate in experimental research.

(6) **The Resident has the right** to exercise his or her legal rights, including filing a grievance with the State survey and certification agency concerning Resident abuse, neglect and misappropriation of Resident property in the Facility.

(7) **The Resident has the right** to manage his or her financial affairs.

(8) **The Resident has a right** to choose an attending physician.

(9) **The Resident has a right** to be fully informed in advance about care and treatment and any changes-in that care or treatment that may affect the Resident's well being.

(10) **The Resident has a right** to participate in planning his or her care and treatment or changes in care and treatment unless adjudged incompetent or otherwise found to be incapacitated under the laws of the State.

(11) **The Resident has the right** to personal privacy and confidentiality of his or her personal and clinical records.

(12) **The Resident or Legal Representative has the right** upon oral or written request, to access all records pertaining to himself or herself, including clinical records, within twenty-four hours. After receipt of his or her records, the Resident or Legal Representative has the right to purchase (at a cost not to exceed the community standard) photocopies of the records or any portions of them upon request and with two days' advance notice to the Facility.

(13) **The Resident may** approve or refuse the release of personal and clinical records to any individual outside the Facility except when:

A. The Resident is transferred to another health care institution.

B. Record release is required by law or a third-party payment contract.

(14) **The Resident has a right** to voice grievances with respect to treatment or care that fails to be furnished without discrimination or reprisal for voicing grievances.

(15) **The Resident has a right** to prompt efforts by the Facility to resolve grievances, including those with respect to the behavior of other Residents.

(16) **The Resident has a right** to examine the results of the most recent survey of the Facility conducted by Federal or State surveyors and any plan of correction in effect with respect to the Facility.

(17) **The Resident has a right** to receive information from agencies acting as client advocates and be afforded the opportunity to contact the agencies.

If you have questions or concerns, please contact:

State Long-Term Care Ombudsman
Cabinet for Health and Family Services
Office of the Ombudsman
275 East Main Street 1 E-B
Frankfort, Kentucky 40621
Toll Free 1-800-372-2991
Office: (502) 564-5497 Ext. 3438
Fax: (502) 564-9523

Office of the Inspector General
Cabinet for Health and Family Services
275 East Main Street, 5 E-A
Frankfort, Ky 40621
502-564-7963

Local Ombudsman

