

## RESIDENT'S RIGHTS

**Resident's of a licensed Community Based Residential Facility (CBRF) have the right to be informed of and to exercise rights specified in state regulations. If a resident has been judged incompetent, the resident's family or legal representative may exercise those rights on the resident's behalf.**

*As a CBRF Resident, you have the right*

- (a) Private and unrestricted communications with the resident's family, physician, advanced practice nurse prescriber, attorney, and any other person, unless medically contraindicated as documented by the resident's physician or advanced practice nurse prescriber in the resident's medical record, except that communications with public officials or with the resident's attorney shall not be restricted in any event. The right to private and unrestricted communications shall include, but is not limited to, the right to:
  - 1. Receive, send and mail sealed, unopened correspondence, and no resident's incoming or outgoing correspondence shall be opened, delayed, held or censored.
  - 2. Reasonable access to a telephone for private communications.
  - 3. Opportunity for private visits.
- (b) Present grievances on the resident's own behalf or others to the facility's staff or administrator, to public officials or to any other person without justifiable fear of reprisal, and to join with other residents or individuals within or outside of the facility to work for improvements in resident care.
- (c) Manage the resident's own financial affairs, including any personal allowances under federal or state programs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility. The resident shall receive, upon written request by the resident or guardian, a written monthly account of any financial transactions made by the facility under such a delegation of responsibility.
- (d) Be fully informed, in writing, prior to or at the time of admission of all services included in the per diem rate, other services available, the charges for such services, and be informed, in writing, during the resident's stay of any changes in services available or in charges for services.
- (e) Be treated with courtesy, respect and full recognition of the resident's dignity and individuality, by all employees of the facility and licensed, certified or registered providers of health care and pharmacists with whom the resident comes in contact.
- (f) Physical and emotional privacy in treatment, living arrangements and in caring for personal needs, including, but not limited to:

1. Privacy for visits by spouse or domestic partner. If both spouses or both domestic partners under ch. 770 residents of the same facility, the spouses or domestic partners shall be permitted to share a room unless medically contraindicated as documented by the resident's physician or advanced practice nurse prescriber in the resident's medical record.

2. Privacy concerning health care. Case discussion, consultation, examination and treatment are confidential and shall be conducted discreetly. Persons not directly involved in the resident's care shall require the resident's permission to authorize their presence.

3. Confidentiality of health and personal records, and the right to approve or refuse their release to any individual outside the facility, except in the case of the resident's transfer to another facility or as required by law or 3<sup>rd</sup>-party payment contracts and except as provided in s. 146.82 (2) and (3).

(g) Not be required to perform services for the facility that are not included for therapeutic purposes in the resident's plan of care.

(h) Meet with, and participate in activities of social, religious, and community groups at the resident's discretion unless medically contraindicated as documented by the resident's physician or advanced practice nurse prescriber in the resident's medical record.

(i) Retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

(j) Be transferred or discharged, and be given reasonable advance notice of any planned transfer or discharge, and an explanation of the need for and alternatives to the transfer or discharge. The facility to which the resident is to be transferred must have accepted the resident for transfer, except in a medical emergency or if the transfer or discharge is for nonpayment of charges following a reasonable opportunity to pay a deficiency. No person may be involuntarily discharged for nonpayment under this paragraph if the person meets all of the following conditions:

1. He or she is in need of ongoing care and treatment and has not been accepted for ongoing care and treatment by another facility or through community support services.

2. The funding of his or her care in the nursing home or community-based residential facility under s. 49.45 (6m) is reduced or terminated because of one of the following:

a. He or she requires a level or type of care which is not provided by the nursing home or community-based residential facility.

b. The nursing home is found to an institution for mental diseases, as defined under 42 CFR 435.1009

(k) Be free from mental and physical abuse, and be free from chemical and physical restraints except as authorized in writing by a physician or advanced practice nurse prescriber for a specified and limited period of time and documented in the resident's medical record. Physical restraints may be used in an emergency when necessary to

protect the resident from injury to himself or herself or others or to property. However, authorization for continuing use of the physical restraints shall be secured from a physician or advanced practice nurse prescriber within 12 hours. Any use of physical restraints shall be noted in the resident's medical records. "Physical restraints" includes, but is not limited to, any article, device, or garment that interferes with the free movement of the resident and that the resident is unable to remove easily, and confinement in a locked room.

(L) Receive adequate and appropriate care within the capacity of the facility.

(m) Use the licensed, certified or registered provider of health care and pharmacist of the resident's choice.

(n) Be fully informed of the resident's treatment and care and participate in the planning of the resident's treatment and care.

(2) The department, in establishing standards for nursing homes and community-based residential facilities may establish, by rule, rights in addition to those specified in sub. (1) for residents in such facilities.

(3) If the resident is adjudicated incompetent in this state and not restored to legal capacity, the rights and responsibilities established under this section which the resident is not competent to exercise shall devolve upon the resident's guardian.

(4) Each facility shall make available a copy of the rights and responsibilities established under this section and the facility's rules to each resident and each resident's legal representative, if any, at or prior to the time of admission to the facility, to each person who is a resident of the facility and to each member of the facility's staff. The rights, responsibilities and rules shall be posted in a prominent place in each facility. Each facility shall prepare a written plan and provide appropriate staff training to implement each resident's rights plan and provide appropriate staff training to implement each resident's rights established under this section.

(5) Rights established under this section shall not, except as determined by the department of corrections, be applicable to residents in such facilities, if the resident is in the legal custody of the department of corrections and is a correctional client in such a facility.

(6) (a) Each facility shall establish a system of reviewing complaints and allegations of violations of residents' rights established under this section. The facility shall designate a specific individual who, for the purposes of effectuating this section, shall report to the administrator.

(b) Allegations of violations of such rights by persons licensed, certified or registered under chs. 441, 446 to 450, 455 and 456 shall be promptly reported by the facility to the appropriate licensing, examining or affiliated credentialing board and to the person against who the allegation has been made. Any employee of the facility and any person licensed, certified or registered under chs. 441, 446 to 450, 455 and 456 may also report such allegations to the board. Such board may make further investigation and take such disciplinary action, within the board's statutory authority, as the case requires.

(c) No person who files a report as required in par. (b) or who participates, in good faith, in the review system established under par. (a) shall be liable for civil damages for such acts.

(d) The facility shall attach a statement, which summarizes complaints or allegations of violations of rights established under this section, to the report required under s. 50.03 (4) © 1. or 2. The statement shall contain the date of the complaint or allegation the name of the persons involved, the disposition of the matter and the date of disposition. The department shall consider the statement in reviewing the report.

(o) Receive medication as prescribed by a practitioner. The resident has the right to refuse medications unless the medication is court ordered.

(p) Prompt and adequate treatment.

(q) To be fully informed and able to participate in the planning of care and treatment including the options, and have the right to refuse any form of care or treatment unless the care or treatment has been ordered by a court.

(r) A resident may not be recorded, filed or photographed without informed, written consent by the resident or resident's legal representative. The CBRF may take a photo for identification purposes. The department may photograph, record or film a resident's pursuant to an inspection or investigation under s. 50.03 Stats, without his/her written informed consent.

(s) Live in a safe environment.