

Residents' Rights

Residents' Rights while Living in an Adult Care Home

Residents' Rights are codified in N.C. General Statute with the intent of promoting and protecting each resident's civil, religious, and human rights while they reside in an adult care home.

1. To be treated with respect, consideration, dignity, and full recognition of his or her individuality and right to privacy.

- It should be recognized that in an institutional setting each and every resident cannot have complete freedom. However, individual choices such as religious preference, clothing choices, activities, and friendships should be respected.

- The staff of the facility should speak courteously with the residents at all times. Staff should call residents by their preferred name and avoid terms such as “sweetie,” “baby,” etc. The exception would be when the resident has given their permission to be called something else or if the resident only responds to a particular nickname.

- Always knock before entering a room, and if the resident is able to respond, wait for a response. Knock even when the door is open, the resident can see you, or if the resident can't respond.

- Privacy should always be ensured. The door should be shut, the privacy curtain pulled, the blinds shut at night, etc., when care is being given.

2. To receive care, and services which are adequate, appropriate and in compliance with relevant federal and state laws and rules and regulations.

- Each resident must receive all care and services described in the minimum standards for that type of facility. This includes but is not limited to: supervision and assistance in caring for basic personal needs, appropriate response in case of emergencies, medication management, adequate furnishings, an activities program, and assistance in arranging for health and mental health services.

- It is important that staff are appropriately trained and that the facility and staff are able to provide care for the types and numbers of residents placed in the facility. An inadequate staffing arrangement or inappropriately placed residents may result in inadequate care.

3. To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.

- It is required that a statement be provided upon admission that clearly identifies services and supplies to be provided and the rates charged for these, regardless of the individual's means of

payment. Refund policies must also be provided. Either the resident or the responsible party is required to sign a copy of these statements along with either the administrator or supervisor in charge. One copy is to be given to the resident and one copy filed in the resident's record.

- When rates change, the resident and/or the responsible party must be notified in writing by the administrator.

- When standards are revised and there are added services these must be included in the written statement and given to the resident for his signature. A copy must be placed in the resident's file.

4. To be free of mental and physical abuse, neglect, and exploitation.

- All staff, including aides, orderlies, housekeeping, and kitchen help, need to be aware of the importance of being sensitive to residents' feelings since what constitutes mental anguish may vary between individuals.

- Administrators are responsible for exercising all reasonable care in selecting staff who will not be abusive, neglectful, or exploitative and for taking appropriate action in the case of any staff member who is involved in mistreatment of a resident.

- Administrators need to keep thorough records of the residents' money when they are assisting the residents in the management of that money. They need to ensure that the resident endorses his own checks. Residents should be kept clearly informed about how much money they have in their individual personal needs fund, if residents have requested that management hold the funds for safekeeping.

5. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.

- Chemical and physical restraints are not to be used to control or limit residents' mobility for the convenience of staff or as a substitute for staff supervision. Likewise, restraints should not replace development of individualized plans for dealing with specific difficult behaviors. The use of either type of restraint should be the last alternative after all other methods of dealing with the problem have been exhausted.

- A physician may write orders for restraints to be used in an emergency situation; however, blanket standing orders for "restraints PRN"(to restrain as needed) are not permitted.

6. To have his or her personal and medical records kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom the disclosure may be made, except as required by applicable state or federal statute or regulation or by third party contract.

- Generally, most facilities require written consent before the release of confidential information such as would be found in a resident's records. Access should be allowed to staff and consultants involved in the resident's care on a "need to know" basis.

- Residents do have the right to access their own medical, social, financial records, as well as to give consent for interested family to view their records.

7. To receive from the administrator of the facility a reasonable response to all requests.

- Facilities should not arbitrarily dismiss or ignore resident requests which are not excessive and which would improve the quality of the resident's life. On the other hand, residents should not expect that every request will or can be granted without consideration of practicality or potential harm to a resident's health or safety.

- In all cases of denial, management should carefully explain to the resident why a particular request cannot be granted. Facilities should document the denial of a request if a particular resident becomes upset.

8. To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own initiative at any reasonable hour.

- Provisions should be made for residents to visit privately with visitors, particularly when the resident shares a semi-private room. Reasonable hours are considered to be the normal waking hours. The facility should allow a visitor to see a resident at the resident's request, even during odd times, should unusual circumstances warrant such flexibility; for example, an emergency visit from out of town relatives, or a need to relay important information to the resident.

- Facilities have the right to restrict visitors when (a) the resident does not wish to see the visitor, (b) the visitor disrupts normal facility operations.

9. To have access at any reasonable hour to a telephone where he or she may speak privately.

- It is very important for residents to maintain links with relatives, friends and the outside world that use of a telephone provide.

- In most cases a telephone located in a hall, lobby, or activity room should afford enough privacy for a resident.

- Should a resident request privacy and considers this absolutely necessary, that resident should be allowed the use of a telephone in a private area such as the home's office. Residents are expected to pay for any long distance telephone calls they make.

10. To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery, and postage.

- This is a legal right of all United States citizens. Mail cannot be opened without the resident's consent.

- If a resident requests assistance with opening or reading his mail or in answering mail, these requests should be honored by staff. Likewise, requests for assistance in obtaining stationery, stamps, or writing pens should be responded to by management by either transporting the resident to a store or obtaining the supplies for the resident at cost. The resident is expected to pay for his own supplies.

- Mail should always be delivered to the residents on the same day it is received in the facility.

11. To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.

- All facilities should have written grievance procedures in place through which criticisms and complaints may be received by the home for objective consideration. These grievance policies should be explained to each resident in a way that encourages residents to use them. Input from residents regarding food preferences, activities, and socializing can be very helpful to the administrator and residents.

- Additionally, residents remain free to contact any outside agency, person, or group without restraint or interference from the facility. Many facilities provide a listing of such community agencies for residents.

- Residents should be encouraged to be involved in community and civic affairs to the maximum extent possible. Administrators should make an effort to transport residents to register and to vote.

12. To have and use his or her own possessions where reasonable and have an accessible, lockable space provided for security of personal valuables. This space shall be accessible only to the resident, the administrator, or supervisor in charge.

- The administrator must furnish a space for each resident to store valuables such as private papers, jewelry, letters, etc. Lockable spaces that can be considered are a lockable drawer, a locker, an individual lockable closet or box, for example. There must be a lock and duplicate keys so that the resident can unlock it when he wants to, and the administrator can unlock the space if the resident loses his key. Residents are to receive one key free of charge, with replacement keys charged to the resident at cost.

- Within reason each resident should be able to decorate their living space with personal pictures, small sentimental items, and possibly a small personal chair if space permits. Any restrictions on the amount and type of personal property or clothing that will be allowed should be clearly specified prior to admission.

- Each resident should be allowed to have his own personal clothing within storage limitations of the facility. It is also reasonable that each resident would have adequate clothing to be properly dressed at all times, even when other clothing is being washed or in the cleaners.

13. To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.

- To the extent they are able, residents should be encouraged to handle their own personal needs funds as a means of promoting independence and responsible decision making.

- Checks that come to the facility are usually written to the resident. The resident pays the facility for his room, board, and care. The remainder he keeps for his personal needs, such as Medicaid co-payments, soft drinks, tobacco products, etc. The resident is due this money as soon as his check is received and cashed.

- Residents may delegate management of their personal needs funds to facility management through a written statement signed either by the resident or legal representative, a copy of which must remain in the individual resident's record. Accurate records must be kept of the account, and the resident must be allowed to look at his account. This agreement can be terminated at any time (as long as he has paid what he owes), and any balance belonging to the resident must be delivered to him promptly.

14. To be notified when the facility is issued a provisional license or notice of revocation of license by the North Carolina Department of Human Resources and the basis on which the provisional license or notice of revocation of license was issued. The resident's responsible family member or guardian must also be notified.

- When the facility receives a provisional license or notice of revocation of license, a letter accompanies the license or notice stating the reasons the home's license has been downgraded or revoked. This letter must be posted in a conspicuous place and residents informed about the letter, or the administrator can send each resident a letter containing this information.

15. To have freedom to participate by choice in accessible community activities and in social, political, medical, and religious resources and to have freedom to refuse such participation.

- As a general rule, residents have the same freedom of choice in the areas listed above as do other people in the community. Their basic freedoms are not legally limited or restricted in any way simply by the fact that they are residents of domiciliary care facilities. For example, residents have the right to choose their own physician in the community.

16. To receive upon admission to the facility a copy of this section. (Adult Care Home Residents' Bill of Rights)

· The facility must have a statement typed or clearly written that the Declaration of Rights was received by the resident. The resident signs the receipt, and the administrator files this in the resident's record.

17. To not be transferred or discharged from a facility except for medical reasons, the resident's own or other residents' welfare, nonpayment for stay, or when the transfer is mandated under State or Federal law. The resident shall be given at least a thirty days' advance notice to ensure orderly transfer or discharge. The resident has the right to appeal a facility's attempt to transfer or discharge the resident pursuant to rules adopted by the Secretary, and the resident shall be allowed to remain in the facility until resolution of the appeal unless otherwise provided by law. The Secretary shall adopt rules pertaining to the transfer and discharge of residents that offer at least the same protection to residents as State and federal rules and regulation governing the transfer or discharge of residents from nursing homes.