



YOUR RIGHTS AS A NURSING HOME RESIDENT IN NEW YORK STATE



**Department
of Health**

Office of Primary Care and Health Systems Management
Division of Nursing Homes and ICF/IID Surveillance

2022

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YOUR RIGHTS AS A NURSING HOME RESIDENT IN NEW YORK STATE

As a resident in this facility, you have rights guaranteed to you by state and federal laws. This facility is required to protect and promote your rights. Your rights strongly emphasize individual dignity and self-determination, promoting your independence and enhancing your quality of life.

You have the right to:

- Exercise all your rights free from interference, coercion, discrimination or reprisal.
- Be valued as an individual, to be treated with consideration, dignity and respect in full recognition of your self-worth.
- Be cared for in a manner that enhances your quality of life, free from humiliation, harassment or threats.
- Be free from physical, sexual, mental and verbal abuse, corporal punishment, financial exploitation and involuntary seclusion including physical and chemical restraints.

FEES AND SERVICES

You have the right to:

- Be informed in writing about services and fees before you enter the nursing home and at any time when services and fees change.

In addition:

- The nursing home cannot require a minimum entrance fee if your care is paid for by Medicare or Medicaid.
- For people seeking admission to the nursing home, the nursing home must tell you (both orally and in writing) and display written information about how to apply for and use Medicare and Medicaid benefits.
 - The nursing home must also provide information on how to get a refund if you paid for an item or service, but because of Medicare and Medicaid eligibility rules, it's now considered covered.

ADMISSION

You have the right to:

- Receive a facility admission notice and periodic notices thereafter that document items and services that are not covered by insurance that they will charge you for.

The facility may:

- Request and require a family member or resident representative who has legal access to your income or resources to pay for the facility care and to sign a contract, without incurring personal liability.

TRANSFER OR DISCHARGE

You cannot be sent to another nursing home or made to leave the nursing home unless any of the following are true:

- The transfer or discharge is necessary for your welfare and your needs cannot be met in the facility.
- The transfer or discharge is appropriate because your health has improved sufficiently so you no longer need the services provided by the facility.
- The safety of individuals in the facility is endangered due to your clinical or behavioral status.
- The health of individuals in the facility would otherwise be endangered.
- You have failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility. Nonpayment applies if you do not submit the necessary paperwork for third party payment or after the third party, including Medicare or Medicaid, denies the claim and you refuse to pay for the stay. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid; or
- The facility ceases to operate.

You have the right to:

- Receive 30-day written notice of the facility's plan and reason to discharge or transfer you, except in emergencies.
- Appeal a transfer or discharge with the New York State Department of Health.

SELF-DETERMINATION

You have the right to:

- Be informed of your rights, and all rules and regulations regarding resident conduct and responsibilities during your stay in the facility.
- Be offered choices and allowed to make decisions important to you.
- Make personal decisions, such as what to wear, when to sleep or how to spend free time.
- Receive services with reasonable accommodations for individual needs and preferences.
- Participate in the planning of your care and services.
- Self-administer medications if clinically appropriate.
- Accept or refuse care and treatment.
- Manage your own personal finances, or to be kept informed of your finances if you choose to let the facility or someone else manage them for you.
- Refuse to perform work or services for the facility.
- Choose your attending physician.
- Share a room with your spouse if both spouses consent to the arrangement.
- Be provided a statement that should you be unable to make your own decisions and be adjudicated incompetent and not be restored to legal capacity, or if a conservator should be appointed for you, these rights and responsibilities shall be exercised by the appointed committee or conservator in a representative capacity.
- Be provided a statement at or prior to the time of admission to the facility informing you of your right to make organ, tissue or whole-body donations, and the means by which you may make such a donation.

ACCESS

You have the right to:

- A safe, clean, homelike environment.
- Receive assistance if a sensory impairment exists.
- Receive information in a language you understand (e.g., Spanish, Braille).
- Be fully informed of the services available and related costs.
- Be informed and receive assistance in accessing Medicare or Medicaid benefits.
- Be free from charges for services covered that you receive by Medicaid or Medicare.
- Look at your records and receive copies at a reasonable cost.
- Allow ombudsmen access to your medical or personal records, including financial records if you, or, where appropriate, your guardian or appointed Health Care Proxy has given express written consent to such disclosure.
- Retain and use personal possessions.
- Receive notice in advance of any plans to change your room or roommate and refuse these changes if for the convenience of staff or the move is outside a distinct part of the Nursing Home.
- Organize and participate in a Resident Council and for your family to organize and participate in a Family Council.
- Receive upon request food or food products prepared in accordance with religious dietary restrictions such as kosher and halal.
- Participate in social, religious and community activities, including the right to vote.
- Read the results of the most recent State or Federal inspection survey and the facility's plan to correct any violations.
- Contact your Ombudsman, or any advocate or agency which provides health, social, legal, or other services.

PERSONAL CARE

You have the right to:

- Equal access to quality care.
- Be told in advance about care and treatment, including all risks and benefits.
- Receive adequate and appropriate care.
- Be informed of all changes in medical condition.
- Refuse medication and treatment.
- Refuse chemical and physical restraints.

VISITATION

You have the right to:

- Visits from representatives of the state survey agency and the Office of the State Long-Term Care Ombudsman.
- Visits by relatives, friends and other individuals of your choice and at the time you choose.
- Visits by organizations or individuals providing health, social, legal or other services.
- Refuse visitors.

PRIVACY

You have the right to:

- Personal privacy during care and treatment.
- Confidentiality concerning your personal and medical information.
- Private and unrestricted visits with any person of your choice, in person and by telephone.
- Send and receive mail without interference.
- Privacy and confidentiality regarding medical, personal and financial affairs.

COMPLAINTS

You have the right to:

- Voice grievances or complaints about care or services without discrimination or fear of punishment.
- Expect the facility to promptly investigate and try to resolve your concerns.
- Contact the Ombudsman to advocate on your behalf, free from discrimination or fear of punishment.

New York State Department of Health Centralized Complaint and Intake Program

Mail: NYSDOH DRS/SNHCP

MAILSTOP: CA/LTC

EMPIRE STATE PLAZA

ALBANY, NEW YORK 12237

Complaint Hotline: 1-888-201-4563

Fax: (518) 408-1157

Website: <https://www.health.ny.gov/nursinghomecomplaints>

Long Term Care Ombudsman Program

Phone: 1-855-582-6769

New York State Association of Independent Living (NYAIL)

Website: www.ilny.org

Email: info@inly.org

Phone: (518) 465-4650

New York State Office for the Aging

Phone: 1-844-697-6321

The NYS Advocacy Program for residents with intellectual or developmental disabilities or who are mentally ill is:

Disability Rights New York

Address: 725 Broadway, Suite 450

Albany, New York 12207

Email: Mail@DRNY.org

Phone: (518) 432-7861

Toll Free: 1-800-993-8982

Fax: (518) 427-6561

LEGAL SERVICE AGENCIES AND COMMUNITY RESOURCES

Resident Advocacy Services Community Resource Guide

Link: https://www.health.ny.gov/facilities/nursing/docs/community_resource_guide.pdf

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- To self-administer medications if clinically appropriate.
- To accept or refuse care and treatment.
- To manage your own personal finances, or to be kept informed of your finances if you choose to let the facility or someone else manage them for you.
- To refuse to perform work or services for the facility.
- To choose your attending physician.
- To share a room with your spouse if both spouses consent to the arrangement.
- To be provided a statement that should you be unable to make your own decisions and be adjudicated incompetent and not be restored to legal capacity, or if a conservator should be appointed for you, these rights and responsibilities shall be exercised by the appointed committee or conservator in a representative capacity.
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