

## **Resident's Bill of Rights**

- (a) Resident's bill of rights.
- (1) Each assisted living facility must post the resident's bill of rights, as provided by the department, in a prominent place in the facility and written in the primary language of each resident. A copy of the Resident's Bill of Rights must be given to each resident.
  - (2) A resident has all the rights, benefits, responsibilities, and privileges granted by the constitution and laws of this state and the United States, except where lawfully restricted. The resident has the right to be free of interference, coercion, discrimination, and reprisal in exercising these civil rights.
  - (3) Each resident in the assisted living facility has the right to:
    - (A) be free from physical and mental abuse, including corporal punishment or physical and chemical restraints that are administered for the purpose of discipline or convenience and not required to treat the resident's medical symptoms. A provider may use physical or chemical restraints only if the use is authorized in writing by a physician or the use is necessary in an emergency to protect the resident or others from injury. A physician's written authorization for the use of restraints must specify the circumstances under which the restraints may be used and the duration for which the restraints may be used. Except in an emergency, restraints may only be administered by qualified medical personnel;
    - (B) participate in activities of social, religious, or community groups unless the participation interferes with the rights of others;
    - (C) practice the religion of the resident's choice;
    - (D) if mentally retarded, with a court-appointed guardian of the person, participate in a behavior modification program involving use of restraints, consistent with subparagraph (A) of this paragraph, or adverse stimuli only with the informed consent of the guardian;
    - (E) be treated with respect, consideration, and recognition of his or her dignity and individuality, without regard to race, religion, national origin, sex, age, disability, marital status, or source of payment. This means that the resident:
      - (i) has the right to make his/her own choices regarding personal affairs, care, benefits, and services;
      - (ii) has the right to be free from abuse, neglect, and exploitation; and

- (iii) if protective measures are required, has the right to designate a guardian or representative to ensure the right to quality stewardship of his/her affairs;
- (F) a safe and decent living environment;
- (G) not be prohibited from communicating in his or her native language with other residents or employees for the purpose of acquiring or providing any type of treatment, care, or services;
- (H) complain about the resident's care or treatment. The complaint may be made anonymously or communicated by a person designated by the resident. The provider must promptly respond to resolve the complaint. The provider must not discriminate or take other punitive action against a resident who makes a complaint;
- (I) receive and send unopened mail, and the provider must ensure that the resident's mail is sent and delivered promptly;
- (J) unrestricted communication, including personal visitation with any person of the resident's choice, including family members and representatives of advocacy groups and community service organizations, at any reasonable hour;
- (K) make contacts with the community and to achieve the highest level of independence, autonomy, and interaction with the community of which the resident is capable;
- (L) manage his or her financial affairs. The resident may authorize in writing another person to manage his/her money. The resident may choose the manner in which his/her money is managed, including a money management program, a representative payee program, a financial power of attorney, a trust, or a similar method, and the resident may choose the least restrictive of these methods. The resident must be given, upon request of the resident or the resident's representative, but at least quarterly, an accounting of financial transactions made on his or her behalf by the facility should the facility accept his or her written delegation of this responsibility to the facility in conformance with state law;
- (M) access the resident's records, which are confidential and may not be released without the resident's consent, except:
  - (i) to another provider, if the resident transfers residence; or
  - (ii) if the release is required by another law;
- (N) choose and retain a personal physician and to be fully informed in advance about treatment or care that may affect the resident's well-being;

- (O) participate in developing his/her individual service plan that describes the resident's medical, nursing, and psychological needs and how the needs will be met;
- (P) be given the opportunity to refuse medical treatment or services after the resident:
  - (i) is advised by the person providing services of the possible consequences of refusing treatment or services; and
  - (ii) acknowledges that he/she understands the consequences of refusing treatment or services;
- (Q) unaccompanied access to a telephone at a reasonable hour or in case of an emergency or personal crisis;
- (R) privacy, while attending to personal needs and a private place for receiving visitors or associating with other residents, unless providing privacy would infringe on the rights of other residents. This right applies to medical treatment, written communications, telephone conversations, meeting with family, and access to resident councils. If a resident is married and the spouse is receiving similar services, the couple may share a room;
- (S) retain and use personal possessions, including clothing and furnishings, as space permits. The number of personal possessions may be limited for the health and safety of other residents;
- (T) determine his or her dress, hair style, or other personal effects according to individual preference, except the resident has the responsibility to maintain personal hygiene;
- (U) retain and use personal property in his or her immediate living quarters and to have an individual locked area (cabinet, closet, drawer, footlocker, etc.) in which to keep personal property;
- (V) refuse to perform services for the facility, except as contracted for by the resident and operator;
- (W) be informed by the provider no later than the 30th day after admission:
  - (i) whether the resident is entitled to benefits under Medicare or Medicaid; and
  - (ii) which items and services are covered by these benefits, including items or services for which the resident may not be charged;
- (X) not be transferred or discharged unless:
  - (i) the transfer is for the resident's welfare. and the

- resident's needs cannot be met by the facility;
  - (ii) the resident's health is improved sufficiently so that services are no longer needed;
  - (iii) the resident's health and safety or the health and safety of another resident would be endangered if the transfer or discharge was not made;
  - (iv) the provider ceases to operate or to participate in the program that reimburses for the resident's treatment or care; or
  - (v) the resident fails, after reasonable and appropriate notice, to pay for services;
- (Y) not be transferred or discharged, except in an emergency, until the 30th day after the date the facility provides written notice to the resident, the resident's legal representative, or a member of the resident's family, stating:
- (i) that the facility intends to transfer or discharge the resident;
  - (ii) the reason for the transfer or discharge;
  - (iii) the effective date of the transfer or discharge;
  - (iv) if the resident is to be transferred, the location to which the resident will be transferred; and
  - (v) any appeal rights available to the resident;
- (Z) leave the facility temporarily or permanently, subject to contractual or financial obligations;
- (AA) have access to the service of a representative of the State Long Term Care Ombudsman Program, Texas Department on Aging; and
- (BB) execute an advance directive, under the Natural Death Act (Chapter 166, Health and Safety Code) or designate a guardian in advance of need to make decisions regarding the resident's health care should the resident become incapacitated.

### **Provider Bill of Rights**

- (b) Provider's bill of rights.
  - (1) Each assisted living facility must post a providers' bill of rights in a prominent place in the facility.
  - (2) The providers' bill of rights must provide that a provider of assisted living services has the right to:
    - (A) be shown consideration and respect that recognizes the dignity and individuality of the provider and assisted living facility;
    - (B) terminate a resident's contract for just cause after a written 30-day notice;
    - (C) terminate a contract immediately, after notice to the department, if the provider finds that a resident creates a serious or immediate threat to the health, safety, or welfare of other residents of the assisted living facility. During evening hours and on weekends or holidays, notice to DHS must be made to 1-800-458-9858;
    - (D) present grievances, file complaints, or provide information to state agencies or other persons without threat of reprisal or retaliation;
    - (E) refuse to perform services for the resident or the resident's family other than those contracted for by the resident and the provider;
    - (F) contract with the community to achieve the highest level of independence, autonomy, interaction, and services to residents;
    - (G) access patient information concerning a client referred to the facility, which must remain confidential as provided by law;
    - (H) refuse a person referred to the facility if the referral is inappropriate;
    - (I) maintain an environment free of weapons and drugs; and
    - (J) be made aware of a resident's problems, including self-abuse, violent behavior, alcoholism, or drug abuse.

