

Residents' Rights Booklet

A Guide to Your Rights as a Resident of a
Basic Care Facility in the State of North Dakota

Distributed by:

Office of the State Long Term Care Ombudsman

1237 W. Divide Ave. - Suite 6

Bismarck, ND 58501

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toll-free 1-855-462-5465

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Dear Resident:

This handbook explains the rights you have in your home here at the basic care facility. You keep the rights you had before this move and are still in charge of your choices and lifestyle. These rights are guaranteed by State Law.

When you use your rights, it should be done with consideration that the other residents have the same rights.

While living in the basic care facility you may choose a family member or friend to be included/involved in the decision-making and sharing of your information, but you must put this in writing - the facility cannot automatically share information with your family member(s) or others.

This booklet contains a general overview of residents' rights. If you, or any or your family members or friends, have questions about how these rights apply to you or any particular situation, you may ask facility staff, or you may call the Long-Term Care Ombudsman Program at 701-328-4617 or 1-888-462-5465.

Sincerely,

The North Dakota Long-Term Care Ombudsman Program

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Legal References:

- State Law: NDCC 50-10.2
- NDCC 23-09.3
- NDAC 33-03-24.1

RESIDENT RIGHTS INFORMATION

- The facility is required to provide you and a member of your immediate family, or any existing legal guardian, a written statement of your rights, the responsibilities of both you and the facility, and the rules governing your conduct, at the time you are admitted. Within 30 days after your admission, the statement must be orally explained to you and if you are unable to understand, it should be explained to your immediate family member or any existing legal guardian. Resident rights should be reviewed with you annually or as long as you live in the facility.
- The facility's staff is responsible for assisting you in exercising your rights to the fullest possible extent.
- You have the right to civil and religious liberties, including knowledge of available choices (civil liberties include your right to vote, marry, divorce, sign papers, obtain and dispose of property, etc.)

ADMISSION

- You cannot be discriminated against in the admission process based upon your source of payment.
- The facility must provide, in writing, the reason for your admission denial.
- You cannot be required to give advance payment, gratuity, or gift to the facility to assure admission.
- You cannot be asked to waive or give up any of your rights as a condition of admission.

INVOLVEMENT IN HEALTH CARE

- The facility must provide personal care services to assist you in attaining and maintain your highest level of functioning.
- If you receive services from someone outside of the facility, you have the right to know who they are and what agency they work for.
- It is your choice who provides services to you. You can choose your doctor, pharmacist and dentist.
- You should be informed about your total health status including your medical care, nursing care, nutritional status, activities potential, rehabilitation potential and any physical impairments.
- You should be informed in advance of any care or treatment to be provided and be given the opportunity to participate in decisions regarding proposed care or treatment.
- You can give yourself certain medications and drugs unless professionals have determined it is not safe for you to do so.
- You should choose who you want involved in or notified about your care.
- You can refuse to take medications and participate in a treatment. Your medical provider should notify you of any medical consequences of your decisions.
- You should have access to any of your personal or medical records. You may purchase a copy of these records at a reasonable cost.

COST OF CARE

- You can request written information about any services you are provided by the facility and the costs of those services.
- You have to be informed by the facility at least 30 days before any change in the costs or availability of any services.
- The facility needs to assist you in filing for additional sources of payment you may be eligible for.

Groups and Activities

- You are able to participate in social, religious, and community activities of your choice, as long as they do not interfere with the rights of other residents.
- These activities may be inside or outside of the facility.
- You may participate in and help organize resident and family council meetings. For resident and family councils, the facility must provide a space and staff person to assist when requested.
- The facility cannot force you to work or perform services for them. If you so choose to work and perform services, it must be documented in your care plan.

FREEDOM FROM ABUSE, NEGLECT, EXPLOITATION & RESTRAINTS

- You cannot be subjected to verbal, sexual, physical, or mental abuse. This includes the use of corporal punishment or involuntary isolation.
- You may request a copy of the facility's written policies/procedures regarding how they will prevent employment of persons convicted of mistreatment, neglect and abuse of residents.
- Chemical and Physical Restraints may not be used for the convenience of the staff or for disciplinary reasons and may be used ONLY:
 1. When ordered, in writing, by a doctor for a **specified and limited period of time** to treat a medical symptom and to ensure your safety or that of others.
 2. In Emergency situations during which your behavior has placed, or could place, yourself or others in danger of physical harm and the situation could not have been anticipated. Restraints can be applied in emergency situations only until a written order can be promptly obtained from your doctor.

Federal Law interprets physical and chemical restraints as follows:

Physical Restraints are "any manual or physical or mechanical device, material, or equipment attached or adjacent to your body that you cannot remove easily and which restricts freedom of movement or normal access to your body".

Physical restraints include, but are not limited to, hand mitts, soft ties and rests, wheelchair safety bars, bed rails, or chairs that prevent rising. Also included as restraints are facility practices such as tucking in a sheet so tightly that a bed-bound resident cannot move, or placing a wheelchair-bound resident so close to wall that the wall prevents the resident from rising.

Chemical Restraints means a "psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms".

Transfer & Discharge

- In cases of transfer or discharge, you must receive a 30 day written notice.
- A facility cannot transfer or discharge you from the facility against your wishes, unless it is for the following reasons:
 1. Your doctor documents your needs cannot be met by the facility,
 2. The safety and welfare, of individuals in the facility is threatened.
 3. Non-payment of your bill, whether by you or outside paying source.
 4. During times of remodel - can be temporary only.
- Notice of Transfer or Discharge may be less than 30 days if:
 1. The resident has urgent medical needs that require a more immediate transfer or discharge or,
 2. A more immediate transfer or discharge is required to protect the health and safety of residents and staff within the facility.
- The facility must follow their written discharge policy to prepare you for a safe and orderly transfer or discharge from the facility.

PERSONAL & PRIVACY RIGHTS

- The facility staff must treat you courteously, fairly and with dignity.
- You have the right to privacy in visits with your spouse and to share a room with your spouse if you both agree and a room is available.
- You have the right to have privacy in medical treatment and personal care along with confidentiality of those records. Your personal and medical records can only be released to persons of your choice.
- You have the right to safe, clean and comfortable surroundings, allowing you to keep and securely store your personal belongings to the extent space permits. The facility must provide you with reasonable accommodation for your personal needs and preferences.
- You should be able to send and receive unopened personal mail.
- You can manage your own financial affairs, if not under legal guardianship, or choose someone to handle them for you.
- You have the right to visitors, to attend meetings, and to communicate with people of your choosing at reasonable times.

- The facility must provide a telephone in a private area for your use for communication.
- If you so choose, besides your legal resident representative you can have your family representative involved in your health care.
- You can make choices about how you want to live your life that are significant to you. This includes deciding how you want to spend your time, what you would like your daily schedule and routine to be and what your health care wishes are that are consistent with your personal beliefs, values, interests, as well as assessments and plans of care.
- You cannot be denied immediate access at any time without restrictions to:
 - 1) Your personal doctor;
 - 2) Representative from state and federal agencies;
 - 3) Representatives from the Ombudsman program, Developmental Disabilities, or Mental Health Advocacy Programs; and
 - 4) Immediate family or other relatives you consented to visit with.

Grievances and Complaints

- You can freely make complaints and discuss problems, concerns, grievances, or suggestions with anyone you choose without fear of retaliation or reprisal.
- The facility must provide you with a statement about your right to file a complaint with the Department of Health concerning resident abuse, neglect and misappropriation of your property in the facility.
- You must be provided a copy of the facility's grievance procedures.
- You must be given information about other agencies and organizations, such as the State Ombudsman Program or Medicaid Fraud that may assist you with resolving a complaint or providing information and assistance
- You have a right to claim relief against the facility for any violation of rights guaranteed by State Law.

Access to Facility Information

- The facility must make available every inspection report, deficiency report and the approved plan of correction for the past two years.
- You can request a copy of the names of the owners, board members, and partners of the facility.
- You may ask for a statement setting forth any conflict of interest in the operation of the facility, such as, an owner's family member being employed or doing business with the facility.

IMPORTANT TO KNOW

State Long-Term Care Ombudsman 1-855-462-5465

Legal Services of North Dakota 1-866-621-9886

Protection and Advocacy Project 1-800-472-2670

ND Department of Health 1-701-328-2352

Facility Staff:

Administrator _____

Director of Nursing _____

Social Worker _____

Doctor _____

Local Ombudsman _____

Other _____
