

RESIDENT'S RIGHTS

A Guide to your RIGHTS as a Resident of a Basic Care Facility in North Dakota

**Published By:
Long-Term Care Ombudsman Program**

**Aging Services Division
North Dakota Department of Human Services
1237 West Divide Avenue, Suite 6
Bismarck, ND 58501
701-328-4601**

Revised 8/1/2009

TABLE OF CONTENTS

ADMISSION RIGHTS	4
RESIDENT'S RIGHTS INFORMATION	5
COST OF CARE	6
INVOLVEMENT IN HEALTH CARE	7
FREEDOM FROM ABUSE, NEGLECT, EXPLOITATION AND RESTRAINTS	8
TRANSFERS AND DISCHARGES	9
PERSONAL AND PRIVACY RIGHTS	10
DIGNITY AND RESPECT	11
GROUPS AND ACTIVITIES	12
RIGHTS CONCERNING FAMILIES/LEGAL REPRESENTATIVES .	13
GRIEVANCES AND COMPLAINTS	14
ACCESS TO FACILITY INFORMATION	15
IMPORTANT REFERENCES	16

INTRODUCTION

When you enter a basic care facility, you **DO NOT** give up the legal rights you had while living in the community. Residents of North Dakota's basic care facilities have certain legal rights and responsibilities. Generally, each basic care facility is required to:

- Care for you as a resident in a manner and in an environment that promotes your quality of life with emphasis placed on dignity, choice, and self-determination.
- Provide services and activities that promote the quality of care you receive; with reasonable accommodations for your needs and preferences, except when the health and safety of you or other residents would be endangered.
- Protect and promote your rights as a citizen without interference, coercion, discrimination or reprisal from the facility when exercising those rights.

This brochure has been prepared to assist you and your family in understanding your legal rights and responsibilities as a resident in a North Dakota basic care facility. It is not intended, however, to answer specific legal questions or provide specific legal advice. Such questions should be posed to a licensed attorney.

ADMISSION RIGHTS

YOUR RIGHT to apply to be admitted to a basic care facility. You have the right:

- **To review the basic care facility's admission agreement and policies.**
- **To ask questions about any of the information you are given by the facility.**
- **To not be discriminated against by a facility in the admission process.**
- **To request and receive, in writing, reasons for your denial of admission.**
- **To not be required to have any person other than yourself guarantee payment for your care (no third party guarantor can be required).**
- **To not be required to give advance payment, gratuity, or gift to the facility to assure admission (the facility cannot charge to hold a bed prior to your admission).**
- **To not waive any of your rights as a condition of admission.**

RESIDENT'S RIGHTS INFORMATION

YOUR RIGHT to be informed of your rights and responsibilities as a resident. You have the right:

- **To be informed at the time you are admitted, and annually thereafter, of your rights and responsibilities and the facility's policies regarding those rights and responsibilities.**
- **To be given a written copy of all of your rights and responsibilities and all facility policies.**
- **To be informed when there is a change in resident rights under federal or state laws or regulations, and to have your legal representative or interested family member notified as well.**
- **To receive a statement to sign which says you have been informed of your rights and responsibilities and the facility's policies.**
- **To have a member of your immediate family and your guardian, if any, be informed of your rights and responsibilities if you are unable to understand. At any time you become able to understand, the facility must inform YOU of your rights and responsibilities.**
- **To receive assistance from staff of the facility to promote the fullest possible exercise of your rights.**

COST OF CARE

YOUR RIGHT to be informed of all costs for your care. You have the right:

- **To receive written information about any services provided by the facility and the costs for those services.**
- **To be informed at least 30 days prior to any change in costs or availability of services.**
- **To have the facility assist you in filing for any third party payments.**

YOUR RIGHT to be involved in planning for your medical care. You have the right:

- **To services/care to help you attain and maintain your highest level of physical, mental, and psychosocial well being. Where you receive the services of a provider from outside of the facility, you have the right to be informed as to that provider's identity.**
- **To be fully informed about your total health status.**
- **To be informed in advance and participate in any care and treatment to be provided.**
- **To give yourself certain medications and drugs unless professionals determine it is not safe for you to do so.**
- **To choose individuals you want involved in or notified about your care.**
- **To refuse medication and treatment.**
- **To be notified by your doctor of any medical consequences of your decisions.**
- **To refuse to be involved in experimental research.**
- **To know the name, address, phone number, and specialty of all of your health care providers.**
- **To choose your health care providers such as your doctor, pharmacist, and dentist.**
- **To have access to any of your personal or medical records.**
- **To purchase a copy of your records, at a reasonable cost.**

YOUR RIGHT to be free from abuse and restraints. You have the right:

- **To be free from verbal, sexual, physical, or mental abuse, corporal punishment, or involuntary seclusion.**
- **To be free from mental and physical abuse, and the right to be free from physical or chemical restraint except in documented emergencies or when necessary to protect a resident from injury to self or others. In such cases, the restraint must be authorized and documented by a physician for a limited period of time, and, if the restraint is a chemical restraint, it must be administered by a licensed nurse or physician.**

Federal law interprets physical and chemical restraints as follows:

- **PHYSICAL RESTRAINTS** are “any manual method 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 a 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”.

TRANSFERS AND DISCHARGES

YOUR RIGHT to know if you are going to be transferred to another room within the facility or transferred or discharged from the facility. You have the right:

- **To be transferred or discharged from a facility only for the following reasons:**
 1. **Medical reasons (e.g., your needs can no longer be met by the facility);**
 2. **Your health or safety, or the health or safety of other residents is endangered;**
 3. **Non-payment of your bill; or**
 4. **The facility closes.**
- **To receive at least a thirty-day written advance notice that you will be transferred or discharged.**
- **To be treated the same as all other residents regarding the facility's transfer and discharge policies and practices.**
- **To have the facility prepare you for a safe and orderly transfer or discharge from the facility.**

NOTE: You may however be temporarily transferred during times of remodeling.

PERSONAL AND PRIVACY RIGHTS

YOUR RIGHT to privacy, confidentiality, and use of personal possessions. You have the right:

- **To send and promptly receive unopened personal mail.**
- **To have stamps and writing materials available to buy.**
- **To access and use of a telephone for *PRIVATE* conversations.**
- **To privacy in visits with your spouse.**
- **To share a room with your spouse if you both agree and if a room is available.**
- **To have private meetings, associations, and communications with any person you choose.**
- **To privacy in medical treatment and personal care.**
- **To have safe, clean, and comfortable surroundings.**
- **To keep and use your own clothing and other personal items to the extent space permits.**
- **To have security in the storage and use of personal possessions.**
- **To confidentiality of your personal and medical records.**
- **To view and release information in your personal and medical records to whom you choose.**
- **To manage your own financial affairs or choose someone to handle them for you.**

DIGNITY AND RESPECT

YOUR RIGHT to be treated with dignity and respect. You have the right:

- **To be treated courteously, fairly, and with dignity.**
- **To make independent personal decisions.**
- **To receive reasonable accommodation from the facility for your personal needs and preferences.**
- **To encouragement and assistance from the staff of the facility to promote the fullest possible exercise of your rights.**
- **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.).**

GROUPS AND ACTIVITIES

YOUR RIGHT to participate in groups and activities. You have the right:

- **To refuse to work or perform services for the facility.**
- **To participate in social, religious, and community activities of your choice which do not interfere with the rights of other residents.**
- **To interact with members of the community both inside and outside of the facility.**
- **To organize and participate in resident and family groups within the facility.**

RIGHTS CONCERNING FAMILIES / LEGAL REPRESENTATIVES

YOUR RIGHT to have your family and legal representative involved in your care. You have the right to have your family and legal representative:

- **Participate in your care planning process.**
- **See you at any time, with your permission.**

GRIEVANCES AND COMPLAINTS

YOUR RIGHT to speak up about decisions that affect your care and life in the facility. You have the right:

- **To make complaints and to freely discuss problems, concerns, grievances, or suggestions with anyone you choose without fear of retaliation or reprisal.**
- **To receive a timely resolution from the facility of your grievance.**
- **To receive information about other agencies or organizations, such as the State Ombudsman Program that may assist you with resolving a complaint or providing to you information and assistance.**
- **To a claim for relief against the facility for a violation of any resident rights.**

ACCESS TO FACILITY INFORMATION

YOUR RIGHT to know how the facility operates. You have the right:

- **To review every inspection report and approved plan of correction issued to the facility within the last two years.**
- **To request a copy of the names of the owners, board members, and partners of the facility.**
- **To request 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 REFERENCES

Long-Term Care Ombudsman	1-800-451-8693
Elderly Law Program	1-866-621-9886
Protection & Advocacy Project	1-800-472-2670
ND Department of Health	1-701-328-2352

Facility Staff:

Administrator	_____
Director of Nursing	_____
Social Worker	_____
Grievance Contact Person	_____
Doctor	_____
Others	_____

