§64-13-4. RESIDENTS' RIGHTS.

4.6. Refusal of Treatment and Experimental Research.

4.6.b. A nursing home shall not transfer or discharge a resident for refusing treatment unless criteria for transfer or discharge are met under Subsection 4.13 of this rule.

4.7. Written Information. A nursing home shall provide to residents a written description of a resident’s legal rights which includes:

...4.7.b. A description of the residents’ financial obligation as explained to the residents prior to or at the time of admission, including residents’ charges for services available, charges not covered under the Medicaid Program, or charges not included in the nursing home’s basic rate;

4.7.c. A description of the requirements and procedures for Medicaid eligibility including information about the availability of asset assessments upon request at the county Department office;


4.12.a. Upon payment of the nursing home’s bed-hold rate or in the case of Medicaid residents, in accordance with the policy and procedure currently prescribed by the State plan, a resident has the right to retain the bed in which he or she is a resident. The nursing home shall notify a resident in writing at the time of admission and hospitalization or leave of absence, of the bed-hold policy.

4.12.b. After a hospitalization or a leave of absence for which there was no bed-hold, a former resident has the right to be re-admitted to the first available bed in a semi-private room in the nursing home from which he or she came, if the resident requires the services provided by the nursing home.

4.12.b.1. If a former resident wishes to return to the nursing home and meets the requirements for coverage under the Medicare program, the resident may be placed in a bed certified to participate in that program.

4.12.b.2. If the nursing home is not certified under the Medicare program and the resident chooses placement in a nursing home providing Medicare coverage, the resident may be placed on a waiting list for readmission to the nursing home after Medicare coverage has ceased if the nursing home can provide the necessary services to the former resident.

4.13. Admission, Transfer and Discharge.
4.13.b. Transfer and discharge requirements. The nursing home shall permit each resident to remain in the nursing home, unless:

4.13.b.1. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the nursing home;

4.13.b.2. The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the nursing home;

4.13.b.3. The health or safety of persons in the nursing home is endangered;

4.13.b.4. The resident has failed, after reasonable and appropriate notice, to pay for a stay at the nursing home; or

4.13.b.5. The nursing home ceases to operate.


4.13.c.1. When a nursing home transfers or discharges a resident, the resident’s clinical record shall contain the reason for the transfer or discharge.

4.13.c.2. The documentation shall be made by the resident’s physician when transfer or discharge is necessary under paragraphs 4.13.b.1 through 4.13.b.3 of this Subsection.

4.13.d. Notice before transfer or discharge. Before a nursing home transfers or discharges a resident, it shall:

4.13.d.1. Provide written notice to the resident or his or her legal representative as appropriate, of the transfer or discharge. The notice shall be in a language the resident understands and shall include the following:

4.13.d.1.A. The reason for the proposed transfer or discharge;

4.13.d.1.B. The effective date of the proposed transfer or discharge;

4.13.d.1.C. The location or other nursing home to which the resident is being transferred or discharged;

4.13.d.1.D. A statement that the resident has the right to appeal the action to the State Board of Review, with the appropriate information regarding how to do so;

4.13.d.1.E. The name, address and telephone number of the State long term care ombudsman;

4.13.d.1.F. For nursing home residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled persons; and
4.13.d.1.G. For nursing home residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill persons.

4.13.e. Time of notice. The notice of transfer or discharge shall be made by the nursing home at least thirty (30) days before the resident is discharged or transferred, except the notice shall be made as soon as practicable before a transfer or discharge when:

4.13.e.1. The discharge is to a community setting in accordance with Subdivision 4.13.g. of this Subsection.;

4.13.e.2. The safety of persons in the nursing home would be endangered;

4.13.e.3. The health of persons in the nursing home would be endangered;

4.13.e.4. The resident’s health improves sufficiently to allow a more immediate transfer or discharge;

4.13.e.5. An immediate transfer or discharge is required by the resident’s urgent medical needs; or

4.13.e.6. A resident has not resided in the nursing home for thirty (30) days.

4.13.f. Orientation for Transfer or Discharge.

4.13.f.1. A nursing home shall provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the nursing home.

4.13.f.2. Involuntary Transfer. In the event of an involuntary transfer, the nursing home shall assist the resident or legal representative or both in finding a reasonably appropriate alternative placement prior to the proposed transfer or discharge and by developing a plan designed to minimize any transfer trauma to the resident.

4.13.f.2.A. The plan may include counseling the resident, or legal representative or both regarding available community resources and taking steps under the nursing home’s control to assure safe relocation.

4.13.g. Discharge to a Community Setting.

4.13.g.1. A nursing home shall not discharge a resident requiring the nursing home’s services to a community setting against his or her will.

4.13.g.2. A nursing home shall document that a resident who was voluntarily discharged to a community setting fully understood all options for care and helped develop a plan of care in anticipation of the resident’s discharge.

4.13.g.3. Each resident shall understand fully the right to refuse a discharge.

4.14.a. Each resident or person requesting admission to a nursing home shall be free from discrimination by the nursing home, unless the discrimination:

4.14.a.1. Is the result of the nursing home not being able to provide adequate and appropriate care, and treatment and services to the resident or applicant due to the resident’s or applicant’s history of mental or physical disease or disability; and

4.14.a.2. Is not contrary to a federal or State law, regulation or rule:

4.14.a.2.A. That prohibits the discrimination; or

4.14.a.2.B. That requires the care to be provided if the nursing home participates in a financial program requiring the admittance or continued residence of the person.

4.14.b. For all persons, regardless of source of payment, a nursing home shall establish and maintain a set of policies and procedures regarding admission, transfer, discharge and the provision of services.

4.15. Admissions and Payment Policy.

4.15.a. A nursing home shall not require:

4.15.a.1. Residents or potential residents to waive their rights to Medicare or Medicaid; and

4.15.a.2. Oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

4.15.b. Third Party Guarantee. A nursing home shall not require a third party guarantee of payment to the nursing home as a condition of admission or expedited admission, or continued stay in the nursing home.

4.15.b.1. A nursing home, however, may require for admission or for continued stay of the resident, that a person who has legal right and access to a resident’s income or resources available to pay for care to sign a contract, without incurring personal financial liability, to provide payment from the resident’s income or resources.

4.15.c. A nursing home shall fully inform each resident prior to or at the time of admission and during his or her stay, of services available in the nursing home and of related charges, including any charge for services not covered under Medicare or Medicaid, or not covered by the nursing home’s basic per diem rate, including the nursing home’s policy on providing toiletries, adult briefs, wheelchairs, and all personal care and medical items.

4.15.c.1. A nursing home may charge any amount for services furnished to non-Medicaid residents consistent with this paragraph.

4.15.c.2. Medicaid residents and their legal representatives shall be informed that if they desire a private room, they may privately supplement the Medicaid payment by directly
paying the facility the difference between the semi-private room rate and the private room rate.

4.15.d. A nursing home shall inform residents in writing about Medicaid and Medicare eligibility and what is covered under those programs including information on resource limits and allowable uses of the resident's income for items and services not covered by Medicaid and Medicare.

4.15.e. In the case of a person eligible for Medicaid, a Medicaid/Medicare approved nursing home shall not charge, solicit or accept, or receive, in addition to any amount otherwise required to be paid under the State Medicaid Plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the nursing home.

4.15.e.1. A nursing home may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the State Medicaid Plan as included in the term "nursing home services" if the nursing home gives proper notice of the availability and cost of these services to residents and does not condition the resident's admission or continued stay on the request for or receipt of such additional services.

4.15.e.2. A nursing home may solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid eligible resident or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the nursing home for a Medicaid eligible resident.

4.15.f. A nursing home shall give the resident a thirty (30) day notice when changes are made to items and services specified in Subdivisions 4.16.c. and 4.16.d. of this Subsection.

SERIES 85 ALZHEIMER'S/DEMENTIA SPECIAL CARE UNITS AND PROGRAMS

§64-85-5. Admission, Transfer and Discharge.

5.1. Each facility shall have a written policy of pre-admission screening, admission, transfer and discharge procedures, including an explanation of the level of care the facility is licensed to provide and the conditions that may necessitate a resident’s transfer or discharge.

...5.4. Prior to admission, the facility shall provide a copy and an explanation of the disclosure statement to the resident and/or the resident's legal representative. The facility shall maintain a copy of this disclosure, signed and dated by the resident and/or legal representative, in the resident’s record.