

DELAWARE

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General Requirements

...3.7 The nursing facility shall comply with 42 CFR 483.10, 483.12, 483.13, 483.15 and/or 16 Delaware Code, §1121 regarding the rights of residents. Those rights shall be made available in writing to residents, guardians, representatives or next of kin.

3.8 Each facility shall provide, in writing, the refund and prepayment policy at the time of admission, and in the case of residents admitted while awaiting approval of third-party payment, an exact statement of responsibility in the event of retroactive denial. The facility shall notify residents, in writing, at least 30 days prior to a rate increase.

3.9 A facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract to provide for facility payment from the resident's income or resources. However, in doing so, the facility shall not require a third party to incur personal financial liability for the nursing facility expenses.

6.0 Services To Residents

...6.8.1 Medication Administration

...6.8.1.6 An individual resident may self-administer medications upon the written order of the physician, following determination by the interdisciplinary team that this practice is safe. The facility shall establish policies and procedures pertaining to the security of self-administered medication.

6.8.1.7 The facility's policies and procedures shall not prohibit or restrict a resident from receiving medications from the pharmacy of the resident's choice. However, the resident and/or his representative shall be informed of any ramifications of ordering medications from other than the facility's pharmacy, such as cost differences, responsibility for delivery of medication to the facility and length of ordering time.

7.0 Plant, Equipment and Physical Environment

7.7.5 The facility shall provide safe storage for residents' valuables.

9.0 Records and Reports

9.9 The facility shall maintain written policies and procedures, in accordance with 16 Delaware Code Chapter 25, regarding health care decisions including advance directives. The facility shall provide written information to all residents explaining such policies and procedures.

APPENDIX A

These Regulations are adopted by the Director, Division of Public Health pursuant to 16 Del.C. 1121,1122,1123, 1124.

PATIENT'S BILL OF RIGHTS

RESPECT

1. Every patient and resident shall be treated with consideration, respect and full recognition of their dignity and individuality.
2. Every patient and resident shall receive care, treatment and services which are adequate and appropriate.

SERVICES AND PAYMENT

3. Each patient and resident and their families shall, prior to or upon admission, and during their stay, receive a written statement of the services provided by the facility including those required to be offered on an "as-needed" basis.
 - A. They shall also receive a statement of related charges, including any charges for services not covered under Medicare, Medicaid or the facility's basic per diem rate.
 - B. Upon receiving such statement, the patient and his representative shall sign a written receipt which shall be retained by the facility.

TREATMENT

4. Each patient shall receive from the attending physician or resident physician of the facility, in lay terms, complete and current information regarding his diagnosis, treatment and prognosis, unless medically inadvisable.
5. Each patient and resident:
 - A. Shall participate in the planning of their medical treatment;
 - B. May refuse medication or treatment;
 - C. Shall be informed of the medical consequences of all medication and treatment alternatives; and
 - D. Shall give prior informed consent to participation in any experimental research, which shall be verified by his signature and the signature of a family member or representative.
6. The facility shall see to it that the name, address and telephone number of the patient or resident's physician is readily accessible to them at their bedside.
7. Each patient and resident's medical care program shall be conducted discreetly and in accordance with the patient's need for privacy.
 - A. Persons not directly involved in patient care shall not be present during medical examinations, treatment and case discussion.

B. Personal and medical records shall be treated confidentially; shall not be made public without the consent of the patient or resident; shall not be released to any person inside or outside the facility who has no demonstrable need for such records.

8. Every patient and resident shall be free from mental and physical abuse and also from chemical and physical restraints, restraints, unless authorized by a physician according to clear and indicated medical requirement.

COMMUNICATIONS

9. Every patient and resident shall receive from the Administrator or staff of the facility a courteous and reasonable response to his requests.

10. Every patient and resident shall be provided with information as to any relationships of the facility to other health care facilities as far as the patient's care is concerned.

11. To maintain reasonable continuity of care, every patient and resident at the least shall be informed of the availability of physicians and appointment times.

12. Every patient and resident may associate privately with people and groups of his own choice at any reasonable hour.

A. May send and receive mail promptly and unopened.

B. Shall have access to any reasonable hour to a telephone where he may speak privately.

C. Shall have access to writing instruments, stationery and postage.

CONTROL OF FINANCIAL AFFAIRS

13 . Each patient and resident has the right to manage his own financial affairs.

A. If, by written request, the facility manages the patient's financial affairs, it shall have available for inspection a monthly accounting and shall furnish a quarterly statement upon request to the patient or a designated representative.

B. The patient and resident shall have unrestricted access to such accounts at reasonable hours.

PRIVACY

14. If married, every patient and resident shall enjoy privacy in visits by his spouse and, if both reside in the facility, they shall be allowed to share a room, unless medically contraindicated.

15. Every patient and resident has the right of privacy in their room and the facility's staff shall respect this right by knocking on the door before entering the room.

GRIEVANCES

16. Every patient and resident has the right, personally, or through others, to present grievances to the Division of Aging, the Ombudsman or to others.

- A. There shall be no reprisal, restraint, interference, coercion or discrimination of the patient as a result of such grievance or suggestion.
- B. Any alleged violation of any of the provisions of these Rules and Regulations should be presented orally or in writing and forwarded to the attention of the Ombudsman.
- C. The Ombudsman shall consult with the complainant to determine if he/she wishes to pursue an investigation. If the complainant wishes to pursue the matter, the Ombudsman shall work closely with the complainant and the institution to resolve the matter. In any case, the confidentiality of the complainant shall not be revealed without his/her consent.
- D. On completion of the investigation, the Ombudsman shall report the findings to the complainant and with the complainant's consent to the facility wherein the complaint originated.
- E. If the grievance is not resolved at the end of the investigation by the Ombudsman, the grievance findings shall be forwarded to the State Board of Health for appropriate action after obtaining the consent of the complainant.

PERSONAL CHOICE/PERSONAL PROPERTY

- 17. A patient or resident shall not be required to perform services for the facility.
- 18. Every patient and resident shall have the right to retain and use their personal clothing and possessions where reasonable and shall be entitled to have security in their storage and use.

TRANSFERS/DISCHARGES

- 19. No patient or resident shall be transferred or discharged from a facility except for the following:
 - A. For medical reasons;
 - B. For the patient's own welfare or the welfare of the other patients; and
 - C. For non-payment of justified charges.
- 20. If good cause exists, the patient or resident shall be given 30 days advance notice of the proposed action and the reasons for the action and may request an impartial hearing. In emergency situations, such notice need not be given.
- 21. If a hearing is requested, it shall be held within ten (10) working days of the request. The hearing shall be conducted by the Division of Public Health. Hearing officers could include:
 - A. Nursing Home Ombudsman;
 - B. A staff member of the advocacy section, Division of Aging;
 - C. A physician from the Division of Public Health, not employed by a hospital operated by the Division.

D. The licensure program director for the type of home involved.

The Deputy Attorney General for the Division of Public Health may attend as legal officer in these hearings.

22. If the hearing determines in favor of the patient, the home shall be instructed to comply. If the home refuses to comply, the matter will be referred to the Attorney General's Office to see if further action is called for or permissible under the law.

DEVOLUTION OF RIGHTS

Where consistent with the above rights, all rights, particularly as they pertain to a patient adjudicated incompetent, a patient determined to be medically incompetent by his attending physician or a patient unable to communicate, shall devolve to that patient's next of kin, guardian, representative, sponsoring agency or representative payee (except where the facility is the representative payee).

NOTICE AWARENESS OF RIGHTS

I. These provisions shall be posted conspicuously in a public place in each facility.

II. Copies are to be furnished to the patient or resident upon admission and to all current patients and residents and next of kin, guardian, representative, sponsoring agency or to representative payee.

III. Receipts for the statement signed by the above parties shall be retained in the facility's files.

Revised May 27, 1982