

MARYLAND

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10.07.02.08-1 Resident's Representative.

A. A comprehensive or extended care facility shall recognize the authority of:

(1) A guardian of the person under Estates and Trusts Article, §13-705, Annotated Code of Maryland;

(2) A guardian of the property under Estates and Trusts Article, §13-201, Annotated Code of Maryland;

(3) An advanced directive that meets the requirements of Health-General Article, §5-602, Annotated Code of Maryland;

(4) A surrogate decision maker with authority under Health-General Article, §5-605, Annotated Code of Maryland;

(5) A power of attorney that meets the requirements of Estates and Trusts Article, §13-601, Annotated Code of Maryland;

(6) A representative payee or other similar fiduciary; or

(7) To the extent permitted by Maryland law, any other individual, if that individual was designated by a resident who was competent at the time of designation.

B. A facility shall require documentation or other appropriate verification of the authority of a resident's representative. A facility may not recognize the authority of a resident's representative if the representative attempts to exceed the authority:

(1) Stated in the instrument that grants the representative authority; or

(2) Established by State law.

C. A facility shall:

(1) Document in the resident's record the name of the individual, if any, with authority identified in §A of this regulation; or

(2) Include the documentation in the record.

10.07.09.00

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 07 HOSPITALS

Chapter 09 Residents' Bill of Rights: Comprehensive Care Facilities and Extended Care Facilities

Authority: Health-General Article, §§19-343—19-347 and 19-349—19-352, Annotated Code of Maryland

10.07.09.04 Admission Procedures and Requirements.

A. At the time of admission of a resident, and whenever information changes during the resident's stay, the nursing facility shall notify the resident and, when applicable, a representative or interested family member, in writing and orally, in a language that is easily understood of all terms of admission including, but not limited to the:

- (1) Residents' Bill of Rights;
- (2) Nursing facility's policies and procedures that implement the Residents' Bill of Rights;
- (3) Rules of resident responsibility;
- (4) Nursing facility's complaint procedure;
- (5) Nursing facility's visitation rules;
- (6) Procedures for obtaining a determination from the Medical Assistance Program of the amount of the resident's funds available to pay for the cost of the resident's care;
- (7) Procedures for establishing eligibility for Medicaid and for receiving refunds for previous private payments covered by these benefits, including the right to request an assessment under 42 U.S.C. §1396r(5)(c) for the purpose of determining the:
 - (a) Extent of a couple's nonexempt resources at the time of institutionalization, and
 - (b) Amount of a couple's resources to be attributed to the community spouse as the spouse's equitable share of resources which are not considered available for payment toward the cost of the institutionalized spouse's medical care or for determining Medicaid eligibility for the institutionalized spouse; and
- (8) Resident's rights under State law to formulate advance directives.

B. Upon admission of a resident, a nursing facility shall:

- (1) Document in the resident's clinical record whether the resident has executed an advance directive and, if an advance directive exists, keep a copy of the advance directive in:
 - (a) The resident's clinical record, or
 - (b) A location within the nursing facility which is accessible to appropriate administrative, nursing, and medical personnel on a 24-hour a day basis;
- (2) Prepare an inventory of all property that the resident is bringing into the nursing facility;
- (3) Request the resident or representative to identify:
 - (a) Those items with a value of \$100 or more,

- (b) Any damage to an item existing before admission of the resident, and
- (c) Whether the resident is retaining possession of each item or is entrusting the item to the nursing facility for safekeeping on behalf of the resident;
- (4) Give to the resident and, when applicable, the resident's representative or interested family member, a copy of the inventory prepared under §B(2) of this regulation; and
- (5) Advise the resident and, when applicable, a representative or interested family member:

- (a) Whether the nursing facility has purchased insurance to cover a resident's tangible personal property for loss or damage due to the facility's negligence, and

- (b) Of the limits of insurance coverage.

C. With information provided by the resident or representative, a nursing facility shall periodically update the inventory of the resident's personal property with respect to items having a value of \$100 or more.

D. Required Notification. A nursing facility shall notify in writing:

- (1) A resident who is entitled to Medicaid benefits at the time of admission, or when the resident becomes eligible for benefits, of:

- (a) Items and services that are included in the per diem rate under Medicaid, and for which the resident may not be charged;

- (b) Other items and services that the nursing facility offers and for which the resident may be charged, and the current range of charges for each item and service;

- (c) The nursing facility's obligation following admission to notify the resident and, when applicable, the agent or interested family member, of any changes made to the items and services for which the resident may or may not be charged;

- (d) The fact that the resident may not be required to pay for an item or service not covered by Medicaid unless the:

- (i) Resident or, when applicable, the agent, knowingly requests the item or service, and

- (ii) Resident receives the item or service; and

- (e) The resident's right, within 90 days of receiving an item or service, to request an itemized statement of charges that:

- (i) Briefly and clearly describes each item or service, the amount charged for it, and the identity of the payer billed for the service, and

- (ii) Contains a statement in bold and conspicuous print as to when interest may be assessed consistent with Regulation .05B(8) of this chapter;

- (2) A private-pay resident, or the resident's agent, of:

- (a) The items and services included in the nursing facility's basic per diem rate;
- (b) The items and services that are covered by Medicare, and of the amount of any copayments or deductibles;
- (c) Other services that the nursing facility offers and for which the resident may be charged, and the current range of charges for the services, including but not limited to charges related to a resident's monthly drug regimen review and other non-drug-related pharmacy costs;
- (d) Whether the costs for supplies used in the performance of a service are included in the service charge and the costs of these supplies, within 24 hours of request, when the costs are not included in the service charge; and
- (e) The resident's right, within 90 days of receiving an item or service or within 30 days of payment, to request an itemized statement of charges that:
 - (i) Briefly and clearly describes each item or service, the amount charged for it, and the identity of the payer billed for the service, and
 - (ii) Contains a statement in bold and conspicuous print as to when interest may be assessed consistent with Regulation .05B(8) of this chapter; and
- (3) A resident of changes to be made to the items and services specified in §D(1) and (2) of this regulation, and increases in any fee or charge, or a new fee or charge, or a change in billing procedures, at least 45 days before the increase, new charge, or change becomes effective.

E. A nursing facility shall:

- (1) Give the resident a copy of the statement of items, services, and charges provided by the facility;
- (2) Provide information regarding services to be rendered by other health care providers, including:
 - (a) The cost to the resident,
 - (b) Transportation arrangements, and
 - (c) Direct or indirect financial interests that the nursing facility has in the provider.

10.07.09.08 Resident's Rights and Services.

A. A nursing facility shall provide care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect, and in full recognition of the resident's individuality.

B. A nursing facility may not interfere with a resident's exercise of rights guaranteed under the Constitution or laws of the United States and Maryland.

C. A resident has the right to:

- (1) Reside and receive services in a nursing facility with reasonable accommodations of individual needs and preferences, except when accommodations would endanger the health or safety of the resident or other residents;
- (2) Receive treatment, care, and services that are in an environment that promotes maintenance or enhancement of each resident's quality of life;
- (3) A dignified existence, self-determination, and communication with and access to individuals and services inside and outside the nursing facility;
- (4) Be free of interference, coercion, discrimination, or reprisal from the nursing facility when exercising the resident's rights;
- (5) Be free from:
 - (a) Physical abuse;
 - (b) Verbal abuse;
 - (c) Sexual abuse;
 - (d) Physical or chemical restraints imposed for purposes of discipline or convenience;
 - (e) Mental abuse; and
 - (f) Involuntary seclusion;
- (6) Choose an attending physician, if the physician agrees to abide by nursing facility policies and procedures, and the regulations in this chapter;
- (7) Choose a pharmacy to obtain medications as set forth in COMAR 10.07.02.15B(3) and D(3);
- (8) Be fully informed in advance about care and treatment, and of proposed changes in that care or treatment;
- (9) Participate in planning care and treatment, or changes in care or treatment;
- (10) Seek advice from the resident care advisory committee concerning the options for medical care and treatment for an individual with a life-threatening condition in accordance with Health-General Article, §19-370 et seq., Annotated Code of Maryland;
- (11) Consent to or refuse treatment, including the right to accept or reject artificially administered sustenance in accordance with State law;
- (12) Self-administer drugs if the interdisciplinary team determines that the practice is safe;
- (13) Access the resident's records within 24 hours, excluding weekends and holidays, upon an oral or written request;
- (14) Purchase copies of all or part of the resident's records upon request by giving 2 working days advance notice to the nursing facility;
- (15) Approve or refuse the release of personal and clinical records to an individual outside the nursing facility unless:

- (a) Otherwise provided by Health-General Article, §4-301 et seq., Annotated Code of Maryland; or
- (b) The release is required by law;
- (16) Personal privacy, including:
 - (a) Confidentiality of personal records; and
 - (b) Privacy in:
 - (i) Medical treatment, and
 - (ii) Personal care;
- (17) Privacy in the resident's room, including the right to have nursing facility staff knock before entering the resident's room;
- (18) Privacy in written communication, including the right to:
 - (a) Send and receive mail promptly without it being opened by anyone other than the resident, except when the resident requests assistance; and
 - (b) Have access to stationery, postage, and writing implements at the resident's own expense;
- (19) Reasonable access to the private use of a telephone;
- (20) Meet or visit privately with any individual the resident chooses, subject to reasonable restrictions by the nursing facility on visiting hours and places;
- (21) Visit or meet privately with the following, to whom the nursing facility shall provide reasonable access:
 - (a) A representative of the Secretary of the U.S. Department of Health and Human Services;
 - (b) A representative of the Department;
 - (c) The resident's personal physician;
 - (d) A representative of the State Long-Term Care Ombudsman Program;
 - (e) The agency responsible for advocacy and protection of developmentally disabled and mentally ill individuals in Maryland; or
 - (f) Any other legal representative;
- (22) Visit privately with the resident's spouse;
- (23) Consent or deny consent to all visits, and may deny or withdraw consent at any time;
- (24) Examine the results of the most recent federal and State surveys, including the annual survey and any subsequent complaint investigations, not otherwise prohibited by law, of the nursing facility and any plans of correction prompted by these surveys;
- (25) Receive notice before the resident's roommate is changed and, to the extent possible, have input into the choice of roommate;

(26) Voice grievances, including those about treatment or care that is or fails to be furnished, and recommend changes in policies and services, to the staff or administrator of the nursing facility, the Licensing and Certification Administration, the Office on Aging, or any other person, without fear of reprisal, restraint, interference, coercion, or discrimination;

(27) Prompt efforts by the nursing facility to resolve grievances the resident may have, including those with respect to the behavior of other residents;

(28) Contact and receive information from agencies acting as client advocates;

(29) Refuse to perform services for the nursing facility;

(30) Perform services for the nursing facility if the resident chooses, only if:

(a) The nursing facility has documented the need or desire for work in the plan of care;

(b) The plan specifies the nature of the services to be performed and whether the services are voluntary or paid;

(c) Compensation for paid services is at or above prevailing rates; and

(d) The resident agrees in writing to the work arrangement described in the plan of care, and the contract is part of the resident's record;

(31) Share a room with the resident's spouse if both spouses consent and it is not medically contraindicated; and

(32) Participate in social, religious, and community activities if the activities do not interfere with the rights of other residents in the nursing facility.

D. A resident has the right to participate or refuse to participate in experimental research. When the resident is incapable of making this decision, the resident's appropriate representative may consent for participation in therapeutic experimental research only.

E. The resident or, when applicable, the resident's health care representative, has the right to be fully informed, in a language that the resident or representative can reasonably be expected to understand, of complete and current information about the resident's diagnosis, treatment, and prognosis, unless it would be medically inadvisable as documented by the resident's attending health care provider. If this determination has been made, the health care provider shall, upon written request:

(1) Make a summary of the undisclosed portion of the medical record available to the resident or health care representative;

(2) Insert a copy of the summary in the medical record of the resident;

(3) Permit examination and copying of the medical record by another health care provider; and

(4) Inform the resident or health care representative of the resident's or health care representative's right to select another health care provider.

F. Resident and Family Groups.

(1) A resident has the right to organize and participate in resident groups in the nursing facility.

(2) A resident's family has the right to meet in the nursing facility with the families of other residents.

(3) Staff or other visitors may attend meetings only at the group's invitation.

10.07.09.09 Implementation of Residents' Bill of Rights.

A nursing facility shall:

A. Ensure that:

(1) The rights of residents as set forth in the Residents' Bill of Rights are protected, including but not limited to informing each resident of the resident's right to select a physician and pharmacy of the resident's choice;

(2) Employees of the nursing facility are trained to:

(a) Respect and enforce the Residents' Bill of Rights and the nursing facility's policies and procedures that implement the Residents' Bill of Rights, and

(b) Protect the rights of residents;

(3) The nursing facility's policies and procedures implement all rights of the residents as set forth in:

(a) Health-General Article, §§19-343—19-347 and 19-349—19-352, Annotated Code of Maryland,

(b) Title XIX of the Social Security Act,

(c) 42 CFR §483.10 et seq., and

(d) The regulations of this chapter; and

(4) The nursing facility's policies comply with the requirements of federal and State law concerning advance directives, including but not limited to:

(a) If an applicant is incapacitated or is incapable of informing the nursing facility whether the applicant has executed an advance directive, the facility may provide advance directive information to the resident's health care representative, and

(b) Once the resident is no longer incapacitated, the facility shall provide the advance directive information to the resident directly at the appropriate time;

B. Post conspicuously in a public place accessible to residents:

(1) The Residents' Bill of Rights in large, clearly readable type;

(2) The nursing facility's complaint procedures in large, clearly readable type;

(3) The nursing facility's statement of deficiencies for the most recent survey and any subsequent complaint investigations conducted by federal or State surveyors and any plans of correction in effect with respect to the survey or complaint investigation findings; and

(4) Signs provided by the Department to notify the visiting public and residents:

(a) That complaints may be made to the Department or to the Office,

(b) How to report an instance of abuse of a resident to the Department, the Office, or law enforcement agencies, and

(c) How to file a complaint with State agencies and client advocacy agencies, such as the Licensing and Certification Administration, the Office on Aging, the Older Americans Act Legal Services providers, the Maryland Disabilities Law Center, State Medicaid Fraud Unit, and the Legal Aid Bureau, Inc.;

C. Establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the State plan for all individuals, regardless of source of payment;

D. Provide each resident and, if applicable, the resident's appropriate representative or interested family member, with a written description of the resident's legal rights, including a:

(1) Description of the manner of protecting resident funds; and

(2) Statement that the resident may file a complaint with the Department or the Office concerning resident abuse, neglect, misappropriation of resident property in the nursing facility, and noncompliance with advance directive requirements;

E. Place the name, address, and telephone number of the physician who is responsible for the resident's care within easy access of the resident;

F. Inform the resident and the appropriate legal representative, or interested family member, and promptly consult with the resident's physician if any of the following incidents occur:

(1) An accident involving the resident which results in injury;

(2) A significant change in the resident's physical, mental, or psychosocial status;

(3) A need to alter treatment significantly; or

(4) A decision to transfer or discharge the resident from the nursing facility;

G. Consistent with State and federal confidentiality laws and, in a timely manner, notify a resident and, if applicable, the resident's representative or interested family member, of any:

(1) Change in condition;

- (2) Adverse event that may result in a change in condition;
- (3) Outcome of care that results in an unanticipated consequence; and
- (4) Corrective action, if any;

H. Notify the resident and, when applicable, the appropriate representative, or interested family member, when there is a change in:

- (1) Room or roommate assignment;
- (2) The Residents' Bill of Rights; or
- (3) Federal or State law and regulations relating to residents' rights;

I. Record and update the address and phone number of the resident's representatives and interested family members;

J. Permit representatives of the State Long-Term Care Ombudsman Program to accomplish their responsibilities, as set forth in 42 U.S.C. §3058g, the State Long-Term Care Ombudsman Program;

K. Encourage the activities of resident and family groups by:

- (1) Providing the residents and their families with private space for meetings;
- (2) Designating a staff person to provide assistance and respond to written requests from residents and their families;
- (3) Listening to the views of residents and their families;
- (4) Acting upon the grievances and recommendations of residents and their families concerning proposed policy and operational decisions affecting resident care and life in the nursing facility; and
- (5) Advising resident and family groups of the disposition of their grievances and recommendations;

L. Educate staff, residents, representatives, and interested family members on advance directives;

M. When applicable, promptly provide the Medical Assistance Program with all required information in its possession; and

N. Provide copies of clinical records upon request, based on the following charges:

- (1) A fee for copying and mailing not exceeding 50 cents per page;
- (2) A discretionary fee not to exceed \$15 for record retrieval and preparation;
- (3) The actual cost of postage and handling of the copies; and

(4) A discretionary annual adjustment in the fees described in §M(1)—(3) of this regulation based on the current Consumer Price Index.

10.07.09.17 Personal Property of Residents.

A. Personal Possessions.

(1) A resident has the right to retain and use personal possessions, including furnishings and appropriate clothing as space permits, unless to do so would be detrimental to the rights or health and safety of other residents.

(2) A facility shall take reasonable steps to ensure the safety and security of the personal belongings of its residents.

(3) A facility shall provide a reasonable amount of locked storage space for personal property upon the request of a resident.

B. A nursing facility may not limit the amount of funds it keeps on behalf of a resident, but may limit the amount of other property that it retains on behalf of the resident.

C. A nursing facility shall establish written procedures to prevent loss or damage to, and protect property.

D. A nursing facility shall establish written procedures for investigating an incident of loss or damage to the property of a resident, including:

(1) A procedure by which an individual, including a resident or representative of a resident, may report loss or damage;

(2) The designation of an employee of the nursing facility to:

(a) Receive reports of loss or damage,

(b) Conduct an investigation, and

(c) Inform the resident, or when applicable, a representative or interested family member, of the results of the investigation.

E. Release of Personal Property. A nursing facility shall release the property of a resident to:

(1) The resident or a representative upon the:

(a) Request of the resident, or

(b) Transfer or discharge of the resident from the nursing facility; or

(2) A government agency acting pursuant to legal authority.

F. Disposition of Personal Property Upon the Death of a Resident.

(1) Immediately upon but not later than 30 business days after the death of a resident, a nursing facility shall provide notice of the resident's property being held by the facility to:

(a) The resident's representative or interested family member; and

(b) Government agencies which have paid any part of the nursing facility charges for the resident.

(2) Upon the death of a resident, the nursing facility shall release:

(a) The resident's wearing apparel other than furs and jewels to a representative or immediate family member; and

(b) Other personal property only to an individual who presents certified letters of administration that designate the individual as "Representative of the Estate of _____".

(3) Personal property or income derived from the cash conversion of personal property that a facility holds for a discharged or deceased resident is presumed abandoned in accordance with Commercial Law Article, Title 17, Annotated Code of Maryland, when the property or income from cash conversion is not claimed within 1 year.

(4) When a nursing facility is still holding a resident's personal property 1 year after the resident's death, the nursing facility shall notify the Unclaimed Property Section, Comptroller of the Treasury, for appropriate direction.

10.07.09.18 Protection of a Resident's Personal Funds.

A. A resident has the right to:

(1) Manage the resident's financial affairs; or

(2) Choose any person who is willing to handle the resident's financial affairs.

B. Except as authorized by being appointed representative payee, a nursing facility may not manage a resident's funds without an express written request from:

(1) The resident; or

(2) An agent who has legal authority to make decisions regarding the resident's funds.

C. Management of Personal Funds. Upon written authorization of a resident or agent, a nursing facility shall hold, safeguard, manage, and account for the resident's personal funds that are deposited with the nursing facility as specified in this regulation.

D. Personal Funds in Excess of \$50. A nursing facility shall:

(1) Deposit a resident's personal funds in excess of \$50 in an interest-bearing account that is:

(a) Established and maintained by the facility under one of the following terms:

(i) In the name of the resident only,

(ii) In the name of the facility "in trust for" or as the "trustee" for the individual resident, or

(iii) In a residents' pooled account, with a separate accounting for each resident's share; and

(b) Located in a financial institution whose accounts are insured by the:

(i) Federal Deposit Insurance Corporation (FDIC),

(ii) Federal Savings and Loan Insurance Corporation (FSLIC), or

(iii) Other insurer approved by the Department; and

(c) Separate from any of the nursing facility's operating accounts; and

(2) Credit all interest earned to the resident's account at least quarterly.

E. Personal Funds Less Than \$50. A nursing facility may maintain a resident's personal funds that do not exceed \$50 in a petty cash fund or a non-interest-bearing account that is identified as a residents' account.

F. Establishment of Resident Accounts. When a nursing facility manages a resident's financial affairs, the nursing facility shall establish and maintain a system that:

(1) Ensures a full, complete, and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the nursing facility; and

(2) Precludes any commingling of resident funds with the nursing facility funds.

G. For all resident funds entrusted to a nursing facility, the facility shall:

(1) Establish and maintain adequate fire and theft coverage to protect a resident's funds that are on the premises of the nursing facility; and

(2) Otherwise ensure the security of all residents' personal funds deposited with the nursing facility by purchasing a surety bond with the State as obligee on behalf of the nursing facility residents.

H. Limitation on Charges to Personal Funds. A nursing facility may not:

- (1) Impose a charge against a resident's personal funds for:
 - (a) An item or service for which payment is made under Medicare or Medicaid, and
 - (b) A cost or fee incurred by the facility for establishing and servicing the resident's accounts; or
- (2) Use a Medicaid resident's personal funds to offset a contribution of care debt unless authorized by the resident, the resident's agent, or a court.

10.07.09.19 Records of Resident Personal Funds.

A. Records. For all resident funds entrusted to a nursing facility, the facility shall:

- (1) Maintain an individual record for the funds of each resident, which includes the following information regarding each fund transaction:
 - (a) The date of the transaction,
 - (b) The type of transaction, whether it is a deposit, withdrawal, or any other transaction,
 - (c) When the transaction is a withdrawal or deposit, reference to a numbered receipt, and
 - (d) The balance of funds after the completion of the transaction;
- (2) At least weekly, post to the record of the funds all deposits, withdrawals, and other transactions;
- (3) Furnish each resident or, when applicable, the resident's agent or interested family member, with a quarterly statement of the resident's individual account not later than 30 days after the end of each quarter;
- (4) Make available for inspection by the resident or, when applicable, the resident's agent or interested family member, a monthly statement of the resident's account; and
- (5) Make available at the nursing facility, for audit by the Department and the Office, records pertaining to each resident's funds.

B. Receipts of Transactions.

- (1) If a transaction involves a transfer of funds between a resident and a second party, or between the nursing facility and the institution in which the resident's account is located, the nursing facility or financial institution shall:
 - (a) Provide a receipt or copy of a receipt to the resident, or retain the resident's copy of the receipt as part of the resident's individual financial record; and
 - (b) Maintain the original receipt and make it available for audit.
- (2) Except as provided in §B(3) of this regulation, a nursing facility shall require that each receipt for withdrawal of funds from a resident's account be signed by the resident or, when applicable, the resident's agent.

(3) A nursing facility may allow a resident to withdraw money from the resident's account without signing a receipt only if the nursing facility documents that the resident is not disabled but is incapable of signing due to a physical disability.

(4) Except as set forth in Regulation .18H(2) of this chapter, a nursing facility may withdraw money from a resident's account without written authorization of the resident or, when applicable, the resident's agent, if the:

(a) Nursing facility documents that the resident is incapable of understanding the resident's rights and responsibilities regarding finances;

(b) Resident's agent is unavailable; and

(c) Withdrawal of funds is for an item or service needed for the resident's direct and immediate benefit and the facility maintains documentation that the withdrawal was used for that purpose.

(5) A withdrawal under §B(4) of this regulation requires witness signatures of two facility employees authorized by the facility administrator.

C. Availability of Funds.

(1) A resident has the right to access funds entrusted to the nursing facility:

(a) During normal business hours, if the funds are held within the facility; or

(b) Within 3 banking days, if a bank, the State treasurer, or a county or municipal treasurer holds the money.

(2) When a nursing facility transfers or discharges a resident, the nursing facility shall either:

(a) Request and follow the resident's written instructions for transferring the money;

(b) Return, upon the resident's or, when applicable, the resident's agent's demand, the resident's money that the nursing facility has in its possession and have the resident or agent sign a receipt for the money; or

(c) Make available to the resident or the resident's agent, within 3 banking days, the resident's money which is in an account with a bank, the State treasurer, or county or municipal treasurer.

D. Notice of Balances. A nursing facility shall provide written notification to a resident who receives Medicaid benefits:

(1) As specified in §1611(a)(3)(B) of the Social Security Act when the amount in the resident's account reaches \$200 less than the Supplemental Security Income (SSI) resource limit for one individual; and

(2) That, when the amount in the account, in addition to the value of the resident's other nonexempt resources, reaches the SSI resource limit for one individual, the resident may lose eligibility for Medicaid or SSI.

E. Death of a Resident. Upon the death of a resident for whom a nursing facility is holding funds, the nursing facility shall notify the resident's agent or interested family member and:

(1) Convey within 30 days a final accounting of the resident's personal funds which are deposited with the nursing facility;

(2) Transfer, pursuant to the resident's preexisting burial contract, an amount not to exceed the outstanding unpaid balance of the contract, or the total of the resident's funds entrusted to the nursing facility, whichever is less;

(3) Release the resident's funds only to an individual who presents certified letters of administration that designate the person as "Representative of the Estate of _____"; and

(4) When the nursing facility is still in possession of a resident's funds 1 year after the resident's death, the facility shall report all money it holds for the former resident to the Unclaimed Property Section, Comptroller of the Treasury.

10.07.09.20 Misuse of Resident's Funds.

A. A person may not misappropriate a resident's assets or income, including spending the resident's assets or income against or without the resident or resident's agent's consent, except as permitted by Regulation .19B(4) of this chapter.

B. A person who believes that there has been an abuse of a resident's funds may make a complaint to the:

(1) Local department of social services;

(2) Director of the Office on Aging if the resident is 65 years old or older; or

(3) Director of the Licensing and Certification Administration, regardless of the resident's age.