

RHODE ISLAND

Downloaded January 2011

Section 15.0 Handling of Resident Fund

15.1 Any assignment of residents' property either by contractual agreement or by transfer of real estate, bank accounts or insurance benefits, must be reported together with the terms of the assignment to the residents' guardian, next of kin, sponsoring agency(ies) or representative payor and to the licensing agency.

15.2 Each operator of a nursing facility acting or intending to act as fiduciary agent for a resident is required to have written revocable authorization from any resident so served. The certification will attest to the resident's understanding of the significance of his action and will be required to be on file for inspection by authorized surveyors of the licensing agency.

15.3 The operator shall maintain adequate safeguards and accurate records of each resident's monies and valuables and shall provide at least quarterly, and on request, accounting in accordance with section 19.16 herein. Such records shall be available for inspection.

15.4 In addition to requirements of sections 15.1 through 15.3 above, each facility shall conform to the standards of reference 13 in relation to Title XIX residents.

Section 19.0 *Rights of Residents*

19.1 As part of the procedure for admission of a resident to a nursing facility a written contract shall be entered into between the said resident or his next of kin or legal representative and the nursing facility and the following rules shall be observed in accordance with reference 24.

19.2 Each resident shall be offered treatment without discrimination as to gender, age, race, color, religion, national origin, handicap, or source of payment.

19.3 Each resident shall be treated and cared for with consideration, respect and dignity and shall be afforded his right to privacy to the extent consistent with providing adequate medical care and with efficient administration.

19.4 Each resident shall have the right to choose his or her own physician subject to the physician's concurrence.

19.5 Each resident or responsible party shall be fully informed, as evidenced by the resident's written acknowledgment, prior to or at the time of admission or during stay, of all rules and regulations and policies pertaining to rights of residents and governing resident conduct and responsibilities.

19.6 Each resident or responsible party shall be informed in writing, prior to, or at the time of admission and during stay, of services available and of related charges including all charges not covered either under federal and/or state programs by other third party payers or by the facility's basic per diem rate.

19.7 Each resident admitted to a facility shall be and remain under the care of a physician as specified in policies adopted by the governing body.

a) Each resident shall be informed by a physician of his medical condition unless medically contraindicated, (as documented by a physician in his medical record), and shall participate in the planning and selection of his medical treatment and care.

19.8 If it is proposed that a resident be used in any human experimentation project, the resident shall first be thoroughly informed in writing of such proposal and shall be offered the right to refuse to participate in such project. A resident who, after being thoroughly informed, wishes to participate must execute a written statement of informed consent. The informed consent documentation shall be maintained on file in the facility.

19.9 Residents shall be encouraged and assisted to voice their grievances through a documented grievance mechanism established by the facility, involving residents, staff and relatives of residents, which will insure resident's freedom from restraints, interference, coercion, discrimination or reprisal.

19.9.1 There shall be prompt efforts by the facility staff to resolve resident's grievances.

19.10 Residents shall not be subject to mental and physical abuse and shall be free from chemical and (except in emergencies) physical restraints.

a) Restraining devices are generally prohibited. A controlling device to be used for the protection of the resident may be utilized only as prescribed in writing and signed by a physician. The length of time, the purpose and the kind of restraint shall be specified in the physician's order.

b) If after a trial of less restrictive measures, the facility decides that a physical restraint would enable and promote greater functional independence, then the use of the restraining device must first be explained to the resident, family member, or legal representative, and if the resident, family member or legal representative agrees to this treatment alternative, then the restraining device may be used for the specific periods for which the restraint has been determined to serve the purpose defined above. This does not allow the use of restraints for convenience sake.

c) The restraining device must be authorized by the physician for use for specific periods for which the restraint has been determined to serve the purpose defined in paragraph b) above. This does not allow the use of restraints for convenience sake.

19.11 A resident shall not be required to perform services for the facility that are not included for therapeutic purposes in his plan of care.

19.12 Residents may meet with and participate in activities of social, religious and community groups at their discretion unless medically contraindicated per written medical order.

19.13 Residents may associate and communicate privately with persons of their choice and shall be allowed freedom and privacy in sending and receiving mail.

a) Posted reasonable visiting hours must be maintained in each home, with a minimum of four hours daily. The facility must provide immediate access to residents by properly identified appropriate government personnel, family members, physicians, and relatives. However, the resident reserves the right to refuse visitation by any of the aforementioned.

b) i. All health care providers, as licensed under the provisions of Chapter 29 or 37 of Title 5 and all health care facilities, as defined in section 23-17-2(5) of the Rhode Island General Laws, as amended, shall be required to note in their residents' permanent medical records, the name of individual(s) not legally related by blood or marriage to the resident, who the resident wishes to be considered as immediate family member(s), for the purpose of granting extended visitation rights to said individual(s), so said individual(s) may visit the resident while he or she is receiving inpatient health care services in a health care facility.

ii. A resident choosing to designate said individual(s) as immediate family members for the purpose of extending visitation rights may choose up to five (5) individuals and do so either verbally or in writing. This designation shall be made only by the resident and can be initiated and/or rescinded by the resident at any time, either prior to, during, or subsequent to an inpatient stay at the health care facility.

iii. The full names of individual(s) so designated, along with their relationship to the resident, shall be recorded in the resident's permanent medical records, both at the inpatient health care facility and with the resident's primary care physician.

iv. In the event the resident has not had the opportunity to have said designation recorded in his or her medical records, a signed statement in the resident's own handwriting attesting to the designation of said individual(s) as an immediate family member for the purpose of extending visitation right during the provision of health care services in an inpatient health care facility, along with their relationship to said individual(s) shall meet all the requirements of this section. The resident's signature on said signed statement shall be witnessed by two individuals, neither of whom can be the designated individual(s). In the event such signed statement is not available, those designated as agents on a durable power of attorney for health care form shall be allowed visitation privileges.

v. This section shall not be construed to prohibit legally recognized members of the resident's family from visiting the resident if they have not been so designated through the provisions of this section. No resident shall be required to designate individual(s) under the provisions of this section.

19.14 Residents shall have the right to obtain personal services or to purchase needs outside of the facility.

19.15 The resident's right to privacy and confidentiality shall extend to all records pertaining to the resident. Release of any records shall be subject to the resident's approval except as otherwise provided by law.

a) The right to privacy and confidentiality relates to the public dissemination of specific information contained within resident records and to the identification of specific individuals, but does not abrogate the responsibility of the licensing agency to review all resident records.

19.16 A resident shall have the right to manage his or her own personal financial affairs. The resident may delegate the management of his or her financial affairs to the facility by means of a formal written request. The written request should specify the period of time for which transfer of financial responsibility is desired. If the facility agrees to accept such responsibility, it shall convey acknowledgment of acceptance to the residents in writing. The facility shall have the obligation to conduct the resident's affairs in conformity with state laws and to provide a written accounting statement at least quarterly or at any time upon demand of the resident.

19.17 Residents shall be assured privacy for visits by the spouse or other partner. If both are residents in the facility, they may share a room unless medically contraindicated per written order of the physician and subject to the availability of such accommodations within the facility.

...19.19 A resident shall have the right to live in a tobacco smoke-free environment. It shall be prohibited for any person other than a nursing facility resident to smoke in a nursing facility.

19.19.1 Nursing facility residents who smoke may do so only in private or semi-private rooms where both residents smoke, or rooms designated by the administration of the facility.

a) A designated smoking area shall be a room or rooms other than the largest living or assembly room or lounge.

b) A designated smoking area shall be ventilated in such a way that the air therefrom shall not enter other parts of the nursing facility.

19.20 The resident shall have the right to have his or her pain assessed on a regular basis.

19.21 Notwithstanding any other provisions of this section, upon request, patients receiving care through hospitals, nursing homes, assisted living residences and home health care providers, shall have the right to receive information concerning hospice care, including the benefits of hospice care, the cost, and how to enroll in hospice care.

19.22 The health care facility shall respond in a reasonable manner to the request of a resident's physician, certified nurse practitioner and/or a physician's assistant for medical services to the resident. The health care facility shall also respond in a reasonable manner to the resident's request for other services customarily rendered by the health care facility to the extent the services do not require the approval of the resident's physician, certified

nurse practitioner and/or a physician's assistant or are not inconsistent with the resident's treatment.

19.23 Heat relief: Pursuant to section 23-17.5-27 of the Rhode Island General Laws, as amended, any nursing home facility which does not provide air conditioning in every patient room shall provide an air conditioned room or rooms in a residential section(s) of the facility to provide relief to patients when the outdoor temperature exceeds eighty (80) degrees Fahrenheit.

19.24 All rights and responsibilities specified in sections 19.4, 19.8, 19.16, and 19.18 shall devolve, in order of priority, to a resident's guardian, next of kin, sponsoring agency(ies) or representative payor (except when the facility itself is the representative payor) for residents who are:

- a) adjudicated incompetent in accordance with state law; or
- b) found by the physician to be medically incapable of understanding their rights; or
- c) found to exhibit a communication barrier. If however, the communication barrier is one of speaking a language other than English, then an attempt shall be made to find an interpreter to allow the resident to knowingly exercise his or her rights.

19.25 Posting a Copy of Rights of Residents: Each nursing facility shall provide each resident or his/her representative upon admission, a copy of the provisions of section 23-17.5-4, entitled "Rights of Nursing Home Patients", and shall display in a conspicuous place, in the facility a copy of the "Rights of Residents" herein and related information. At a minimum the display must include the following:

- a) A summary of the major provisions of the Rights of Residents as set forth herein;
- b) The address and telephone number of: Health Facilities Regulation, Rhode Island Department of Health, Three Capitol Hill, Providence, R.I. 02908 (Telephone Number: 401-222-2566), the agency which will accept complaints or notice of violations of the provisions herein;
- c) The results of the most recent state and federal licensing and certification surveys of nursing homes must be posted.
- d) the telephone number of the state long-term care ombudsman: 401-785-3340.
- e) the telephone number of the state Medicaid Fraud Unit: 401-222-2256 or 401-274-4400 x2269.

Resident and Family Notification

19.26 When directed to do so by the Department, the facility shall 1. notify the resident, or his or her legal representative, the resident's family representative, the resident's attending physicians of record and the nursing facility's medical director, if that resident has been found to be in immediate jeopardy to health and safety; and 2. in federally-certified facilities, notify all facility residents, or their legal representatives, their family representatives, their attending physicians and the nursing facility's medical director,

whenever a nursing facility is cited for substandard quality of care as defined in 42 CFR 488.301 or its successor regulation.

19.27 The facility shall provide for notification of changes regarding resident condition as provided in federal regulation 42 CFR 483.10 or successor regulation.

19.28 In nursing facilities not federally certified, when directed to do so by the Department, the facility shall notify all facility residents, or their legal representatives, their family representatives, their attending physicians and the nursing facility's medical director, whenever a nursing facility is cited for substandard quality of care as determined by the Director.

19.29 A facility citation for substandard quality of care shall be considered to be a public record ten (10) days following the citation, or upon Departmental approval of the corresponding plan of correction, whichever is sooner.

Family Councils

19.30 Upon the admission of a resident, the nursing facility shall inform the resident and the resident's family members, in writing, of their right to form a family council, or if a family council already exists, of the date, time, and location of scheduled meetings.

19.31 If a family council exists, its role shall be to address issues affecting residents generally at the facility, not to pursue individual grievances.

19.32 The family council shall not be entitled to obtain information about individual residents or staff members, or any other information deemed confidential under state or federal law.

19.33 No licensed nursing facility may prohibit the formation of a family council.

19.34 When requested by a member of a resident's family or a resident's representative, a family council shall be allowed to meet in a common meeting room of the nursing facility at least once a month during mutually agreed upon hours.

19.35 The nursing facility administration shall notify the state long-term care ombudsman of the existence or planned formation of a family council at that facility.

19.36 The family council may exclude members only for good cause shown, subject to appeal by the excluded party to the state long-term care ombudsman. No member shall be excluded on the basis of race or color, religion, gender, sexual orientation, disability, age, or country of ancestral origin.

19.37 A facility shall provide its family council with adequate space in a prominent posting area for the display of information pertaining to the family council.

19.38 Staff or visitors may attend family council meetings at the council's invitation.

19.39 The nursing facility shall provide a designated staff person who, at the request of the council, shall be responsible for providing assistance to the family council and for responding to recommendations and requests made by the family council.

19.40 The nursing facility shall consider the recommendations of the family council concerning issues and policies affecting resident care and life at the nursing facility.

19.41 A violation of the provisions of this section shall constitute a violation of the rights of nursing home residents.

Section 21.0 Resident Care Policies

21.5 Resident care policies shall be available for review by all residents, physicians, community agencies, relatives and personnel and shall include provisions for at least the following:

... i. notification of next of kin, attending physician or responsible agency of any change of condition.

Section 43.0 Residential Area

43.1 Each residential area, as defined in section 1.35 herein, shall have at least the following: ...e) a telephone with outside line.