

SOUTH CAROLINA

Downloaded January 2011

501. General (II)

...B. Specifically, there shall be written policies and procedures to:

Assure that residents do not develop pressure-related wounds unless the resident's

...3. Implement advance directives in accordance with S.C. Code Ann. Sections 4477-10, et seq. (1976, as amended), including provisions to inform and provide written information to all adult residents concerning the right to accept or refuse medical treatment and, at the individual's option, formulate an advance directive. The policies shall not condition treatment or admission upon whether the individual has executed or waived an advance directive.

701. Incidents

...H. Changes in the resident's condition, to the extent that serious health concerns, e.g., heart attack, are evident, shall be reported to the attending physician and the next-of-kin or responsible party in a timely manner, consistent with the severity or urgency of the change in accordance with facility policies and procedures. (I)

SECTION 1000 - RESIDENT CARE AND SERVICES

1001. General

A. There shall be a written care and services agreement between the resident, and/or his or her responsible party, and the facility. The agreement shall be signed and completed before or at the time of admission and include and/or address at least the following:

1. An explanation of the specific care, treatment, services, or equipment provided by the facility, e.g., degree of nursing care, administration of medication, provision of special diet as necessary, assistance with bathing, toileting, feeding, dressing, and mobility;
2. Disclosure of fees for all care, treatment, services, or equipment provided;
3. Advance notice requirements to change fees;
4. Refund provisions to include when monies are to be forwarded to resident upon discharge, transfer, or relocation;
5. Transportation provisions in accordance with facility policies and procedures;

6. Discharge and transfer provisions to include the conditions under which the resident may be discharged and the agreement terminated, and the disposition of personal belongings;

7. Documentation of the explanation of the Bill of Rights for Residents of Long-Term Care Facilities and grievance procedures;

8. Arrangements for, or the provision at a specified written cost for the laundering of resident personal clothes.

... H. Opportunities for participation in religious services shall be available. Reasonable assistance in obtaining pastoral counseling shall be provided upon request by the resident.

1002. Fiscal Management (II)

A. Provisions shall be made for safeguarding money and valuables for those residents who request this assistance.

B. Residents shall manage their own money whenever possible.

C. Only residents may endorse checks made payable to them, unless a legally constituted authority has been authorized to endorse their checks.

D. Upon written request of the resident or his or her responsible party, the facility may maintain the personal monies for the resident.

E. There shall be an accurate accounting of resident's personal monies and written evidence of purchases by the facility on behalf of the residents to include a record of items or services purchased, written authorization from residents of each item or service purchased, and an accounting of all monies paid to the facility for care and services. Personal monies include all monies, including family donations. No personal monies shall be given to anyone, including family members, without written consent of the resident or his or her responsible party. If a resident's money is given to anyone by the facility, a receipt shall be obtained.

F. A written report of the balance of resident finances shall be physically provided to each resident by the facility on a quarterly basis in accordance with the Bill of Rights for Residents of Long-Term Care Facilities, regardless of the balance amount, e.g., zero balance.

G. Within sixty (60) days of a resident's death or discharge, a final written account of remaining resident monies shall be made to the individual administering the resident's estate, or to the resident or the resident's responsible party upon discharge. Any personal monies due shall be refunded within thirty (30) days.

H. In the event of a licensee change, the existing licensee shall provide written verification to the new licensee that all resident monies have been transferred to the new licensee.

1003. Recreation

... J. Visiting by relatives and friends shall be encouraged, with minimum restrictions. Visiting hours shall be posted in accordance with facility policies and procedures. Reasonable exceptions to these hours shall be granted.

SECTION 1100 - RIGHTS AND ASSURANCES

1101. General (II)

A. The facility shall comply with all current State, Federal and local laws and regulations concerning resident care, treatment, procedures, and/or services, resident rights and protections, and privacy and disclosure requirements, e.g., S.C. Code Ann. Section 44-81-10 (1976, as amended), Bill of Rights for Residents of Long-Term Care Facilities, Alzheimer's Special Care Disclosure Act, and the Omnibus Adult Protection Act notice, S.C. Code Ann. Section 43-35-5, et seq. (1976, as amended).

B. Posted notices as required in the Bill of Rights for Residents of Long-Term Care Facilities, the Omnibus Adult Protection Act, and other notices as required by law, shall be prominently displayed in the facility.

C. The facility shall comply with all relevant State, Federal and local laws and regulations concerning discrimination, e.g., Title VII, Section 601 of the Civil Rights Act of 1964.

D. Achievement of the highest level of self-care, independence and choice by residents shall be reflected in the manner in which the facility provides and promotes resident care and how the facility honors reasonable requests.

E. Residents shall be given the opportunity to provide input concerning changes in facility operational policies, procedures, services, e.g., resident councils.

F. Other than the limitations of resident movement in special instances, e.g., Alzheimer's unit, residents shall be assured freedom of movement. Residents shall not be locked in or out of their rooms.

G. There shall be a grievance and complaint procedure to be exercised on behalf of the residents to enforce the Bill of Rights for Residents of Long-Term Care Facilities that includes the address and telephone number of the Department's Division of Health Licensing and a provision prohibiting retaliation should the grievance right be exercised.

Residents shall be made aware of this procedure and it shall be posted adjacent to the Bill of Rights for Residents of Long-Term Care Facilities.

H. Care, services, treatments, items provided by the facility, the charges, and those services that are the responsibilities of the resident shall be delineated in writing. Residents shall be made aware of such charges and services and changes to charges and services.

I. Residents shall not be requested or required to perform any type of care, treatment, or service in the facility that would normally be the duty of a staff member.

J. Information regarding advance directives shall be provided to each resident at admission.

K. The facility shall furnish itemized billing for all charges to the resident or the individual paying the bill upon request by the resident or individual.

1. Items that remain unpaid are not required to be itemized again.

2. This provision shall not apply to the contracted amount of a state or federal agency. Any amount above such contract shall be itemized as provided.

L. Residents shall be permitted to use the telephone and shall be allowed privacy when making telephone calls.

M. A quiet environment shall be provided that is the least intrusive to residents.

N. The facility shall inform residents of the resident councils (See Section 1102).

1102. Resident and Family Councils (II)

A. The facility shall allow residents to form and participate in resident councils to discuss and resolve concerns.

B. Adequate notification shall be provided to family members or to the responsible party of the resident concerning pertinent information pertaining to the operation or interest of the family council in accordance with facility policies and procedures.

C. Should there be a council, the facility administrator shall designate a staff coordinator and provide suitable private accommodations within the facility for these council(s). The staff coordinator shall assist the council(s) in scheduling regular meetings and preparing written reports of meetings for dissemination to residents of the facility.

SECTION 1300 - MEDICATION MANAGEMENT

1303. Administering Medication (II)

... E. Self-administration of medications by residents is permitted only on the specific written orders of the resident's attending physician or other legally authorized healthcare provider, verified by direct contact with the resident by a licensed nurse, and recorded on the MAR by that same person. Verification and documentation shall occur at the same frequency as the medication is taken. Facilities may elect to prohibit self-administration. The facility shall not allow residents to self-administer controlled substances. (I)

SECTION 2800 - PHYSICAL PLANT

2821. Telephone Service

At least one (1) telephone shall be available and easily accessible on each floor of the facility for use by residents for their private, discretionary use. Telephones shall be portable to

accommodate bedridden or ambulatory-impaired residents. Telephones capable of only local calls are acceptable for this purpose, provided other arrangements exist to offer residents discretionary access to a telephone capable of long distance service.

BILL OF RIGHTS FOR RESIDENTS OF LONG-TERM CARE FACILITIES

SECTION 44-81-10. Short title.

This act may be cited as the "Bill of Rights for Residents of Long-Term Care Facilities".

SECTION 44-81-20. Legislative findings.

The General Assembly finds that persons residing within long-term care facilities are isolated from the community and often lack the means to assert their rights fully as individual citizens. The General Assembly recognizes the need for these persons to live within the least restrictive environment possible in order to retain their individuality and personal freedom. The General Assembly further finds that it is necessary to preserve the dignity and personal integrity of residents of long-term care facilities through the recognition and declaration of rights safeguarding against encroachments upon each resident's need for self-determination.

SECTION 44-81-30. Definitions.

As used in this chapter:

(1) "Long-term care facility" means an intermediate care facility, nursing care facility, or residential care facility subject to regulation and licensure by the State Department of Health and Environmental Control (department).

(2) "Resident" means a person who is receiving treatment or care in a long-term care facility.

(3) "Representative" means a resident's legal guardian, committee, or next of kin or other person acting as agent of a resident who does not have a legally appointed guardian.

SECTION 44-81-40. Rights of residents; written and oral explanation required.

(A) Each resident or the resident's representative must be given by the facility a written and oral explanation of the rights, grievance procedures, and enforcement provisions of this chapter before or at the time of admission to a long-term care facility. Written acknowledgment of the receipt of the explanation by the resident or the resident's representative must be made a part of the resident's file. Each facility must have posted written notices of the residents' rights in conspicuous locations in the facility. The written notices must be approved by the department. The notices must be in a type and a format

which is easily readable by residents and must describe residents' rights, grievance procedures, and the enforcement provisions provided by this chapter.

(B) Each resident and the resident's representative must be informed in writing, before or at the time of admission, of:

(1) available services and of related charges, including all charges not covered under federal or state programs, by other third party payers, or by the facility's basic per diem rate;

(2) the facility's refund policy which must be adopted by each facility and which must be based upon the actual number of days a resident was in the facility and any reasonable number of bed-hold days.

Each resident and the resident's representative must be informed in writing of any subsequent change in services, charges, or refund policy.

(C) Each resident or the resident's legal guardian has the right to:

(1) choose a personal attending physician;

(2) participate in planning care and treatment or changes in care and treatment;

(3) be fully informed in advance about changes in care and treatment that may affect the resident's well-being;

(4) receive from the resident's physician a complete and current description of the resident's diagnosis and prognosis in terms that the resident is able to understand;

(5) Refuse to participate in experimental research.

(D) A resident may be transferred or discharged only for medical reasons, for the welfare of the resident or for the welfare of other residents of the facility, or for nonpayment and must be given written notice of not less than thirty days, except that when the health, safety, or welfare of other residents of the facility would be endangered by the thirty-day notice requirement, the time for giving notice must be that which is practicable under the circumstances. Each resident must be given written notice before the resident's room or roommate in the facility is changed.

(E) Each resident or the resident's representative may manage the resident's personal finances unless the facility has been delegated in writing to carry out this responsibility, in which case the resident must be given a quarterly report of the resident's account.

(F) Each resident must be free from mental and physical abuse and free from chemical and physical restraints except those restraints ordered by a physician.

(G) Each resident must be assured security in storing personal possessions and confidential treatment of the resident's personal and medical records and may approve or refuse their release to any individual outside the facility, except in the case of a transfer to another health care institution or as required by law or a third party payment contract.

(H) Each resident must be treated with respect and dignity and assured privacy during treatment and when receiving personal care.

(I) Each resident must be assured that no resident will be required to perform services for the facility that are not for therapeutic purposes as identified in the plan of care for the resident.

(J) The legal guardian, family members, and other relatives of each resident must be allowed immediate access to that resident, subject to the resident's right to deny access or withdraw consent to access at any time. Each resident without unreasonable delay or restrictions must be allowed to associate and communicate privately with persons of the resident's choice and must be assured freedom and privacy in sending and receiving mail. The legal guardian, family members, and other relatives of each resident must be allowed to meet in the facility with the legal guardian, family members, and other relatives of other residents to discuss matters related to the facility, so long as the meeting does not disrupt resident care or safety.

(K) Each resident may meet with and participate in activities of social, religious, and community groups at the resident's discretion unless medically contraindicated by written medical order.

(L) Each resident must be able to keep and use personal clothing and possessions as space permits unless it infringes on another resident's rights.

(M) Each resident must be assured privacy for visits of a conjugal nature.

(N) Married residents must be permitted to share a room unless medically contraindicated by the attending physician in the medical record.

(O) A resident or a resident's legal representative may contract with a person not associated with or employed by the facility to perform sitter services unless the services are prohibited from being performed by a private contractor by state or federal law or by the written contract between the facility and the resident. The person, being a private contractor, is required to abide by and follow the policies and procedures of the facility as they pertain to sitters and volunteers. The person must be selected from an approved list or agency and approved by the facility. All residents or residents' legal representatives employing a private contractor must agree in writing to hold the facility harmless from any liability.

SECTION 44-81-50. Discrimination.

Each resident must be offered treatment without discrimination as to sex, race, color, religion, national origin, or source of payment.

SECTION 44-81-60. Grievance procedures; review by department.

Each facility shall establish grievance procedures to be exercised by or on behalf of the resident to enforce the rights provided by this act. The department shall review and

approve these grievance procedures annually. This act is enforced by the department. The department may promulgate regulations to carry out the provisions of this act.

SECTION 44-81-70. Retaliation.

No facility by or through its owner, administrator, or operator, or any person subject to the supervision, direction, or control of the owner, administrator, or operator shall retaliate against a resident after the resident or the resident's legal representative has engaged in exercising rights under this act by increasing charges, decreasing services, rights, or privileges, or by taking any action to coerce or compel the resident to leave the facility or by abusing or embarrassing or threatening any resident in any manner.