

3000 RESIDENTS' RIGHTS

- 3001** The facility shall have written policies and procedures defining the rights and responsibilities of residents. The policies shall present a clear statement defining how residents are to be treated by the facility, its personnel, volunteers, and others involved in providing care.
- 3002** A copy of the synopsis of the residents' bill of rights must be prominently displayed within the facility.
- 3003** Each resident admitted to the facility is to be fully informed of these rights and of all rules and regulations governing resident conduct and responsibilities. The facility is to communicate these expectations/rights during the period of not more than two weeks before or five working days after admission, unless medically contraindicated in writing. The facility shall obtain a signed acknowledgement from the resident, his guardian or other person responsible for the resident. The acknowledgement is maintained in the resident's medical record.
- 3004** Appropriate means shall be utilized to inform non-English speaking, deaf, or blind residents of the residents' rights.
- 3005** Residents' Rights shall be deemed appropriately signed if:
- a. Residents capable of understanding: signed by resident before one witness.
 - b. Residents incapable because of illness: The attending physician documents the specific impairment that prevents the residents from understanding or signing their rights. Responsible party and two witnesses sign.
 - c. Residents mentally retarded: Rights read, and if he understands, resident signs before staff member and outside disinterested party. If he cannot understand, rights are explained to, and signed by, guardian before witness.
 - d. Residents capable of understanding but acknowledges with other mark (X): Mark must be acknowledged by two witnesses.
- 3006** Staff members must fully understand all residents' rights.
- 3007** Facility staff will be provided a copy of residents' rights. Staff shall complete a written acknowledgement stating they have received and read the residents' rights. A copy of the acknowledgement shall be placed in each employee's personnel file.
- 3008** The facility's policies and procedures regarding residents' rights and responsibilities will be formally included in ongoing staff development program for all personnel, including new employees.

- 3009** Each resident admitted to the facility will be fully informed, prior to or at the time of admission, and as need arises during residency, of services available in the facility and any charges for services. Residents have the right to choose, at their own expense, a personal physician and pharmacist.
- 3010** The facility shall make available to all residents a schedule of the kinds of services and articles provided by the facility. A schedule of charges for services and supplies not included in the facility's basic per diem rate shall be provided at the time of admission. This schedule shall be updated should any change be made.
- 3011** Each resident admitted to the facility shall be fully informed by a physician of his medical condition. The resident shall be afforded the opportunity to participate in the planning of his total medical care and may refuse experimental treatment.
- 3012** Total resident care includes medical care, nursing care, rehabilitation, restorative therapies, and personal cleanliness in a safe and clean environment. Residents shall be advised by appropriate professional providers of alternative courses of care and treatments and the consequences of such alternatives when such alternatives are available.
- 3013** A resident may be transferred or discharged only for:
- a. Medical reasons;
 - b. His welfare or the welfare of other residents;
 - c. The resident presents a danger to the safety or health of other residents;
 - d. Because the resident no longer needs the services provided by the facility;
 - e. Non-payment for his stay; or,
 - f. The facility ceases operation.

The resident shall be given reasonable written notice to ensure orderly transfer or discharge.

- 3014** The term "transfer" applies to the movement of the resident from facility to another facility.
- 3015** "Medical reasons" for transfer or discharge shall be based on the resident's needs and are to be determined and documented by a physician. That documentation shall become a part of the resident's permanent medical record.
- 3016** "Reasonable notice of transfer or discharge" means the decision to transfer or discharge a resident shall be discussed with the resident and the resident will be told the reason(s) and

alternatives available. A minimum of thirty (30) days written notice must be given. Transfer for the welfare of the resident or other residents may be affected immediately if such action is documented in the medical record.

- 3017** An appeals process for residents objecting to transfer or discharge shall be developed by the facility, in accordance with Ark. Code Ann. § 20-10-1005 as amended. The process shall include:
- a. The written notice of transfer or discharge shall state the reason for the proposed transfer or discharge. The notice shall inform the resident that they have the right to appeal the decision to the Director within seven (7) calendar days. The resident must be assisted by the facility in filing the written objection to transfer or discharge.
 - b. Within fourteen (14) days of the filing of the written objections a hearing will be scheduled.
 - c. A final determination in the matter will be rendered within seven (7) days of the hearing.
- 3018** The facility shall provide preparation and orientation to resident designed to ensure a safe and orderly transfer or discharge.
- 3019** The facility must provide reasonable written notice of change in room or roommate.
- 3020** Each resident admitted to the facility will be encouraged and assisted to exercise all constitutional and legal rights as a resident and as a citizen including the right to vote, and the facility shall make reasonable accommodations to ensure free exercise of these rights. Residents may voice grievances or recommend changes in policies or services to facility staff or to outside representatives of their choice, free from restraint, coercion, discrimination, or reprisal.
- 3021** Residents shall have the right to free exercise of religion including the right to rely on spiritual means for treatment.
- 3022** Complaints or suggestions made to the facility's staff shall be responded to within ten (10) days. Documentation of such response will be maintained by the facility administrator or his designee.
- 3023** Each resident may retain and use personal clothing and possessions as space and regulations permit.
- 3024** A representative resident council shall be established in each facility. The resident council's duties shall include:
- a. Review of policies and procedures required for implementation of resident rights.

- b. Recommendation of changes or additions in the facility's policies and procedures, including programming.
 - c. Representation of residents in their complaints to the Office of Long Term Care or any other person or agency.
 - d. Assist in identification of problems and orderly resolution of same.
- 3025** The facility administrator shall designate a staff coordinator and provide suitable accommodations within the facility for the residents' council. The staff coordinator shall assist the council in scheduling regular meetings and preparing written reports of meetings for dissemination to residents of the facility. The staff coordinator may be excluded from any meeting of the council.
- 3026** The facility shall inform residents' families of the right to establish a family council within the facility. The establishment of such council shall be encouraged by the facility. This family council shall have the same duties and responsibilities as the resident council and shall be assisted by the staff coordinator designated to assist the resident council.
- 3027** Each resident admitted to the facility may manage his personal financial affairs, or if the resident request such affairs be managed by the facility, an accounting shall be maintained in accordance with applicable regulations.
- 3028** Residents shall be free from mental and physical abuse, chemical and physical restraints (except in emergencies) unless authorized, in writing, by a physician, and only for such specified purposes and limited time as is reasonably necessary to protect the resident from injury to himself or others.
- 3029** Mental abuse includes humiliation, harassment, and threats of punishment or deprivation.
- 3030** Physical abuse refers to corporal punishment or the use of restraints as a punishment.
- 3031** Drugs shall not be used to limit, control, or alter resident behavior for convenience of staff.
- 3032** Physical restraint includes the use of devices designed or intended to limit residents' total mobility.
- 3033** Physical restraints are not to be used to limit resident mobility for the convenience of staff, as a means of punishment, or when not medically required to treat the resident's medical symptoms. If a resident's behavior is such that it will result in injury to himself or others any form of physical restraint utilized shall be in conjunction with a treatment procedure designed to modify the behavioral problems for which the resident is restrained and only after failure of therapy designed or intended to modify the threatening behavior.

- 3034** The facility's written policy and procedures governing the use of restraint shall specify which staff members may authorize the use of restraints and must clearly specify the following:
- a. Orders shall indicate the specific reasons for the use of restraints.
 - b. Use of restraints must be temporary and the resident will not be restrained for an indefinite or unspecified amount of time.
 - c. Application of restraints shall not be allowed for longer than 12 hours unless the resident's condition warrants and specified medical authorization is maintained in the resident's medical record.
 - d. A resident placed in restraints shall be checked at least every thirty (30) minutes by appropriately trained staff. A written record of this activity shall be maintained in the resident's medical record. The opportunity for motion and exercise shall be provided for a period of not less than ten (10) minutes during each two (2) hours in which restraints are employed, except at night.
 - e. Reorder, extensions or re-imposition of restraints shall occur only upon review of the resident's condition by the physician, and shall be documented in the physician's progress notes.
 - f. The use of restraints shall not be employed as punishment, the convenience of staff, or a substitute for supervision.
 - g. Mechanical restraints must be employed in such manner as to avoid physical injury to the resident and provide a minimum of discomfort.
 - h. The practice of locking residents behind doors or other barriers also constitutes physical restraint and must conform to the policies and procedures for the use of restraints.
- 3035** Each resident is assured confidential treatment of his personal and medical records. Residents may approve or refuse the release of such records to any individual except in case of a transfer to another health care institution, or as required by law or third party payment contract.
- 3036** Each resident will be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and care for personal needs.
- 3037** Staff shall display respect for residents when speaking with, caring for, or talking about residents, and shall seek to engage in the constant affirmation of resident individuality and dignity as a human being.

- 3038** Schedules of daily activities shall provide maximum flexibility and allow residents to exercise choice in participation. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, and entertainment will be elicited and respected by the facility.
- 3039** Residents shall be examined or treated in a manner that maintains and ensures privacy. A closed door or a drawn curtain shall shield the resident from passers-by. People not involved in the care of the residents are not to be present during examination or treatment without the residents' consents.
- 3040** Privacy will be afforded residents during toileting, bathing, and other activities of personal hygiene.
- 3041** Residents may associate or communicate privately with persons of their choice, and may send or receive personal mail unopened, unless medically contraindicated and documented by the physician in the medical record.
- 3042** Policies and procedures shall permit residents to receive visits from anyone they wish; provided a particular visitor may be restricted for the following reasons:
- a. The resident refuses to see the visitor.
 - b. The resident's physician specifically documents that such a visit would be harmful to the resident's health.
 - c. The visitor's behavior is unreasonably disruptive to the facility. This does not include those individuals who, because they advocate administrative change to protect resident rights, are considered a disruptive influence by the administrator.
- 3043** Decisions to restrict a visitor shall be reviewed and evaluated each time the resident's plan of care or medical orders are reviewed by the physician or nursing staff, or at the resident's request.
- 3044** Accommodations will be provided for residents to allow them to receive visitors in reasonable comfort and privacy.
- 3045** Residents are allowed to manage their own personal financial affairs.
- 3046** Should the facility manage the resident's personal financial affairs, this authorization must be in writing and shall be signed appropriately as follows:
- a. If the resident is capable of understanding the authorization shall be signed by the resident and one (1) witness.
 - b. If the resident is mentally retarded the authorization shall be read and if he/she understands, the resident will sign along with a staff member and an outside

disinterested party. If he/she cannot understand, the authorization should be explained and signed by the guardian and witness. If the resident is capable of understanding and acknowledges with a mark (X) then two witnesses are required.

- 3047** The facility shall have written policies and procedures for the management of client trust accounts.
- 3048** An employee shall be designated to be responsible for resident accounts.
- 3049** The facility shall establish and maintain a system that assures full and complete accounting of residents' personal funds using generally accepted accounting principles.
- 3050** The facility shall not commingle resident funds with any other funds other than resident funds.
- 3051** The facility system of accounting includes written receipts for funds received by or deposited with the facility, and disbursements made to or for the resident.
- 3052** All personal allowance monies received by the facility are placed in a collective checking account.
- 3053** The checking account will be reconciled on a monthly basis.
- 3054** Any cost incurred for this account shall not be charged to the resident.
- 3055** Any interest earned from this account shall not be charged to the resident.
- 3056** When appropriate individual savings accounts shall be opened for residents in accordance with Social Security rules governing savings accounts.
- 3057** A cash fund specifically for petty cash shall be maintained in the facility to accommodate the small cash requirement of residents.
- 3058** The facility shall, at the resident's request, keep on deposit personal funds over which the resident has control. Should the resident request these funds, they are given to him on request with receipts maintained by the facility and a copy to the resident.
- 3059** The financial record must be available to the resident and his/her guardian, and responsible party.
- 3060** If the facility makes financial transactions on a resident's behalf, the resident, guardian, or responsible party shall receive an itemized accounting of disbursements and current balances at least quarterly.
- 3061** A copy of the resident's quarterly statement shall be maintained in the facility.

SYNOPSIS OF RESIDENTS' BILL OF RIGHTS

WELCOME

This facility must ensure and protect the human rights of every individual in residence and to that end will provide a clean, healthy attractive environment wherein the resident will receive treatment without discrimination as to race, color, religion, sex, national origin or source of payment. Upon request, every resident has the right to the name and function of persons providing them service and the identification of other health care facilities, nursing homes, hospitals and other institutions that may provide them with service.

INFORMATION

THE RESIDENT HAS THE RIGHT TO:

- Be fully informed before, or at admission, of his rights and responsibilities as a resident.
- Know immediately of any changes or amendments to those rights and responsibilities.
- Be fully informed prior to or at admission and during stay, of services available in the facility and of related charges of services.
- Reasonable notice of any changes in the costs or availability of services.

MEDICAL CONDITION AND TREATMENT

AS A RESIDENT, YOU HAVE THE RIGHT TO:

- Choose, at your own expense, a personal physician and pharmacist.
- Be fully informed by a physician of your health and medical condition unless the physician documents in your medical record that such knowledge is contraindicated.
- Be given the opportunity to participate in planning your total care and medical treatment.
- Be given the opportunity to refuse treatment.
- Be given the opportunity to refuse to participate in experimental research.
- Receive rehabilitative and restorative therapies.
- Be advised by physician or appropriate professional staff of alternative courses of care and treatments and their consequences.
- Receive medical care, nursing care and personal cleanliness in a safe and clean environment.

EXERCISING RIGHTS

AS A RESIDENT, YOU ARE ENCOURAGED OR WILL BE ASSISTED TO:

- Exercise all constitutional and legal rights as a resident and as a citizen, including the right to vote.
- Voice grievances and recommend changes in nursing home policies and services to facility staff and to outside representatives of your choice, free from restraint, interference, coercion, discrimination or reprisal. All complaints and suggestions made to the nursing home must be responded to.
- Exercise your religious beliefs including the right to rely on spiritual means for treatment.
- Participate in the Resident Council and be informed of its activities and recommendations to the facility.

TRANSFER, DISCHARGE, AND CHANGE OF ACCOMMODATION

EVERY RESIDENT HAS THE RIGHT TO KNOW:

- You will be transferred or discharged only for: medical reasons, for your welfare or that of others, you no longer need the services, the facility ceases operations, or for non-payment.
- Except in emergency the facility must give you a thirty (30) day written notice of transfer or discharge. You shall be given reasonable notice of change of room or roommate within the facility.
- Transfer and discharge shall be discussed with you and you shall be told the reason and alternatives that are available.
- There is an appeals process for residents objecting to transfer or discharge.
- You shall be provided preparation and orientation to ensure a safe and orderly transfer or discharge.
- You shall be given reasonable notice of change of room or roommate change in the facility.

FINANCIAL AFFAIRS

AS A RESIDENT YOU HAVE THE RIGHT TO:

- Manage your personal financial affairs, or delegate that management to a responsible party.
- Delegate that management or a part thereof to the nursing home and receive at least a quarterly report of transactions made on your behalf.

FREEDOM FROM ABUSE AND RESTRAINTS

AS A RESIDENT YOU HAVE THE RIGHT TO BE:

- Free from mental and physical abuse (Mental abuse includes humiliation, harassment, and threats of punishment or deprivation. Physical abuse refers to corporal punishment and the use of restraints as a punishment.).
- Free from chemical and physical restraints except when authorized in writing by a physician for a specific and limited period of time and only to protect you from injury to yourself or others.

PRIVACY

EVERY RESIDENT HAS THE RIGHT TO:

- Considerate and respectful care. Every resident will be treated with consideration, respect and full recognition of his dignity and individuality.
- Privacy during treatment and care of personal needs. People not involved in the care of residents shall not be present without the consent from the resident during examinations and treatment.
- Know that he is assured confidential treatment of all information contained in his medical records and that his or his legal appointee's written consent is required for the release of information to persons not otherwise authorized to receive it.
- Know that photographs and interviews shall not be released without written consent of the resident or his responsible party.
- Privacy during visits with spouse.
- Share a room, in the case of married residents, unless medically contraindicated by a physician in writing.

WORK

Every resident has the right to refuse work. No resident is required to perform any service for the nursing home.

ACTIVITIES

AS A RESIDENT, YOU HAVE THE RIGHT TO:

- Participate in activities of social, religious, and community groups unless medically contraindicated in writing by your physician.
- Refuse to participate in activities.
- Be provided a schedule of daily activities that allow flexibility in what you will do and when you will do it.
- Individual preferences regarding such things as food, clothing, religious activities, friendships, activity programs and entertainment. Such preferences shall be elicited and respected by the nursing home staff.

PERSONAL POSSESSIONS

EVERY RESIDENT HAS THE RIGHT TO:

- Associate and communicate privately with persons of his choice, and send and receive personal mail unopened unless medically contraindicated and documented by the physician in the medical record.
- Space to receive visitors in reasonable comfort and privacy.
- Retain and use personal possessions and clothing as space permits.

IF YOU FEEL YOUR RIGHTS HAVE BEEN VIOLATED BY THE LONG TERM CARE FACILITY CALL THE OFFICE OF LONG TERM CARE AT 501-682-8430 OR YOUR LOCAL NURSING HOME OMBUDSMAN AT THE LOCAL AREA AGENCY ON AGING (LISTED IN YOUR TELEPHONE DIRECTORY) OR THE ADULT PROTECTIVE SERVICES AT 501-682-8491.