

### **410 IAC 16.2-3.1-3 Residents' rights**

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28-5-1

Sec. 3. (a) The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights:

(1) To exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

(2) To be free of the following:

(A) Interference.

(B) Coercion.

(C) Discrimination.

(D) Reprisal from or threat of reprisal from the facility in exercising his or her rights.

(b) The resident has the right to the following:

(1) Examination of the results of the most recent annual survey of the facility conducted by federal or state surveyors, any plan of correction in effect with respect to the facility, and any subsequent surveys. The results must be available for examination in the facility in a place readily accessible to residents and a notice posted of their availability.

(2) Receipt of information from agencies acting as client advocates and the opportunity to contact these agencies.

(c) In the case of a resident adjudged incompetent under the laws of the state by a court of competent jurisdiction, the rights of the residents are exercised by the person appointed under state law to act on the resident's behalf.

(d) In the case of an incompetent resident who has not been adjudicated incompetent by a state court, any legal representative may exercise the resident's rights to the extent provided by state law.

(e) The resident has the right to:

(1) refuse to perform services for the facility;

(2) perform services for the facility, if he or she chooses, when:

(A) the facility has documented the need or desire for work in the care plan;

(B) the plan specifies the nature of the services performed and whether the services are voluntary or paid;

- (C) compensation for paid services is at or above the prevailing rates; and
- (D) the resident agrees to the work arrangement described in the care plan.
- (f) The resident has the right to have reasonable access to the use of a telephone where calls can be made without being overheard.
- (g) A resident has the right to organize and participate in resident groups in the facility.
- (h) A resident's family has the right to meet in the facility with the families of other residents in the facility.
- (i) The facility must provide a resident or family group, if one exists, with private space.
- (j) Staff or visitors may attend meetings only at the group's invitation.
- (k) The facility must provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings.
- (l) When a resident or family group exists, the facility must listen to the views and act upon the grievances and recommendations of residents and families and report back at a later time in accordance with facility policy.
- (m) A resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.
- (n) The resident has the right to the following:
  - (1) Choose a personal attending physician and other providers of services. If a physician or other provider of services, or both, of the resident's choosing fails to fulfill a given federal or state requirement to assure the provisions of appropriate and adequate care and treatment, the facility will have the right, after consulting with the resident, the physician, and the other provider of services, to seek alternate physician participation or services from another provider.
  - (2) Be fully informed in advance about care and treatment, and of any changes in that care and treatment, that may affect the resident's well-being.
  - (3) Participate in planning care and treatment or changes in care and treatment unless adjudged incompetent or otherwise found to be incapacitated under state law.
- (o) The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.
- (p) Personal privacy includes the following:
  - (1) Accommodations.
  - (2) Medical treatment.
  - (3) Written and telephone communications.

(4) Personal care.

(5) Visits.

(6) Meetings of family and resident groups.

This does not require the facility to provide a private room for each resident.

(q) Except as provided in subsection (r), the resident may approve or refuse the release of personal and clinical records to any individual outside the facility.

(r) The resident's rights to refuse release of personal and clinical records does not apply when:

(1) the resident is transferred to another health care institution; or

(2) record release is required by law.

(s) The resident has the right to privacy in written communications, including the right to:

(1) send and promptly receive mail that is unopened unless the administrator has been instructed otherwise in writing by the resident;

(2) have access to stationery, postage, and writing implements at the resident's own expense; and

(3) receive any literature or statements of services that accompany mailings from Medicaid that the facility receives on behalf of the resident.

(t) The resident has the right to be cared for in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

(u) The resident has the right to the following:

(1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care.

(2) Interact with members of the community both inside and outside the facility.

(3) Make choices about aspects of his or her life in the facility that are significant to the resident.

(v) A resident has the right to the following:

(1) Reside and receive services in the facility with reasonable accommodations of the individual's needs and preferences, except when the health or safety of the individual or other residents would be endangered.

(2) Receive notice before the resident's room or roommate in the facility is changed.

(w) The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

(x) For purposes of IC 16-28-5-1, a breach of:

(1) subsection (a), (b)(1), (e), (n), (o), (p), (q), (r), (t), or (w) is a deficiency;

(2) subsection (b)(2), (c), (d), (f), (g), (l), (m), (s), (u), or (v) is a noncompliance; and

(3) subsection (h), (i), (j), or (k) is a nonconformance.

*(Indiana State Department of Health; 410 IAC 16.2-3.1-3; filed Jan 10, 1997, 4:00 p.m.:  
20 IR 1528, eff Apr 1, 1997; readopted  
filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3988;  
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