

## CHAPTER 6

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### CONTRACTS WITH RESIDENTS

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#### 6.A. Contract Between Resident and Representative of Facility

The presence of each resident admitted after the effective date of these regulations in a licensed facility shall be covered by a standardized contract executed at the time of admission, or prior thereto, by the resident or legal representative and the licensed facility (see Appendix A of these Regulations). Each party to such contract shall be entitled to a copy thereof and the licensed facility shall keep on file all contracts which it has with residents. The licensed facility shall not destroy or otherwise dispose of any such contract except as otherwise permitted by law.

#### 6.B. Provisions of Contract

Each contract to which this section applies shall contain express provisions specifically setting forth the following:

6.B.1. The services and accommodations to be provided by the facility and the rates and charges therefor, including an outline of responsibilities for and payment of treatment and medications, special equipment and appliances, dressings, clothing, personal supplies of the resident; services of related medical and paramedical personnel; and any other related charges not covered by the facility's basic per diem rate;

6.B.2. The identity of the person or party who is to be responsible for personal funds of the resident, including the name, address and telephone number of the person to be responsible, if other than the resident or an agent of the facility;

6.B.3. The specification of any rights, duties and obligations of both residents and the facility in addition to those required by law;

6.B.4. Provision that a resident may obtain medical care from any qualified institution, agency or person of his/her choice, as long as that health care provider complies with any applicable laws or rules concerning the provision of care to the resident and with the reasonable policies of the facility;

6.B.5. Provision that a resident may obtain medication from any qualified pharmacy, as long as that pharmacy complies with any applicable State rules and federal regulations and with the reasonable policies of the facility concerning procurement of medication;

6.B.6. The established procedures to be followed in an emergency which cover immediate care of the residents, persons to be notified and reports to be prepared;

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6.B.7. Those facilities that decide to use the Standardized Contract, without any additions, are considered to meet State licensing requirements for contracts with residents. The standardized contract may contain any other provisions in a separate addendum/rider, which do not violate State law or rule or federal law or regulation and that are specifically allowed by the standardized contract found in Appendix A of these Regulations.

6.B.8. Provision for addressing discharge potential and planning.

#### 6.C. Contract Requirements

Each contract or agreement is subject to the following requirements:

6.C.1. No contract or agreement may contain a provision for the discharge or transfer of a resident to another facility or another room within the same facility which is inconsistent with State law or rule.

6.C.2. Each contract or agreement shall contain a complete copy of the department rules establishing residents' rights and shall contain a written acknowledgment that the resident has been informed of those rights. In the case of a person who is adjudicated incompetent, the written acknowledgment of those rights shall be made by a representative of the resident. No provision in the contract or agreement may negate, limit or otherwise modify any provision of the residents' rights.

6.C.3. No provision of a contract or agreement may require or imply a lesser standard of care or responsibility than is required by law or rule.

6.C.4. No provision of a contract or agreement may state or imply a lesser degree of responsibility for the personal property of a resident than is required by law or rule.

6.C.5. No contract or agreement may require the resident to sign a waiver of liability statement as a condition of discharge, even if the discharge is against medical advice. This does not prohibit a facility from attempting to obtain a written acknowledgment that the resident has been informed of the potential risk in being discharged against medical advice.

6.C.6. Each contract or agreement shall contain a provision which provides for at least thirty (30) days notice prior to any changes in rates and/or charges, responsibilities, services to be provided or any other items included in the contract or agreement.

6.C.7. No contract or agreement may require the resident to authorize the facility or its staff to manage, hold or otherwise control the income or other assets of a resident.

6.C.8. No contract or agreement may contain any provisions which restrict or limit the ability of a resident to apply for and receive Medicaid or which require a specified period of residency prior to applying for Medicaid. The resident may be required to notify the facility when an application for Medicaid has been made. No contract or agreement may require a deposit or other prepayment from Medicaid recipients. No contract or agreement may refuse to accept retroactive Medicaid benefits.

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6.C.9. Medicaid Payment is payment in full when the person's Medicaid eligibility begins. Nursing facilities are required to refund any payment, within thirty (30) days, which was received from a resident or family member for the period of time that the Medicaid eligibility was pending and the resident is then determined eligible for Medicaid.

6.C.10. No contract agreement may contain a provision which provides for the payment of attorneys' fees or any other cost of collecting payments from the resident.

6.C.11. A nursing facility may require an identification photograph of each resident. Photographs may not be used for any other purpose without the permission of the resident for each specific use. The permission must indicate the specific purpose which the pictures are to be used for and, except for the identification photograph, may not be contained in the admission contract or agreement.

#### 6.D. Obligations

The contract or any provision thereof shall not be construed to relieve any licensed facility of any requirement or obligation imposed upon it by Maine Statutes or any standards, rules or regulations pursuant thereto.