
Chapter 7

YOUR RIGHTS UNDER THE LAW

As a nursing home resident, you have many rights and protections under federal and state law. The more you know about your rights, the more secure you and your family will feel. This chapter highlights some of your most important rights.

Fees

You should receive a monthly statement of your account with the nursing home. Further, a nursing home must mail an itemized bill with charges whenever you ask. Late fees on unpaid charges may not be assessed until 45 days after the nursing home issues an itemized statement of the charges, or 30 days after the end of the period covered by the statement, whichever comes later.

Managing Your Money

You have the right to manage your own money or have someone else do it for you. If you allow the nursing home to hold money for you, it is responsible for safely depositing it.

Your Belongings

You have the right to keep and use your own clothing and other personal belongings. The nursing home is responsible for security and, if you ask,

must give you a locked storage space for your belongings.

Your Well Being

You have the right to be treated with consideration and respect, to be free from mental and physical abuse and

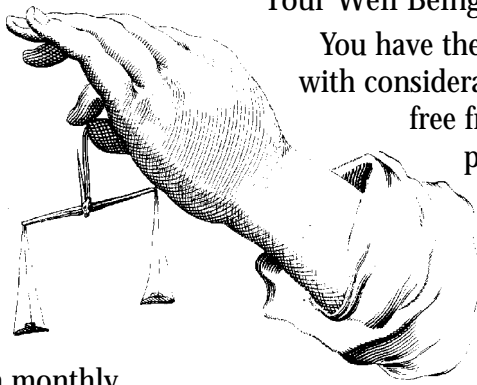
restraints, and to participate in the planning of your own medical treatment. You may refuse medication or

treatment. You have the right to private telephone conversations and to see visitors privately. Staff should knock before entering your room.


Resident Assessment and Comprehensive Care Program

Federal law requires nursing homes to provide care and services that enable you to reach and maintain your highest possible level of physical and mental well-being. In addition, if you are mentally retarded or mentally impaired, you may qualify for specialized services. The nursing home must assess your needs within 14 days of admission and whenever your condition changes.

The assessment is used to develop, review and revise your plan of care. This plan of care must describe your medical, nursing, and social needs and how those needs will be met. It should include goals, approaches, timeframes



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You have the right to be free from physical and chemical restraints unless they are ordered by your doctor for your health or safety.

and who is responsible for each approach. Your treatment team must review and update your assessment and care plan every three months. You and your family should be at care plan meetings. You have the right to have anyone else you choose attend.

Accommodations To Your Needs And Preferences

Staff should ask you and your family about your likes and dislikes and should be aware of your routines and activities. The nursing home must make a reasonable effort to provide care consistent with your lifetime pattern.

Quality Of Care

The facility must ensure that your condition does not worsen unless the nursing home can demonstrate it was unavoidable. Your condition includes your ability to bathe, toilet, dress, groom, eat, and walk. If you develop a problem, the nursing home must provide services to correct it and try to ensure that it does not happen again.

Room Change

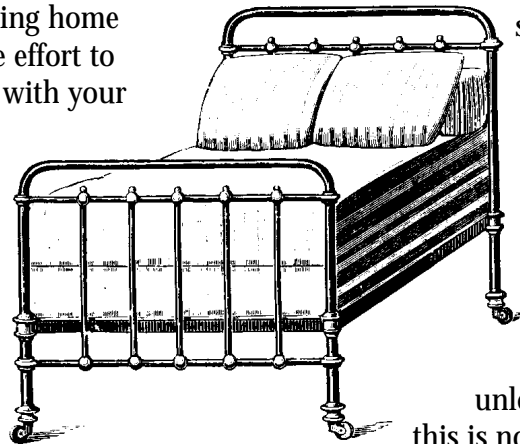
A nursing home must notify you, your legal representative, or family member of any planned change in your room or roommate.

Restraints

You have the right to be free from physical and chemical restraints unless they are ordered by your doctor for your health or safety. They should never be used for discipline or conve-

nience of the staff. The decision to use restraints can be made only after less restrictive means to treat your problem have been attempted.

Physical restraints are devices to prevent you from moving freely or having access to your body. Physical restraints include ties, belts, bed rails and chairs that restrict your movements. Your plan of care should include a schedule for gradually removing restraints.



Chemical restraints are medications such as drugs for depression, tranquilizers, or sedatives. Any chemical restraints should be gradually withdrawn at least every six months

unless your doctor says this is not a good idea. Also, your drugs should be reviewed at least once a year by an independent pharmacist.

Bed Hold

If you are a private pay resident, and you go to the hospital, the facility must hold the bed as long as you continue to pay for it. If you are on Medical Assistance, the facility must hold the bed for up to 15 days and Medical Assistance will pay for it. Medical Assistance will also pay for any leave of absence, such as a visit with family members, as long as your absences do not add up to more than 18 days in a year. Medicare and most private insurers will not pay for a bed hold.

Moving Out

Living in a nursing home is voluntary. You don't have to stay there if you don't want to. You are free to move to another nursing home or any other place, if you wish.

However, the nursing home admissions contract that you signed may require you to notify the facility in advance. If you fail to do this and just move out, you still may have to pay for a number of days after your move.

Can A Home Discharge Or Move Me Against My Wishes?

A nursing home can discharge or transfer you against your wishes for only five reasons:

- ♦ The transfer or discharge is necessary for your welfare and your needs cannot be met in the nursing home;
- ♦ Your health has improved sufficiently so that you no longer need the services provided by the nursing home;
- ♦ You are endangering the health or safety of another individual in the nursing home;
- ♦ Your nursing home bills are not being paid; or
- ♦ The nursing home closes down.


Annoying other residents is not grounds for discharge without evidence of harm to others.

Except in emergencies, the nursing home must give you and your family 30 days *written* notice of its intention to discharge or transfer you. The notice must state the reason for the discharge or transfer and inform you of your right to ask for a hearing and consult with an attorney of your choice. It must also list the agencies that can provide you with legal assistance and other help in contesting the discharge or transfer.

You may appeal this discharge or transfer. If you want to appeal, you should contact your local ombudsman (see chapter 10), legal services program, or another lawyer immediately. The hearing is held before an independent administrative law judge of the Office of Administrative Hearings. The hearing may be held at the nursing home or by telephone, whichever *you* prefer.

Prior to discharging or transferring you, the nursing home and your physician must thoroughly evaluate your medical condition and develop a plan for your care after your discharge or transfer. A nursing home cannot discharge or transfer you without your written consent unless the discharge or transfer is in accordance with a plan of care approved by your physician. The discharge or transfer must be to a safe and secure place where you will receive the care that you need.

At the time of your discharge or transfer, the nursing home must give you, a family member, or your lawyer a copy of your medical evaluation and plan of care, a list of your medications, information on how to obtain additional prescriptions for your medications, and, to the extent permitted by law, at least a three day supply of your medications. The nursing home must also give you a written statement indicating the date, time, method, and destination of discharge.

 *Consumer Tip:*
The nursing home may suggest restraints for safety reasons, but restraints do not always protect you from falls and, in fact, can be dangerous.

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