

CHAPTER 58
(CORRECTED COPY)

AN ACT concerning the rights of residents of assisted living facilities and comprehensive personal care homes, and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.26:2H-128 Rights of residents of assisted living facilities, comprehensive personal care homes.

1. a. Each assisted living facility and comprehensive personal care home provider licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall distribute to each resident and post in a conspicuous, public place in the facility or home, as applicable, a statement of resident rights. The statement of rights shall include, at a minimum, the rights set forth in subsection b. of this section. Each resident, resident family member, and legally appointed guardian, as applicable, shall be informed of the resident rights, and provided with explanations if needed. The provider shall ensure that each resident, or the resident's legally appointed guardian, as applicable, signs a copy of the statement of rights.

b. Every resident of an assisted living facility or comprehensive personal care home that is licensed in the State shall have the right to:

(1) receive personalized services and care in accordance with the resident's individualized general service or health service plan;

(2) receive a level of care and services that address the resident's changing physical and psychosocial status;

(3) have his or her independence and individuality;

(4) be treated with respect, courtesy, consideration and dignity;

(5) make choices with respect to services and lifestyle;

(6) privacy;

(7) have or not to have families' and friends' participation in resident service planning and implementation;

(8) receive pain management as needed, in accordance with Department of Health and Senior Services regulations;

(9) choose a physician, advanced practice nurse, or physician assistant;

(10) appeal an involuntary discharge as specified in department regulations;

(11) receive written documentation that fee increases based on a higher level of care are based on reassessment of the resident and in accordance with department regulations;

(12) receive a written explanation of fee increases that are not related to increased services, upon request by the resident;

(13) participate, to the fullest extent that the resident is able, in planning his or her own medical treatment and care;

(14) refuse medication and treatment after the resident has been informed, in language that the resident understands, of the possible consequences of this decision;

(15) refuse to participate in experimental research, including the investigations of new drugs and medical devices, and to be included in experimental research only when the resident gives informed, written consent to such participation;

(16) be free from physical and mental abuse and neglect;

(17) be free from chemical and physical restraints, unless a physician, advanced practice nurse, or physician assistant authorizes the use for a limited period of time to protect the resident or others from injury. Under no circumstances shall a resident be confined in a

locked room, or restrained, including with the use of excessive drugs, for punishment or for the convenience of staff;

(18) manage the resident's own finances, and to delegate that responsibility to a family member, assigned guardian, facility administrator, or some other individual with power of attorney. The resident's authorization delegating such authority shall be witnessed and in writing;

(19) receive prior to or at the time of admission, and afterwards through addenda, an admission agreement that complies with all applicable State and federal laws, describes the services provided and the related charges, and includes the policies for payment of fees, deposits, and refunds;

(20) receive a quarterly written account of the resident's funds, the itemized property deposited with the facility for the resident's use and safekeeping, and all financial transactions with the resident, next-of-kin, or guardian, which account shall show the amount of property in the account at the beginning and end of the accounting period, as well as a list of all deposits and withdrawals, substantiated by receipts given to the resident or the resident's guardian;

(21) have daily access during specified hours to the money and property that the resident has deposited with the facility, and to delegate, in writing, this right of access to a representative;

(22) live in safe and clean conditions that do not admit more residents than can safely be accommodated;

(23) not be arbitrarily and capriciously moved to a different bed or room;

(24) wear the resident's own clothes;

(25) keep and use the resident's personal property, unless doing so would be unsafe, impractical, or an infringement on the rights of other residents;

(26) reasonable opportunities for private and intimate physical and social interaction with other people, including the opportunity to share a room with another individual unless it is medically inadvisable;

(27) confidential treatment with regard to information about the resident, subject to the requirements of law;

(28) receive and send mail in unopened envelopes, unless the resident requests otherwise, and the right to request and receive assistance in reading and writing correspondence unless medically contraindicated;

(29) have a private telephone in the resident's living quarters at the resident's own expense;

(30) meet with any visitors of the resident's choice, at any time, in accordance with facility policies and procedures;

(31) take part in activities, and to meet with and participate in the activities of any social, religious, and community groups, as long as these activities do not disrupt the lives of other residents;

(32) refuse to perform services for the facility;

(33) request visits at any time by representatives of the religion of the resident's choice and, upon the resident's request, to attend outside religious services at the resident's own expense;

(34) participate in meals, recreation, and social activities without being subjected to discrimination based on age, race, religion, sex, marital status, nationality, or disability;

(35) organize and participate in a resident council that presents residents' concerns to the administrator of the facility;

(36) be transferred or discharged only in accordance with the terms of the admission agreement and with N.J.A.C.8:36-5.1(d);

(37) receive written notice at least 30 days in advance when the facility requests the resident's transfer or discharge, except in an emergency, which notice shall include the name and contact information for the New Jersey Office of the Ombudsman for the Institutionalized Elderly;

(38) receive a written statement of resident rights and any regulations established by the facility involving resident rights and responsibilities;

(39) retain and exercise all constitutional, civil and legal rights to which the resident is entitled by law;

(40) voice complaints without fear of interference, discharge, reprisal, and obtain contact information respecting government agencies to which residents can complain and ask questions, which information also shall be posted in a conspicuous place in the facility;

(41) hire a private caregiver or companion at the resident's expense and responsibility, as long as the caregiver or companion complies with the facility's policies and procedures; and

(42) obtain medications from a pharmacy of the resident's choosing, as long as the pharmacy complies with the facility's medication administration system, if applicable.

2. This act shall take effect on the 30th day after enactment.

Approved April 20, 2011.