

§ 23-17.4-16. Rights of residents.

(a) Every assisted living residence for adults licensed under this chapter shall observe the following standards and any other appropriate standards as may be prescribed in rules and regulations promulgated by the licensing agency with respect to each resident of the residence:

(1) Residents are entitled to all rights recognized by state and federal law with respect to discrimination, service decisions (including the right to refuse services), freedom from abuse and neglect, privacy, association, and other areas of fundamental rights including the right to freedom of religious practice. Some of these basic rights include:

(i) To be offered services without discrimination as to sex, race, color, religion, national origin, or source of payment;

(ii) To be free from verbal, sexual, physical, emotional, and mental abuse, corporal punishment, and involuntary seclusion;

(iii) To be free from physical or chemical restraints for the purpose of discipline or convenience and not required to treat the resident's medical symptoms. No chemical or physical restraints will be used except on order of a physician;

(iv) To have their medical information protected by applicable state confidentiality laws;

(v) To have a service animal, consistent with the "reasonable accommodations" clause of the Fair Housing Act, 42 U.S.C. § 3601 et seq. (such as a seeing eye dog); and

(2) In addition to these basic rights enjoyed by other adults, the residents of assisted living also have the right to:

(i) Be treated as individuals and with dignity, and be assured choice and privacy and the opportunity to act autonomously;

(ii) Upon request have access to all records pertaining to the resident, including clinical records, within the next business day or immediately in emergency situations;

(iii) Arrange for services not available through the setting at their own expense as long as the resident remains in compliance with the resident contract and applicable state law and regulations;

(iv) Upon admission and during the resident's stay be fully informed in a language the resident understands of all resident rights and rules governing resident conduct and responsibilities. Each resident shall:

(A) Receive a copy of their rights;

(B) Acknowledge receipt in writing; and

(C) Be informed promptly of any changes;

(v) Remain in their room or apartment unless a change in room or apartment is related to resident preference or to transfer conditions stipulated in their contract;

(vi) Consistent with the terms of the resident contract, furnish their own rooms and maintain personal clothing and possessions as space permits, consistent with applicable life safety, fire, or similar laws, regulations, and ordinances;

(vii) Be encouraged and assisted to exercise rights as a citizen; to voice grievances through a documented grievance mechanism and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;

(viii) Have visitors of their choice without restrictions so long as those visitors do not pose a health or safety risk to other residents, staff, or visitors, or a risk to property, and comply with reasonable hours and security procedures;

(ix) Have personal privacy in their medical treatment, written communications and telephone communications, and, to the fullest extent possible, in accommodation, personal care, visits, and meetings;

(x) Have prominently displayed a posting of the facility's grievance procedure, the names, addresses, and telephone numbers of all pertinent resident advocacy groups, the state ombudsperson, and the state licensing agency;

(xi) Choose his or her own physician(s) and have ready access to the name, specialty, and way of contacting the physician(s) responsible for the resident's care;

(xii) Have the residence record and periodically update the address and telephone number of the resident's legal representative or responsible party;

(xiii) Manage his or her financial affairs. The residence may not require residents to deposit their personal funds with the residence. Upon written authorization of a resident and with the agreement of the residence, the residence holds, safeguards, manages, and accounts for personal funds of the resident as follows:

(A) Funds in excess of three hundred dollars (\$300) must be in an interest bearing account, separate from any residence operating account that credits all interest on the resident's funds to that account and the residence shall purchase a surety bond on this account;

(B) A full and separate accounting of each resident's personal funds maintained must be available through quarterly statements and on request of the resident;

(C) Resident funds shall not be commingled with residence funds or with funds of any person other than another resident;

(D) Upon the death of a resident, the residence must convey within thirty (30) days the resident's funds deposited with the residence and a full accounting of those funds to the resident's responsible party or the administrator of the resident's estate;

(xiv) Have access to representatives of the state ombudsperson and to allow the ombudsperson to examine a resident's records with the permission of the resident and consistent with state law;

(xv) Be informed, in writing, prior to or at the time of admission or at the signing of a residential contract or agreement of:

(A) The scope of the services available through the residence service program, including health services, and of all related fees and charges, including charges not covered either under federal and/or state programs or by other third party payors or by the residence's basic rate;

(B) The residence's policies regarding overdue payment including notice provisions and a schedule for late fee charges;

(C) The residence's policy regarding acceptance of state and federal government reimbursement for care in the facility both at time of admission and during the course of residency if the resident depletes his or her own private resources;

(D) The residence's criteria for occupancy and termination of residency agreements;

(E) The residence's capacity to serve residents with physical and cognitive impairments;

(F) Support any health services that the residence includes in its service package or will make appropriate arrangements to provide the services;

(xvi) To be encouraged to meet with and participate in activities of social, religious, and community groups at the resident's discretion;

(xvii) Upon provision of at least thirty (30) days notice, if a resident chooses to leave a residence, the resident shall be refunded any advanced payment made provided that the resident is current in all payments;

(xviii) To have the residence discharge a resident only for the following reasons and within the following guidelines:

(A) Except in life threatening emergencies and for nonpayment of fees and costs, the residence gives thirty (30) days' advance written notice of termination of residency agreement with a statement containing the reason, the effective date of termination, and the resident's right to an appeal under state law;

(B) If the resident does not meet the requirements for residency criteria stated in the residency agreement or requirements of state or local laws or regulations;

(C) If the resident is a danger to himself or herself or the welfare of others and the residence has attempted to make a reasonable accommodation without success to address the resident's behavior in ways that would make termination of residency agreement or change unnecessary, which would be documented in the resident's records;

(D) For failure to pay all fees and costs stated in the contract, resulting in bills more than thirty (30) days outstanding. A resident who has been given notice to vacate for nonpayment of rent has the right to retain possession of the premises, up to any time prior to eviction from the premises, by tendering to the provider the entire amount of fees for services, rent, interest, and costs then due. The provider may impose reasonable late fees for overdue payment; provided that the resident has received due notice of those charges in accordance with the residence's policies. Chronic and repeated failure to pay rent is a violation of the lease covenant. However the residence must make reasonable efforts to accommodate temporary financial hardship and provide information on government or private subsidies available that may be available to help with costs; and

(E) The residence makes a good faith effort to counsel the resident if the resident shows indications of no longer meeting residence criteria or if service with a termination notice is anticipated;

(xix) To have the residence provide for a safe and orderly move out, including assistance with identifying a resource to help locate another setting, regardless of reason for move out;

(xx) To have the resident's responsible person and physician notified when there is:

(A) An accident involving the resident that results in injury and required physician intervention;

(B) A significant change in the resident's physical, mental, or psychosocial status or treatment;

(xxi) To be able to share a room or unit with a spouse or other consenting resident of the residence in accordance with terms of the resident contract;

(xxii) To live in a safe and clean environment;

(xxiii) To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of small personal valuables;

(xxiv) To receive a nourishing, palatable, well balanced diet that meets his or her daily nutritional and special medical dietary needs;

(xxv) To attain or maintain the highest practicable physical, mental, and psychosocial well being;

(xxvi) To be allowed to maintain an amount of money to cover reasonable monthly personal expenses, the amount of which shall be at least equal to that amount required for individuals on SSI as provided under § 40-6-27(a)(3);

(xxvii) To have the residence implement written policies and procedures to ensure that all facility staff are aware of and protect the resident's rights contained in this section; and

(xxviii) Upon request, the resident shall have the right to receive information concerning hospice care, including the benefits of hospice care, the cost, and how to enroll in hospice care.

(b) For purposes of subdivisions (a)(2)(ii), (iv), (xi), (xiii), (xiv), (xvii), (xviii)(A) and (xxviii), the term "resident" also means the resident's agent as designated in writing or legal guardian.

History of Section.

P.L. 1981, ch. 212, § 2; P.L. 1981, ch. 226, § 2; P.L. 1990, ch. 70, § 1; P.L. 1991, ch. 240, § 2; P.L. 1992, ch. 411, § 1; P.L. 1999, ch. 24, § 1; P.L. 1999, ch. 85, § 1; P.L. 2000, ch. 163, § 2; P.L. 2000, ch. 448, § 2; P.L. 2002, ch. 157, § 1; P.L. 2002, ch. 158, § 1; P.L. 2003, ch. 238, § 2; P.L. 2003, ch. 306, § 2.

I, _____, acknowledge the review and receipt of the rights of residents on this ____ day of _____, 20__.

Signature _____

Wingate Staff _____