

Your Rights Under The Combined Federal and Minnesota Residents Bill of Rights

Before You Read This Document You Should Know:

In this document, the term “you” includes yourself, your representative, and any legal surrogate designated under Minnesota law. If you are a resident of any nursing home, boarding care home, or other extended care facility, you are entitled to these rights. You are also entitled to these rights if you are a resident in a board and lodging or supervised living facility that has a chemical dependency program licensed by the Minnesota Department of Human Services. No facility can require you to waive these rights as a condition of admission or continued stay.

Certain rights exist only under Minnesota law. These rights are presented in bold print. All other rights exist under federal law and apply to residents of facilities certified under the Medicaid or Medicare programs. If your right under Minnesota law is comparable to your right under federal law, your federal right is presented. Any significant additions under state law, however, are presented in bold print.

If you would like a complete copy of your Minnesota rights, there are copies available in your facility. A staff person can tell you where to find them.

Quality of Life

A facility must care for you in a manner and environment that promotes maintenance or enhancement of your quality of life.

1. Dignity. The facility must with courtesy promote and care for you in a manner and environment that maintains or enhances your dignity and respect in full recognition of your individuality. **You have the right to private medical and personal care (including case discussion, consultation, examination, treatment, and activities of personal hygiene like toileting or bathing) except as needed for your safety and assistance.**

2. Self-Determination and Participation. You have the right to choose activities, schedules, and health care; interact with members of your community; and make choices about aspects of your life in the facility that is significant to you. **You have the right to participate in activities of commercial, religious, political and community groups, including joining with others to work for improvements in long-term care, without interference if the activities do not infringe on the right to privacy of other residents.**

3. Participation in Resident and Family Groups. You have the right to organize and participate in resident groups in the facility. Your family has the right to meet privately in the facility with the



families of other residents in the facility. 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 concerning proposed policy and operational decisions affecting resident care and life in the facility. **Resident and family councils shall be encouraged to make recommendations regarding facility policies.**

4. Participation in Other Activities. You have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

5. Accommodation of Needs. You have the right to reside and receive services in the facility with reasonable accommodations of your needs and preferences, except when your health or safety or that of other residents would be endangered.

Care and Treatment

6. Appropriate Health Care. You have the right to appropriate medical and personal care based on your individual needs, designed to enable you to achieve your highest level of physical and mental functioning, but this right is limited where the service is not reimbursable by public or private resources.

7. Relationship with Other Health Services and Suppliers. You have a right to receive services from an outside provider and to receive in writing upon your request the identity of the provider, their address, and a description of the services. You have the right to purchase or rent goods or services not included in the per diem rate from a supplier of your choice unless otherwise provided by law.

8. Continuity of Care. You have the right to be cared for with reasonable regularity and continuity of staff assignment as far as facility policy allows.

9. Review of Records and Knowledge of Care. You have the right to look at all of your records within 24 hours of requesting to do so and to purchase photocopies at a rate not to exceed the standard rate in your community upon written request and 2 working days notice to the facility. You have the right to be fully informed in language that you can understand of your total health status.

10. Advance Directives. You have the right to receive written information regarding advance directives (**now called health care directives in Minnesota**), including the facility's written policies and applicable state law, and to formulate an advance directive. **You have the right to designate an unrelated person to have the status of your next of kin with respect to making a health care decision.**

11. Attending Physician. You have a right to choose your attending physician. The facility must provide you with his or her name, specialty, business address and telephone number.



12. Information about Treatment. You have the right to be informed in advance about your care and treatment. **In addition, your attending physician is required to give you complete and current information concerning your diagnosis, treatment, alternatives, risks, and prognosis. This information shall be in terms and language you can reasonably be expected to understand. You may be accompanied by a family member or other chosen representative, or both. You have the right to refuse this information. If you are suffering from any form of breast cancer, you must be fully informed of all alternative effective methods of treatment and the risks associated with each of those methods.**

13. Participation in Planning Treatment. You have the right to participate in planning care and treatment. **This right includes the opportunity to discuss treatment and alternatives with individual care givers, the opportunity to request and participate in formal care conferences, and the right to include a family member or other chosen representative, or both. In the event you cannot be present, a family member or other representative chosen by you may be included in such conferences.**

If you are unconscious, comatose, or unable to communicate when you enter the facility, the facility must make reasonable efforts to notify a family member or an individual you have designated in writing as your emergency contact person, and permit that individual to participate in your treatment planning, as required by state law.

14. Notice of Changes in Your Condition. The facility must consult with you immediately when there is an accident involving an injury to you, a significant change in your physical, mental, or psychological status, a need to alter your treatment significantly, or a decision to transfer or discharge you from the facility. The facility must also contact your physician, your legal representative, and your family member.

15. Refusal of Treatment. You have the right to refuse treatment. **If you refuse treatment, medication, or dietary restrictions, you must be informed of the likely medical or major psychological results of the refusal, with documentation in your medical record.**

16. Self-Administration of Drugs. You have the right to self-administer drugs if the facility's interdisciplinary team has determined that this practice is safe.

General Rights

You have 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 your rights, including each of the rights listed below. **You must be told at admission that you have legal rights for your protection described in this written statement.**



17. Exercise of Rights. You have the right to exercise your rights as a resident of the facility and as a citizen or resident of the United States and the right to be free of interference, coercion, discrimination, or reprisal from the facility in exercising your rights. If you have been adjudged incompetent under State law, your rights are exercised by the person appointed under State law to act on your behalf. If you have not been adjudged incompetent, any legal surrogate designated under State law may exercise your rights to the extent permitted under state law.

18. Personal Privacy. You have the right to every consideration of your privacy, individuality, and cultural identity as related to your social, religious, and psychological well-being. Facility staff must knock on your door and receive permission before entering, except in an emergency or where clearly inadvisable.

19. Receipt of Rights. You have the right to receive before or at admission both orally and in writing in a language that you understand a statement of your rights and all rules governing your conduct in the facility. You must acknowledge in writing receipt of this information, and any amendments to it.

20. Information about Medicaid and Medicare. You have the right to receive, at admission or when you become eligible for Medicaid, a written statement of the items and services that are included in nursing facility services under the State plan (for which you may not be charged) and any items and services available (and their charges) for which you may be charged, including charges for services not covered under Medicare or the facility's per diem rate. You have the right to receive oral and written information about how to apply for and use Medicare and Medicaid benefits, including your right to request that the county determine how much of your assets might affect eligibility for Medicaid, and about how to receive refunds for previous payments covered by such benefits. **You are entitled to assistance by facility staff in obtaining information regarding whether the Medicare or Medicaid program will pay for any or all of these services.**

Neither you nor your personal fund account may be charged for services paid for by Medicaid or Medicare. These services include nursing services, dietary services, activities programs, housekeeping and maintenance services, medically related social services, and routine personal hygiene items and services that are required to meet your needs.

“Personal hygiene items and services” include:

- hair hygiene supplies, comb, brush, razor, and shaving cream,
- bath soap, and disinfecting soaps or specialized cleansing agents when indicated to treat special skin problems or to fight infection,
- toothbrush, toothpaste, denture adhesive, denture cleaner, and dental floss,
- moisturizing lotion,
- tissues, cotton balls, cotton swabs,
- deodorant,



- incontinence care and supplies, sanitary napkins and related supplies,
- towels, washcloths, and hospital gowns,
- over the counter drugs,
- hair and nail hygiene services,
- bathing, and
- basic personal laundry.

You may be charged for items and services not covered by Medicaid or Medicare, including:

- a telephone, television, or radio in your room,
- personal comfort items, including smoking materials, notions and novelties, and confections,
- cosmetic and grooming items and services in excess of those for which payment is made under Medicaid or Medicare,
- personal clothing,
- personal reading matter,
- gifts, flowers and plants,
- social events and entertainment offered outside the scope of the activities program,
- Noncovered special care services such as privately hired nurses or aides,
- Private room, except when therapeutically required (for example, isolation for infection control), and
- Specially prepared or alternative food requested instead of the food generally prepared by the facility.

21. Notice of Potential Loss of Medicaid Eligibility. If you receive Medicaid benefits, the facility must notify you when the amount in your account reaches \$200 less than the SSI resource limit for one person, and that, if the amount in the account, in addition to the value of your other nonexempt resources, reaches the SSI resource limit for one person, you may lose eligibility for Medicaid or SSI.

22. Personal Funds. You have the right to manage your financial affairs and may not be required to deposit personal funds with the facility. Upon your written authorization, you have a right to have your funds (if deposited with the facility) safeguarded and separately accounted for. Any personal funds in excess of \$50 must be deposited by the facility in an interest-bearing account separate from the facility's operating accounts, and the earned interest must be credited to your account. The facility may maintain your personal funds that do not exceed \$50 in a non-interest bearing account, a petty cash fund, or an interest bearing account. Your financial record must be available on request to you or your legal representative, **but must be given to you at least quarterly.** If you die, your funds and a final accounting must be conveyed within 30 days to the individual or probate jurisdiction administering your estate.

23. Experimental Research. You have the right to refuse to participate in experimental research.



24. Change in room or roommate. You have a right to be informed when there is a change in room or roommate. **If your room is changed, you must be given 7 days advance notice in writing.** You may not be required to change your room in order for you or someone else to become eligible for Medicare benefits.

25. Confidentiality of Records. You have the right to personal privacy and confidentiality of your personal and clinical records. You may approve or refuse the release of personal and clinical records to any individual outside the facility unless you are transferred to another health care institution or record release is required by law or third-party payment contract. **You must be notified when personal records are requested by any individual outside the facility, and you may select someone to accompany you when records or information are the subject of a personal interview.**

26. Grievances. You have the right to voice grievances and prompt efforts by the facility to resolve your grievances under the facility's written grievance procedure. **You may voice grievances and recommend changes free from restraint, interference, coercion, discrimination, or reprisal, including the threat of discharge.**

You also have the right to file complaints with the Office of Health Facility Complaints, the Minnesota Department of Health, or the Ombudsman for Long-Term Care. Their addresses and telephone numbers appear at the end of this document.

27. Responsive Service. You have a right to a prompt and reasonable response to your questions and requests.

28. Examination of Survey Results. You have the right to examine the results of the most recent survey of the facility conducted by Federal or State surveyors **or local health authorities** and any plan of correction in effect with respect to the facility, to receive information from agencies acting as client advocates, and to be afforded the opportunity to contact these agencies.

29. Work. You have the right to refuse to work for the facility.

30. Mail. You have the right to privacy in written communications, including sending and receiving mail promptly that is unopened and to having access to stationery, postage and writing implements at your expense.

31. Access and Visitation Rights. You have the right to immediate access by and private communication with the following:

- Any representative of the government;
- Your physician;



- The State long-term care ombudsman **and other rights protection and advocacy services**;
- The agencies responsible for the protection and advocacy systems for developmentally disabled and mentally ill individuals;
- Your immediate family or other relatives, subject to your right to deny or withdraw consent at any time; and
- Others who are visiting with your consent, including your representative, **health care agent, a person you designated as having the status of next of kin**, and any individual that provides health, social, legal, or other services to you, subject to reasonable restrictions and your right to deny or withdraw consent at any time.

32. Communication Privacy. You have the right to meet and talk privately with persons of your choice. **You have the right to leave the facility as you choose.**

33. Telephone. You have the right to have regular access to the private use of a telephone where your calls will not be overheard.

34. Personal Property. You have the right to retain and use personal possessions including some furnishings and appropriate clothing as space permits, unless it would infringe upon other resident's rights, health and safety. **The facility must either maintain a central locked depository or provide individual locked storage areas in which you may store your valuables for safekeeping.** The facility is responsible for reasonable preventive measures such as counseling you and your family members about the reasonable risks of bringing valued personal items into the facility, the desirability of labeling your belongings, having doors on all closets, and investigating incidents of loss or damage. **The facility may, but is not required to, provide compensation for lost or stolen items.**

35. Married Residents. You have the right to share a room with your spouse if your spouse consents. **If you are married, you have the right to private visits by your spouse.**

Resident Behavior and Facility Practices

36. Restraints. You have 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, **except in fully documented emergencies, or as authorized in writing after examination by your physician for a specified and limited period of time, and only when necessary to protect you from self-injury or injury to others.**

37. Right to Request and Consent to a Physical Restraint. You have the right to request the use of a physical restraint to treat a medical symptom. Before granting your request, the facility must explain to you the risks involved and possible alternative treatments. Your physician must order the restraint, identify the medical symptom, and specify the circumstances under which the



restraint may be used. The medical symptom can include a concern for your physical safety, a physical or psychological need of yours, or your fear of falling. The facility will monitor the use of the physical restraint to protect your health and safety. In consultation with you, your family, and your attending physician, the facility will periodically reevaluate your need for the restraint. You must sign a consent form for the restraint. If you are able to make your health care decisions, only you can request and consent to a restraint. If you are unable, your family member, guardian, conservator, or health care agent can request and consent to a restraint. [If you would like a copy of the new state law that gives you this right, it is in **Your Rights under the Minnesota Residents Bill of Rights**, which is available in your facility. A staff person can tell you where to find it.]

38. Abuse. You have the right to be free from verbal, sexual, physical, or mental abuse, corporal punishment, and involuntary seclusion, **including maltreatment as defined in the Vulnerable Adults Protection Act.**

39. Staff Treatment of Residents. You have the right to have incidents of abuse or neglect or injuries of unknown origin investigated and appropriate corrective action taken. You also have the right to file complaints with the agencies listed at the end of this document.

Admission, Transfer and Discharge Rights

40. Transfer and Discharge. You have the right to remain in the facility and refuse a transfer or discharge unless:

1. The transfer or discharge is necessary for your welfare and your needs cannot be met in the facility;
2. The transfer or discharge is appropriate because your health has improved sufficiently so that you no longer need the facility's services;
3. The safety of individuals in the facility is endangered;
4. The health of individuals in the facility would otherwise be endangered;
5. You have failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility; or
6. The facility ceases to operate.

When the facility transfers or discharges you under any of the circumstances specified in (1) through (5), your clinical records must be documented. The documentation must be made by your physician when transfer or discharge is necessary under (1) or (2) and any physician when transfer or discharge is necessary under (4).

Before a facility transfers or discharges you, the facility must notify you and, if known, a family member or your legal representative of the transfer or discharge and the reasons, record the reasons in your clinical records, and include in the notice:



- (a) The date of your transfer or discharge;
- (b) The location to which you will go;
- (c) The name, address, and telephone number of the State **and area** long-term care ombudsman;
- (d) If you have developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals;
- (e) If you are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals;
- (f) The name and address of the state agency office responsible for appeals of decisions to transfer or discharge you; **and**
- (g) A statement that you have the right to contest or appeal the transfer or discharge.**

The notice of transfer or discharge may be made as soon as practical when the transfer or discharge is for reasons (1) through (4) above or you have not resided in the facility for 30 days. In all other situations, the notice must be made at least 30 days before you are discharged or transferred. **You may choose to relocate before the notice period ends. If the facility wishes to move you to another room, you must be given notice at least 7 days in advance. The notice periods may be shortened in situations outside the facility's control, such as the accommodation of newly-admitted residents or a change in your medical or treatment program. Facilities are required to make a reasonable effort to accommodate new residents without disrupting room assignments.**

You have the right to sufficient preparation and orientation to ensure safe and orderly transfer or discharge from the facility.

41. Notice of Bed-Hold Policy and Readmission. If you transfer to a hospital or go on therapeutic leave, you have a right to return to the facility under the bed-hold policy of the State Medicaid plan if you are on Medicaid, and under the facility's policies regarding bed-hold periods if you are not on Medicaid. The facility should give you a copy of its policy when you transfer or go on therapeutic leave.

A nursing facility must establish and follow a written policy under which you will be readmitted to the first available bed in a semi-private room if you require the facility's services and you are both eligible for Medicaid and have exhausted your hospitalization or therapeutic leave days under the State plan.



42. Equal Access to Quality Care. The facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the State plan for all individuals regardless of source of payment. The State is not required to offer additional services on behalf of a resident other than services provided in the State plan.

Others Who May Enforce Your Rights

Your guardian or conservator or, in the absence of a guardian or conservator, an interested person, may seek enforcement of these rights on your behalf. An interested person may also seek enforcement of these rights on your behalf if you have a guardian or conservator through administrative agencies or in probate court or county court having jurisdiction over guardianships and conservatorships. Pending the outcome of an enforcement proceeding the health care facility may, in good faith, comply with the instructions of a guardian or conservator. It is the intent of this law that your civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist in the fullest possible understanding and exercise of these rights.

RESOURCES

Ombudsman for Long-Term Care

PO Box 64971
St. Paul, MN 55164-0971
(800) 657-3591 or (651) 431-2555 (metro)

Office of Health Facility Complaints

P.O. Box 64970
St. Paul, MN 55164-0970
(800) 369-7994 or (651) 201-4201 (metro)

**Minnesota Department of Health
Compliance Monitoring Division**

PO Box 64900
St. Paul, MN 55164-0900
(651) 201-4201

**The Developmentally Disabled Advocacy Project
The Mental Health Law Project**

430 First Avenue North, Suite 300
Minneapolis, MN 55401-1780
(800) 292-4150 or (612) 332-1441 (metro)



Board of Medical Practice

2829 University Avenue SE, Suite 400
Minneapolis, MN 55414-3246
(612) 617-2130

**Surveillance & Integrity Review Services
(Medicaid Fraud and Abuse – payment issues)**

Minnesota Department of Human Services

PO Box 64982

St. Paul, MN 55164-0982

(800) 657-3750 or (651) 431-2650 (metro)

[You will have to leave a message.]

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