

# **YOUR RIGHTS AS A NURSING FACILITY RESIDENT**

Resident Rights are mandated by Federal and WV State Law  
The Facility is required to protect and promote YOUR rights.

## **Privacy & Respect**

It is your right to:

- Be treated as a person, with respect, dignity and consideration.
- Receive a copy of your rights and facility rules prior to or at the time of admission.
- Be informed of your rights and the rules of the facility.
- Be informed both orally and in writing of your rights in a language you can understand.
- Be informed of changes in your rights as a resident.
- Formulate advance directives (Living Will or Medical Power of Attorney).
- Exercise your rights as a citizen of your State and the United States, including the right to vote.
- Exercise civil and religious liberties.
- Talk to and write to anyone in or outside of the facility.
- Receive services and care considering your special needs and individual preferences.
- Receive prompt responses to your request.
- Keep your personal and medical records private, and refuse to allow anyone to see these records without your written permission.
- Receive advance notice about a change in room or roommate and to be told why such a change is needed.

## **Activities**

It is your right to:

- Plan your daily activities and the way you spend your day.
- Take part in various activities at the facility and outside the facility as you are able.

## **Medical Care & Treatment**

It is your right to:

- Receive adequate, appropriate health care and appropriate protective and support services with reasonable accommodation of your individual needs and preferences.
- Be present and participate in the formulation of your care plan.
- Be told in language you understand about your medical problems and total health condition.
- Choose your own physician and know how to contact your physician.
- Look at and buy photocopies of all records about you.
- Self administer certain medications under certain circumstances.
- Be consulted in advance and to give informed consent for any change in treatment or care.
- Refuse treatment offered to you by your physician or by the facility at the direction of your physician.
- Refuse to participate in experimental research.
- Make your own decisions unless you are unable to do so and have appointed in writing someone else to decide for you or a substitute decision-maker has been established according to State Law.

## **Work**

It is your right to:

- Not perform work.
- Receive a wage if you desire for any work you do.
- Perform volunteer services as you wish and are able.

## **Personal Possessions**

It is your right to:

- Have your room as homelike as possible according to your individual tastes and desires.
- Bring in some furniture as space permits.
- Have your own clothing and possessions with private storage space in your own room.
- Have the facility take reasonable precautions so that your personal possessions are treated with respect. It is your right to have the facility promptly investigate incidents of loss, damage or misappropriation of property.

## **Freedom from Abuse & Restraint**

It is your right to:

- Be free from discrimination, punishment, scolding, neglect, mistreatment or denial of privileges for any reason.
- Be free of any physical, mental, or sexual abuse.
- Not be tied on any chair or bed, or held by a tray or any device limiting freedom of movement, unless such a restraint enables you to be more independent, and you agree to it, or for a short time for your own safety in an emergency.
- Be free of chemical and/or physical restraints that are for staff convenience or not necessary to treat your medical symptoms.
- Be free of drugs given to you for the purpose of discipline or the convenience of the facility staff.

## **Freedom of Association & Communication in Privacy**

It is your right to:

- If married, share the same room with your spouse if both of you agree to it, and to visit in private with your spouse.
- It is your right, subject to your consent, to receive visitors whom the resident designates, including but not limited to, a spouse (including same-sex spouse), a domestic partner (including same-sex domestic partner), and it is his or her right to withdraw or deny such consent at any time.
- Visitors cannot be denied, restricted, limited privileges on the basis of race, color national origin, religion, sex, gender identity, sexual orientation, or disability.
- Have visits from your physician, clergy and family at any time you wish, as long as you do not disturb other residents.
- Have other visitors at reasonable hours as you desire.
- Visit privately outside the facility with anyone of your choice.
- Telephone calls, to anyone, should be made in private, so that you cannot be overheard. You must pay for all long distance charges.
- Send and receive mail unopened.
- Meet with and belong to any religious or social group.

- Meet with other residents and resident groups within the facility. Families of residents have the right to organize and meet in the facility.
- Obtain information from resident advocates or agencies representing residents in a nursing facility.
- View the findings of State and Federal surveys of the facility.
- Talk to State Surveyors and ombudsmen in private at any time you wish.

## **Financial Affairs**

It is your right to:

- Be told in advance of all services available and all costs, including those charges covered or not covered under Medicare or Medicaid and the basic rate.
- Manage your personal financial affairs or, if you delegate this in writing to the facility, have free access to your funds and receive an accounting upon request and in writing quarterly.
- Be told if you are entitled to Medicare or Medicaid benefits and how to apply for them, including an evaluation for Medicaid when your spouse lives in the community.
- Not be charged for any item or service paid for by Medicare or Medicaid or not requested.
- Have your funds protected by a surety bond.

## **Admissions, Transfer & Discharge**

It is your right to:

- Be treated without discrimination regardless of source of payment to the facility.
- Not be required to give up your right to Medicare or Medicaid.
- Be informed of the bed-hold policy for temporary absences from the facility and your right to be readmitted if you are eligible for Medicaid.
- Remain in the facility unless one of the exceptions applies.
- Be given at least 30 days written notice of transfer or discharge unless one of the exceptions applies, and then be given reasonable notice.
- Not to be transferred or discharged from the facility because the source of payment for care is changed.
- Appeal any transfer or discharge to the WV Department of Health & Human Resources.

\*The facility may not require a third party guarantee of payment or accept any gifts as a condition of Admission or continued stay.

## **Long Term Care Ombudsman Program**

The word OMBUDSMAN means “*ONE WHO SPEAKS ON BEHALF OF ANOTHER*”. In West Virginia the LONG TERM CARE OMBUDSMAN PROGRAM provides assistance to residents of long term care facilities. The program’s mission is to enhance the quality of life, improve the care, protect the rights and promote the dignity of each senior citizen residing in a long term care facility.

**What does the long term care ombudsman program do?**

- Advocate for resident rights and quality care in nursing facilities, personal care, residential board and care, and other similar long term care facilities.
- Impartially investigate complaints on behalf of residents about long term care and services.
- Monitor the long term care system and make appropriate recommendations for improvement.
- Provide information regarding concerns of residents in long term care facilities.
- Promote the development of citizen organizations to participate in the ombudsman program.

## How do I contact my long term care ombudsman?

State Ombudsman  
Commission on Aging  
1900 Kanawha Boulevard, East  
Charleston, WV 25305  
Phone: 558-3317

## What are the penalties for interference and retaliation?

West Virginia Law (§16-5L-18) provides penalties for:

- Any individual who willfully interferes with or impedes a state, regional or volunteer ombudsman in the performance of his or her official duties.
- Any individual who institutes or commits any discriminatory disciplinary, retaliatory or reprisal action against any officer or employee of a long-term care facility or government department or agency, or against any resident of a long-term care facility for having filed a complaint with or provided information in good faith to a state, regional, or volunteer ombudsman in the performance of his or her official duties.

## Grievances

It is your right to:

- Contact Social Services/Grievance Official at ERCC to voice a complaint or concern.
- Make complaints or suggestions without fear of punishment or coercion or reprisal of any sort.
- Contact the State and Federal survey agency or the Ombudsman at any time to voice complaints or concerns.

The facility must use identical policies regarding transfer discharge, and services for all residents. If you feel that you have been abused, neglected or denied care and treatment in violation of the Resident's Bill of Rights, contact for confidential assistance:

Office of Health Facility Licensure  
1 Players Club Dr. Suite 301  
Charleston, WV 25311  
Kelli Cooper Director  
Kelli.r.cooper@wv.gov

(304) 558-0050  
304-957-7615 (fax)

State Ombudsman  
Bureau of Senior Services  
1900 Kanawha Blvd., E.  
Charleston, WV 25301  
Suzanne Messenger, Director

(304) 558-3317  
<http://www.wvseniorservices.gov>

Medicaid Fraud Control Unit  
408 Leon Sullivan Way  
Charleston, WV 25301  
Trina Crowder  
trinia.c.crowder@wv.gov

(304) 558-1858

Disability Rights of WV  
1207 Quarrier St., Suite 400  
Litton Building  
Charleston, WV 25301

(304) 346-0847 or (800) 950-5250  
Fax (304) 346-0867  
[CONTACT@drowv.org](mailto:CONTACT@drowv.org)

Adult Protective Services (for Referral to county offices)  
1027 N. Randolph Ave.,  
Elkins, WV 26241  
Katherine Stalnaker

1-800-352-6513 Hotline/(304) 637-5560

WV Department of Health & Human Resources Board  
of Review, for Transfer/Discharge Appeals  
State Capitol Complex  
Building 6, Room 817-B  
Charleston, WV 25305

Phone: (304) 558-0955  
FAX 304-558-1992

Legal Aid of West Virginia  
922 Quarrier Street, 4<sup>th</sup> Floor  
Charleston, WV 25301  
304-255-4370  
Fax-304-345-5934

The facility must implement procedures that protect you from abuse, neglect, or mistreatment and misappropriation of your personal property. In the event of an alleged violation involving your treatment, the facility is required to report it to the appropriate officials.

Any all alleged violation must be thoroughly investigated and the results reported to appropriate agencies.

Elkins Rehabilitation and Care Center  
2533 Beverly Pike  
Elkins, WV 26241  
304-636-1391

Regional Long-Term Care Ombudsman:  
Brenda Alvarado  
1-800-834-0598 ext. 2420  
Legal Aid of WV  
P.O. Box 229  
Elkins, WV 26241  
[bma\\_41@yahoo.com](mailto:bma_41@yahoo.com)

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