

DISABILITY & AGING RIGHTS



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RIGHTS IN FACILITIES

Rights of People in Nursing Homes and Other Long-Term Care Facilities

As a resident of a nursing home or other long-term care facility, you are entitled to the same rights that all individuals have under the law. You have a right to be safe and free from abuse and neglect, to voice your needs, and to make decisions for yourself to the extent you are able. The facility where you live must respect your rights and can restrict them only under limited circumstances, usually to protect you or others from harm.

This fact sheet will discuss many of your rights as a resident of a long-term care facility and the circumstances under which the facility can restrict your rights.

What a long-term care facility is

Nursing homes and skilled nursing facilities are long-term care facilities. Certain other facilities that provide personal care, sheltered care or nursing services are also considered long-term care facilities, which must provide you with the rights discussed below.

Assisted living facilities, community integrated living arrangements (CILAs), and many other places that provide services to people with disabilities are NOT considered long-term care facilities. Different rights may apply to residents of these facilities.

If you are not sure if the place you live is considered a long-term care facility, please contact one of the organizations listed at the end of this fact sheet for help.

NOTE: If you are a resident of an intermediate care facility (ICF) for people with developmental disabilities or a long-term care facility for people younger than 22, you have many of the rights described below, but a few of your rights are different. If you live in one of these facilities and have questions about your rights, please contact one of the organizations at the end of this fact sheet.



Here are some of your rights as a resident of a long-term care facility

Right to information

When you are admitted to the facility, the facility staff must tell you and provide you written notice of your rights as a resident. One of those rights is the right to review and copy your facility records at any time.

The facility must inform you of your right to designate someone to make decisions for you if you become incapable of making those decisions (Advance Directive).

The facility must inform you of the services it offers and the charges for those services. If you receive Medicaid, the facility should explain to you the items and services you will not be charged for because they are included in your plan, and other items and services that you can be charged for and their amounts. If you are not a Medicaid recipient, the facility should explain the requirements and procedures for becoming eligible for Medicaid.

Right to manage your finances

You have the right to control and manage your own financial matters unless you have a guardian. Facility staff may manage your finances only if you or your guardian asks them to in writing. If you deposit money with the facility, the facility must protect your funds and provide you with an account. The facility must return your money, along with any interest, when you are discharged.

If Medicaid pays for your residence at the facility, Medicaid limits the amount of money or other assets you can have while staying at the facility. In general, you cannot have more than \$2,000 in assets to be eligible for Medicaid. If you deposit your money with the facility, the facility should notify you when you are within a certain amount of the Medicaid limit. Please note that there are many rules regarding the amount and types of assets you may keep under the Medicaid program. Please contact your facility administrator or one of the organizations at the end of this fact sheet for more information.

Right to personal property

You have the right to keep and use your personal property, including furnishings and clothing, unless a physician determines it is not medically appropriate. The facility must provide you with storage space and a way to protect small valuable items.

Right to private and uncensored communication

You have the right to send and receive mail and phone calls, and to have visitors. Facility staff may not read your mail, listen to your phone calls, or sit in on visits. The facility should allow you private visits at all reasonable hours unless your physician determines it is not medically appropriate. The facility may restrict your communication only to protect you or others from harm, harassment or intimidation.

You also have a right NOT to communicate with others or have visitors. If a visitor asks to meet with you, you do not have to agree. If you do agree, you may end the visit at any time.



Rights regarding medical treatment

You have the right to be treated by your personal physician, at your expense or under insurance or other coverage. You have a right to receive complete and current information about your medical care, including your diagnosis and treatment, in a way you can understand. The facility must provide you with privacy and respect in your medical and personal care program. You can request to review and copy your records kept by the facility or your physician at any time.

The facility must allow you to participate in planning your care and treatment to the extent you are able. The facility must also allow you to administer your own medication if it is safe to do so. Any medical treatment or procedures you receive must be administered as ordered by a physician.

The facility must fully inform you about any medication or other treatment and make sure you understand the information before asking you to consent. You have a right to refuse medical treatment, and the facility must inform you of the risks and results of your refusal. The facility cannot provide medical treatment against your wishes unless your refusal would be harmful to the health and safety of others. A physician must document the harm in your record. The facility also cannot make you participate in experimental research or treatment unless you are informed of the risks and provide written consent.

The facility cannot administer psychotropic medication to you unless it discusses the risks and benefits of the medication, makes sure you understand the information provided, and obtains your consent. Psychotropic medication can affect your behavior, emotions and mental ability. Examples include antipsychotics, antidepressants and anti-anxiety behavior modification medication.

Right not to be restrained or secluded

You have a right not to be restrained or confined at the facility. Before using restraints, the facility must inform you of the risks and benefits of their use and make sure you understand the information. If you have a guardian or other authorized representative, he or she may consent for you.

Facility staff can never use restraints to punish you or because it is convenient for them. A physician must order the use of restraints and document the need for them in your record. The facility cannot provide medical treatment against your wishes unless your refusal would be harmful to your health and safety, or the health and safety of others.

Generally, a facility cannot seclude you by placing you alone in a room from which you cannot freely leave.



Rights regarding discharge

You have a right to leave the facility if you no longer wish to stay there. The facility must discharge you if you give written notice to the facility administrator, physician or nurse of your request to be discharged.

If you want to continue living at the facility, you have a right to stay. Generally, the facility can discharge or transfer you to another facility against your wishes only for medical reasons, for the physical safety of you or others at the facility, or for your failure to pay your bill. In most cases, the facility must give you written notice of its intent to discharge or transfer you, and you have the right to appeal, or challenge, the facility's decision.

For more information on involuntary transfers and discharges, please see the EFE fact sheet on Involuntary Transfer or Discharge from Nursing Homes and other Long-Term Care Facilities. ■

For more information:

Illinois Department on Aging Senior HelpLine: **1-800-252-8966** or **1-888-206-1327** (TTY)

Long Term Care Ombudsman Contact List: **www.illinois.gov/aging/ProtectionAdvocacy/LTCOmbudsmen/Documents/LTCOP_Contact%20List.pdf**

Equip for Equality: **1-800-537-2632** or **1-800-610-2779** (TTY)

Illinois Guardianship and Advocacy Commission: **1-866-274-8023** or **1-866-333-3362** (TTY)

Office of the Inspector General, Department of Human Services: **1-800-368-1463** (Voice/TTY)



Equip for Equality
20 North Michigan Avenue
Suite 300
Chicago, IL 60602

www.equiforequality.org
1-800-537-2632
1-800-610-2779 (TTY)

Illinois Department on Aging
One Natural Resources Way
Suite 100
Springfield, IL 62702-1271

Senior HelpLine:
1-800-252-8966
1-888-206-1327 (TTY)
www.illinois.gov/aging

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