



## **Resident Rights**

### ***Release Date: November 28, 2016***

**\*Please note :**

- Items in **(Black)** denotes no changes from previous version of resident rights
- Items in **(Red)** denotes changes in current language
- Items in **(Blue)** denotes new regulations

***(Change in Current Language)***

§483.10 Resident rights. The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility, including those specified in this section.

***(No Change from Previous Version)***

(a) Exercise of rights.

(1) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

***(Change in Current Language)***

(2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights and to be supported by the facility in the exercise of his other rights as required under this subpart

(3) A resident has the right to designate a representative, in accordance with State law.

***(New Regulation)***

(i) The resident representative has the right to exercise the resident's rights to the extent those rights are delegated to the resident representative

(ii) The resident retains the right to exercise those rights not delegated to a resident representative, including the right to revoke a delegation

***(Change in Current Language)***

(4) In the case of a resident adjudged incompetent under the laws of a State by a court of competent jurisdiction, the rights of the resident devolve to and are exercised by the resident representative appointed under State law to act on the resident's behalf

***(New Regulation)***

(i) The resident may exercise his or her rights to the extent not prohibited by court order.

(ii) The court-appointed resident representative exercises the resident's rights to the extent judged necessary by a court of competent jurisdiction, in accordance with State law.

(iii) The resident's wishes and preferences must be considered in the exercise of rights by the representative



***(Change in Current Language)***

(iv) To the extent practicable, the resident must be provided with opportunities to participate in the care planning process.

***(New Regulation)***

(5) In the case of a resident who has not been adjudged incompetent by the state court, any legal surrogate designated in accordance with state law may exercise the resident's rights to the extent provided by state law. The same-sex spouse of a resident must be afforded treatment equal to that afforded to an opposite-sex spouse if the marriage was valid in the jurisdiction in which it was celebrated.

***(Change in Current Language)***

(b) Planning and implementing care. The resident has the right to be informed of, and participate in, his or her treatment, including:

(1) The right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition.

***(New Regulation)***

(2) The right to be informed, in advance, of the care to be furnished and the disciplines that will furnish care.

(3) The right to be informed in advance of the risks and benefits of proposed care, of treatment and treatment alternatives or treatment options and to choose the alternative or option he or she prefers.

***(Change in Current Language)***

(4) The right to request, refuse, and/or discontinue treatment, to participate in or refuse to participate in experimental research, and to formulate an advance directive as specified in §483.11(e)(6).

(5) The right to participate in the development and implementation of his or her personcentered plan of care, including but not limited to:

***(New Regulation)***

(i) The right to participate in the planning process, including the right to identify individuals or roles to be included in the planning process, the right to request meetings and the right to request revisions to the person-centered plan of care.

(ii) The right to participate in establishing the expected goals and outcomes of care, the type, amount, frequency, and duration of care, and any other factors related to the effectiveness of the plan of care.

(iii) The right to be informed, in advance, of changes to the plan of care.

(iv) The right to receive the services and/or items included in the plan of care.

v) The right to see the care plan, including the right to sign after changes to the plan of care.



***(Change in Current Language)***

(6) The right to self-administer medications if the interdisciplinary team has determined that this practice is clinically appropriate in accordance with §483.11(b)(2).

***(New Regulation)***

(7) Nothing in this paragraph should be construed as the right of the resident to receive the provision of medical treatment or medical services deemed medically unnecessary or inappropriate.

***(Change in Current Language)***

(c) Choice of attending physician. The resident has the right to choose his or her attending physician.

***(New Regulation)***

- (1) The physician must be licensed to practice, and
- (2) The physician must meet the professional credentialing requirements of the facility.
- (3) If the physician chosen by the resident refuses to or does not meet requirements specified in this part, the facility may seek alternate physician participation as specified in §483.11(c) to assure provision of appropriate and adequate care and treatment.

***(Change in Current Language)***

- (d) Respect and dignity. The resident has a right to be treated with respect and dignity, including:
- (1) 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.
  - (2) The right to retain and use personal possessions, including furnishings, and clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.
  - (3) The right to reside and receive services in the facility with reasonable accommodation of resident needs and preferences except when to do so would endanger the health or safety of the resident or other residents.
  - (4) The right to share a room with his or her spouse when married residents live in the same facility and both spouses consent to the arrangement.

***(New Regulation)***

(5) The right to share a room with his or her roommate of choice when practicable, when both residents live in the same facility and both residents consent to the arrangement.

***(Change in Current Language)***

- (6) The right to receive notice before the resident's room or roommate in the facility is changed.
- (7) The right to refuse to transfer to another room in the facility, if the purpose of the transfer is to relocate:
  - (i) A resident of a SNF from the distinct part of the institution that is a SNF to a part of the institution that is not a SNF, or
  - (ii) A resident of a NF from the distinct part of the institution that is a NF to a distinct part of the institution that is a SNF



(8) A resident's exercise of the right to refuse transfer does not affect the resident's eligibility or entitlement to Medicare or Medicaid benefits.

(e) Self-determination. The resident has the right to self-determination, including but not limited to the right to —

(1) Choose activities, schedules (including sleeping and waking times), health care and providers of health care services consistent with his or her interests, assessments, and plan of care;

(2) Interact with members of the community and participate in community activities both inside and outside the facility;

(3) Receive visitors of his or her choosing at the time of his or her choosing, subject to the resident's right to deny visitation, and in a manner that does not impose on the rights of another resident, including the individuals specified in §483.11(d);

(4) Organize and participate in resident groups in the facility;

(5) Participate in family groups;

(6) Have family member(s) or other resident representative(s) meet in the facility with the families or resident representative(s) of other residents in the facility;

(7) Participate in other activities, including social, religious, and community activities that do not interfere with the rights of other residents in the facility;

(8) Choose to or refuse to perform services for the facility subject to the facility requirements in §483.11(d)(4);

(9) Manage his or her financial affairs. This includes the right to know, in advance, what charges a facility may impose against a resident's personal funds as specified in §483.11(d)(6)(ii);

***(New Regulation)***

(10) Make choices about aspects of his or her life in the facility that are significant to the resident.

(f) Access to information.

(1) The resident has the right to be informed of his or her rights and of all rules and regulations governing resident conduct and responsibilities during his or her stay in the facility.

(2) The resident has the right to receive notices verbally (meaning spoken) and in writing (including Braille) in a format and a language he or she understands, including

(i) Required notices as specified in §483.11(e);

(ii) Information and contact information for State and local advocacy organizations, including but not limited to the State Long-Term Care Ombudsman program (established under section 712 of the Older Americans Act of 1965, as amended 2006 (42

U.S.C. 3001 et seq) and the protection and advocacy system (as designated by the state, and as established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);

(iii) Information regarding Medicare and Medicaid eligibility and coverage;

(iv) Contact information for the Aging and Disability Resource Center (established under Section 202(a)(20)(B)(iii) of the Older Americans Act); or other No Wrong Door Program

(v) Contact information for the Medicaid fraud control unit; and

(vi) Information and contact information for filing grievances or complaints about abuse, neglect, misappropriation of resident property in the facility, and non-compliance with §489.102 of this chapter.



***(Change in Current Language)***

- (3) The resident has the right to access medical records pertaining to him or herself,—
- (i) Upon an oral or written request, in the form and format requested by the individual, if it is readily producible in such form and format (including in an electronic form or format when such medical records are maintained electronically); or, if not, in a readable hard copy form or such other form and format as agreed to by the facility and the individual, including current medical records, within 24 hours (excluding weekends and holidays); and
  - (ii) After receipt of his or her medical records for inspection, to purchase, a copy of the medical records or any portions thereof (including in an electronic form or format when such medical records are maintained electronically) upon request and 2 working days advance notice to the facility. The facility may impose a reasonable, cost-based fee on the provision of copies, provided that the fee includes only the cost of:

***(New Regulation)***

- (A) Labor for copying the medical records requested by the individual, whether in paper or electronic form;
- (B) Supplies for creating the paper copy or electronic media if the individual requests that the electronic copy be provided on portable media; and
- (C) Postage, when the individual has requested the copy be mailed

***(Change in Current Language)***

- (4) The resident has the right to—
- (i) Examine the results of the most recent survey of the facility conducted by Federal or State surveyors and any plan of correction in effect with respect to the facility; and

***(No Change from Previous Version)***

- (ii) Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

***(Change in Current Language)***

*(g) Privacy and confidentiality. The resident has a right to personal privacy and confidentiality of his or her personal and medical records.*

*(1) This includes the right to privacy in his or her verbal (that is, spoken), written, and electronic communications, including the right to send and promptly receive unopened mail and other letters, packages and other materials delivered to the facility for the resident, including those delivered through a means other than a postal service.*

***(No Change from Previous Version)***

(2) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room for each resident;



***(New Regulation)***

(3) The resident has a right to a secure and confidential medical record

***(Change in Current Language)***

(4) The resident has the right to refuse the release of personal and medical records except as provided at §483.70(i)(2) or other applicable federal or state laws.

(h) Communication. (1) The resident has the right to have reasonable access to the use of a telephone, including TTY and TDD services, and a place in the facility where calls can be made without being overheard. This includes the right to retain and use a cellular phone at the resident's own expense.

***(New Regulation)***

(2) The resident has the right to have reasonable access to and privacy in their use of electronic communications such as email and video communications and for internet research.

(i) If the access is available to the facility

(ii) At the resident's expense, if any additional expense is incurred by the facility to provide such access to the resident.

***(Change in Current Language)***

(3) The resident has the right to send and receive mail, and to receive letters, packages and other materials delivered to the facility for the resident through a means other than a postal service, including the right to:

***(New Regulation)***

(i) Privacy of such communications consistent with paragraph (g)(1) of this section; and

***(Change in Current Language)***

(ii) Access to stationery, postage, and writing implements at the resident's own expense

***(New Regulation)***

(i) Safe environment. The resident has a right to a safe, clean, comfortable and homelike environment in accordance with §483.11(g), including but not limited to receiving treatment and supports for daily living safely.

***(Change in Current Language)***

(j) Grievances

(1) The resident has the right to voice grievances to the facility or other agency or entity that hears grievances without discrimination or reprisal and without fear of discrimination or reprisal. Such grievances include those with respect to care and treatment which has been furnished as well as that which has not been furnished.

(2) The resident has the right to prompt efforts by the facility to resolve grievances in accordance with §483.11(h).