

Idaho Statutes

Title 39. HEALTH AND SAFETY

Chapter 33. IDAHO RESIDENTIAL CARE OR ASSISTED LIVING ACT

Current through 2011 legislative session

§ 39-3316. RESIDENT RIGHTS

A residential care or assisted living facility must protect and promote the rights of each resident, including each of the following rights:

(1) Resident records. Each facility must maintain and keep current a record of the following information on each resident:

- (a) A copy of the resident's current negotiated service agreement and physician's order.
- (b) Written acknowledgement that the resident has received copies of the rights.
- (c) A record of all personal property and funds which the resident has entrusted to the facility, including copies of receipts for the property.
- (d) Information about any specific health problems of the resident which may be useful in a medical emergency.
- (e) The name, address and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident.
- (f) Any other health-related, emergency, or pertinent information which the resident requests the facility to keep on record.
- (g) The current admission agreement between the resident and the facility.

(2) Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups.

(3) Humane care and environment (dignity and respect).

(a) Each resident shall have the right to humane care and a humane environment, including the following:

(i) The right to a diet which is consistent with any religious or health-related restrictions.

(ii) The right to refuse a restricted diet.

(iii) The right to a safe and sanitary living environment.

(b) Each resident shall have the right to be treated with dignity and respect, including:

(i) The right to be treated in a courteous manner by staff.

(ii) The right to receive a response from the facility to any request of the resident within a reasonable time.

(iii) The right to be communicated with, orally and/or in writing, in a language they understand.

(4) Personal possessions. Each resident shall have the right to:

(a) Wear his own clothing.

(b) Determine his own dress or hair style.

(c) Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity.

(d) Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer for keeping personal property.

(5) Personal funds. Residents whose board and care is paid for by public assistance shall retain, for their personal use, the difference between their total income and the applicable board and care allowance established by department rules.

(a) A facility shall not require a resident to deposit his personal funds with the facility.

(b) Once the facility accepts the written authorization of the resident, it must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

(6) Management of personal funds. Upon a facility's acceptance of written authorization of a resident, the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

(a) The facility must deposit any amount of a resident's personal funds in excess of five (5) times the personal needs allowance in an interest-bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. The facility must maintain any other personal funds in a noninterest-bearing account or petty cash fund.

(b) The facility must assure a full and complete separate accounting of each resident's personal funds, maintain a

written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

(c) Upon the death of a resident with such an account, the facility must promptly convey the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. For clients of the department, the remaining balance of funds shall be refunded to the department.

(7) Access and visitation rights. Each facility must permit:

(a) Immediate access to any resident by any representative of the department, by the state ombudsman for the elderly or his designees, or by the resident's individual physician.

(b) Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives.

(c) Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident.

(d) Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(8) Employment. Each resident shall have the right to refuse to perform services for the facility except as contracted for by the resident and the administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident shall be consistent with state and federal law.

(9) Confidentiality. Each resident shall have the right to confidentiality of personal and clinical records.

(10) Freedom from abuse, neglect, and restraints. Each resident shall have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints.

(11) Freedom of religion. Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others.

(12) Control and receipt of health-related services. Each resident shall have the right to control his receipt of health-related services, including:

(a) The right to retain the services of his own personal physician, dentist and other health care professionals.

(b) The right to select the pharmacy or pharmacist of their choice so long as it meets the statute and rules governing residential care or assisted living and the policies and procedures of the residential care or assisted living facility.

(c) The right to confidentiality and privacy concerning his medical or dental condition and treatment.

(d) The right to refuse medical services based on informed decision making. Refusal of treatment does not relieve the facility of its obligations under this chapter.

(13) Grievances. Each resident shall have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(14) Participation in resident and family groups. Each resident shall have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

(15) Participation in other activities. Each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(16) Examination of survey results. Each resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the department with respect to the facility and any plan of correction in effect with respect to the facility.

(17) Access by advocates and representatives. A residential care or assisted living facility shall permit advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to:

(a) Visit, talk with, and make personal, social and legal services available to all residents.

(b) Inform residents of their rights and entitlements, and their corresponding obligations, under state, federal and local laws by distribution of educational materials and discussion in groups and with individuals.

(c) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, and in all other matters in which residents are aggrieved, which may be provided individually, or in a group basis, and may include organizational activity, counseling and litigation.

(d) Engage in all other methods of assisting, advising and

representing residents so as to extend to them the full enjoyment of their rights.

(e) Communicate privately and without restrictions with any resident who consents to the communication.

(f) Observe all common areas of the facility.

(18) Access by protection and advocacy system. A residential care or assisted living facility shall permit advocates and representatives of the protection and advocacy system designated by the governor pursuant to 42 U.S.C. section 15043 and 42 U.S.C. section 10801 et seq. access to residents, facilities and records in accordance with applicable federal statutes and regulations.

(19) Access by the long-term care ombudsman. A residential care or assisted living facility shall permit advocates and representatives of the long-term care ombudsman program pursuant to 42 U.S.C. section 3058, section 67-5009, Idaho Code, and IDAPA 15.01.03, rules of the office on aging, access to residents, facilities and records in accordance with applicable federal and state law, rules and regulations.