



Rights of Residents in Michigan Nursing Facilities

Information provided by Healthcare Association of Michigan - Revised November 28, 2016

As a resident of a Michigan nursing facility, you have extensive rights guaranteed under federal and state law. These rights are reflected by the policies and staff of this nursing facility. All residents of this facility are encouraged and assisted, throughout their stay, to exercise their rights as residents and citizens.

As a basic premise, all residents have the right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside of the facility.

The purpose of this document is to summarize your legal rights as a nursing facility resident in a manner that is readable and useful to you. Complete text of the federal regulations detailing these rights under federal law are available at 42 CFR §483.10 and 42 CFR §483.12 and under state law in the Michigan Public Act 368 of 1978 Section 333.20201 (2). This document is not intended to form a contract between you and the nursing facility; rather, it is simply an explanation of those rights guaranteed by federal and state laws.

To assure that you fully understand the nature and scope of your rights, any questions you may have regarding the rights and responsibilities summarized below should be directed to a representative of the facility. Issues and concerns you might have are best directed to facility staff, per the process that they have in place.

Your Rights Under Federal Law

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.

You have the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising your rights and to be supported by the facility in the exercise of your rights.

You have the right to designate a representative, in accordance with state law and any legal surrogate so designated may exercise the resident's rights to the extent provided by state law. If you designate a representative, that representative has the right to exercise your rights to the extent you have delegated them, in accordance with applicable law.

You retain the right to exercise those rights not delegated to a resident representative, including the right to revoke a delegation of rights, except as limited by state law.

You (or your authorized representative) may file a complaint with the Michigan Department of Licensing and Regulatory Affairs concerning any suspected violation of state or federal nursing facility regulations, including but not limited to patient/resident abuse, neglect, exploitation and/or misappropriation of resident property in the facility or noncompliance with advanced directives and requests for information regarding returning to the community.

Planning and Implementing Care

You have the right to be informed of, and participate in, your treatment, including:

- a. The right to be fully informed in language that you can understand of your total health status, including but not limited to, your medical condition.
- b. The right to participate in the development and implementation of your person centered plan of care, including but not limited to:
 - 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 the care plan after significant changes to have been made.
- c. The right to be informed, in advance, of the care to be furnished and the type of caregiver or professional that will furnish care.
- d. The right to be informed in advance, by the physician or other practitioner or professional, 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.
- e. 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.
- f. The right to self-administer medications if the interdisciplinary team has determined that this practice is clinically appropriate.

Choice of Attending Physician

You have the right to choose your attending physician. The physician must be licensed to practice, and if the physician you have chosen refuses to or does not meet requirements, the facility may seek alternate physician participation to assure provision of appropriate and adequate care and treatment. If you subsequently select another attending physician who meets the requirements specified in law, the facility must honor that choice.

Respect and Dignity

You have a right to be treated with respect and dignity, including:

- a. The right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat your medical symptoms.
- b. 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.

- c. The right to reside and receive services in the facility with reasonable accommodation of your needs and preferences except when to do so would endanger the health or safety of the resident or other residents.
- d. The right to share a room your spouse when married residents live in the same facility and both spouses consent to the arrangement.
- e. The right to share a room with your roommate of choice when practicable, when both residents live in the same facility and both residents consent to the arrangement.
- f. The right to receive written notice, including the reason for the change, before your room or roommate in the facility is changed.
- g. The right to refuse to transfer to another room in the facility, if the purpose of the transfer is:
 - i. To relocate a resident of a Skilled Nursing Facility (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. To relocate a resident of a Nursing Facility (NF) from the distinct part of the institution that is a NF to a distinct part of the institution that is a SNF.
 - iii. Solely for the convenience of staff.

Self-Determination

You have the right to, and the facility must promote and facilitate, resident self-determination through support of resident choice, including but not limited to:

- a. The right to choose activities, schedules (including sleeping and waking times), health care and providers of health care services consistent with your interests, assessments, plan of care and other applicable provisions.
- b. The right to make choices about aspects of your life in the facility that are significant to you.
- c. The right to interact with members of the community and participate in community activities both inside and outside the facility.
- d. The right to receive visitors of your choosing at the time of your choosing, subject to your right to deny visitation when applicable, and in a manner that does not impose on the rights of another resident. Your right to receive visitors includes but is not limited to, a spouse (including a same-sex spouse), a domestic partner (including a same-sex domestic partner), another family member, or a friend. You have the right to withdraw or deny consent to visitation at any time.
- e. The right to organize and participate in resident groups in the facility.
- f. The right to participate in family groups.
- g. The right to 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.
- h. The right to participate in other activities, including social, religious, and community activities that do not interfere with the rights of other residents in the facility.
- i. The right to choose to or refuse to perform services for the facility and the facility must not require a resident to perform services for the facility.
- j. The right to manage your financial affairs. This includes the right to know, in advance, what charges a facility may impose, against your personal funds.

- k. The facility must not impose a charge against your personal funds for any item or service for which payment is made under Medicaid or Medicare (except for applicable deductible and coinsurance amounts). The facility may charge you for requested services that are more expensive than or in excess of covered services in accordance with 42 C.F.R. §489.32.

Information and Communication

You have the right to be informed of your rights and of all rules and regulations governing resident conduct and responsibilities during your stay in the facility.

You have the right to access personal and medical records pertaining to yourself.

You have the right to receive notices orally (meaning spoken) and in writing (including Braille) in a format and a language you understand.

You have 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 your own expense.

You have the right to send and receive mail, and to receive letters, packages and other materials delivered to the facility for you through a means other than a postal service, including the right to:

- a. Privacy of such communications; and
- b. Access to stationery, postage, and writing implements at your own expense.

You have the right to have reasonable access to and privacy in your use of electronic communications such as email and video communications and for internet research, if:

- a. If the access is available to the facility; and
- b. At your expense, if any additional expense is incurred by the facility to provide such access to the resident;
- c. Such use must comply with state and federal law.

You have the right to:

- a. 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
- b. Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

Privacy and Confidentiality

You have a right to personal privacy and confidentiality of your personal and medical records.

You have a right to secure and confidential personal and medical records.

You have 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.

Safe Environment

You have a right to a safe, clean, comfortable and homelike environment, including but not limited to receiving treatment and supports for daily living safely.

Grievances

You have the right to voice grievances to the facility or other agency or entity that hears grievance 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, the behavior of staff and of other residents; and other concerns regarding their Long Term Care facility stay.

You have the right to file a grievance and the facility must make prompt efforts to resolve any grievances you may have.

Freedom from Abuse, Neglect, and Exploitation

You have the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in federal regulation. This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat your medical symptoms.

Your Rights Under Michigan Law

You shall not be denied appropriate care on the basis of race, religion, color, national origin, sex, age, disability, marital status, sexual preference, or source of payment.

You are entitled to inspect, or receive for a reasonable fee, a copy of your medical record upon request in accordance with the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271. Except as otherwise permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, a third party shall not be given a copy of your medical record without your prior authorization.

You are entitled to confidential treatment of personal and medical records, and may refuse their release to a person outside the health facility or agency except as required because of a transfer to another health care facility, as required by law or third party payment contract, or as permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164.

You are entitled to privacy, to the extent feasible, in treatment and in caring for personal needs with consideration, respect, and full recognition of your dignity and individuality.

You are entitled to receive adequate and appropriate care, and to receive, from the appropriate individual within the health facility or agency, information about your medical condition, proposed course of treatment, and prospects for recovery, in terms that you can understand, unless medically contraindicated as documented in the medical record by the attending physician or a physician's assistant to whom the physician has delegated the performance of medical care services.

You are entitled to refuse treatment to the extent provided by law and to be informed of the consequences of that refusal. If a refusal of treatment prevents a health facility or agency or its staff from providing appropriate care according to ethical and professional standards, the relationship with you may be terminated upon reasonable notice.

You are entitled to exercise your rights as a patient or resident and as a citizen, and to this end may present grievances or recommend changes in policies and services on behalf of yourself or others to the health facility or agency staff, to governmental officials, or to another person of your choice within or

outside the health facility or agency, free from restraint, interference, coercion, discrimination, or reprisal. You are entitled to information about the health facility's or agency's policies and procedures for initiation, review, and resolution of patient or resident complaints. ·

You are entitled to information concerning an experimental procedure proposed as a part of your care and have the right to refuse to participate in the experimental procedure without jeopardizing your continuing care.

You are entitled to receive and examine an explanation of your bill regardless of the source of payment and to receive, upon request, information relating to financial assistance available through the health facility or agency.

You are entitled to know who is responsible for and who is providing your direct care, are entitled to receive information concerning your continuing health needs and alternatives for meeting those needs, and to be involved in your discharge planning, if appropriate.

You are entitled to associate and have private communications and consultations with your physician or a physician's assistant to whom the physician has delegated the performance of medical care services, attorney, or any other person of your choice and to send and receive personal mail unopened on the same day it is received at the health facility or agency, unless medically contraindicated as documented in the medical record by the attending physician or a physician's assistant to whom the physician has delegated the performance of medical care services. Your civil and religious liberties, including the right to independent personal decisions and the right to knowledge of available choices, shall not be infringed and the health facility or agency shall encourage and assist in the fullest possible exercise of these rights. You may meet with, and participate in, the activities of social, religious, and community groups at your discretion, unless medically contraindicated as documented in the medical record by the attending physician or a physician's assistant to whom the physician has delegated the performance of medical care services.

You are entitled to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized in writing by the attending physician or a physician's assistant to whom the physician has delegated the performance of medical care services for a specified and limited time or as are necessitated by an emergency to protect you from injury to self or others, in which case the restraint may only be applied by a qualified professional who shall set forth in writing the circumstances requiring the use of restraints and who shall promptly report the action to the attending physician or physician's assistant. In case of a chemical restraint, a physician shall be consulted within 24 hours after the commencement of the chemical restraint.

You are entitled to be free from performing services for the health facility or agency that are not included for therapeutic purposes in the plan of care.

You are entitled to information about the health facility or agency rules and regulations affecting patient or resident care and conduct.

You are entitled to adequate and appropriate pain and symptom management as a basic and essential element of his or her medical treatment.

You are entitled to receive a copy of the facility's "Resident Rights and Responsibilities" policy upon admission.

You may associate and communicate privately with persons of your choice. Reasonable, regular visiting hours, which shall be not less than eight hours per day, and which shall take into consideration the special circumstances of each visitor, shall be established for patients to receive visitors. You may be

visited by your attorney or by representatives of the departments named in state law, during other than established visiting hours. Reasonable privacy shall be afforded for visitation of a patient who shares a room with another patient. You shall have reasonable access to a telephone. If married, you are entitled to meet privately with your spouse in a room that assures privacy. If both spouses are residents in the same facility, they are entitled to share a room unless medically contraindicated and documented in the medical record by the attending physician or a physician's assistant to whom the physician has delegated the performance of medical care services.

You are entitled to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other patients or residents, or unless medically contraindicated as documented in the medical record by the attending physician or a physician's assistant to whom the physician has delegated the performance of medical care services. You shall be provided with reasonable space. At your request, the nursing home shall provide for the safekeeping of personal effects, funds, and other property of a patient in accordance with section 21767, except that the nursing home is not required to provide for the safekeeping of a property that would impose an unreasonable burden on the nursing home.

You are entitled to the opportunity to participate in the planning of your medical treatment. The attending physician or a physician's assistant to whom the physician has delegated the performance of medical care services shall fully inform you of your medical condition unless medically contraindicated as documented in the medical record by a physician or a physician's assistant to whom the physician has delegated the performance of medical care services. You shall be afforded the opportunity to discharge yourself from the nursing home.

You may be transferred or discharged only as provided in sections 21773 to 21777 of state law. You are entitled to be given reasonable advance notice to ensure orderly transfer or discharge. Those actions shall be documented in the medical record.

You are entitled to be fully informed before or at the time of admission and during stay of services available in the facility, and of the related charges including any charges for services not covered under title XVIII, or not covered by the facility's basic per diem rate. The statement of services provided by the facility shall be in writing and shall include those required to be offered on an as-needed basis.

You are entitled to manage your own financial affairs, or to have at least a quarterly accounting of personal financial transactions undertaken in your behalf by the facility during a period of time you have delegated those responsibilities to the facility. In addition, you are entitled to receive each month from the facility an itemized statement setting forth the services paid for by or on behalf of you and the services rendered by the facility. The admission of a patient to a nursing home does not confer on the nursing home or its owner, administrator, employees, or representatives the authority to manage, use, or dispose of a patient's property.

You or a person authorized by you in writing may inspect and copy the your personal and medical records. The records shall be made available for inspection and copying by the nursing home within a reasonable time, not exceeding 1 week, after the receipt of a written request.

If you desire treatment by a licensed member of the healing arts, the treatment shall be made available unless it is medically contraindicated, and the medical contraindication is justified in your medical record by the attending physician or a physician's assistant to whom the physician has delegated the performance of medical care services.

You have the right to have your parents, if a minor, or your spouse (including same- sex spouse), domestic partners (including same-sex domestic partners), next of kin, or patient's representative, if all

adult, stay at the facility 24 hours a day if you are considered terminally ill by the physician responsible for your care or a physician's assistant to whom the physician has delegated the performance of medical care services.

You shall be provided with meals that meet the recommended dietary allowances for your age and sex and that may be modified according to special dietary needs or ability to chew.

You have the right to receive representatives of approved organizations as provided in section 21763 of the Michigan Public Health Code.

A nursing home, its owner, administrator, employee, or representative shall not discharge, harass, or retaliate or discriminate against a patient because the patient has exercised a right protected under this section.

Your rights enumerated in subsection (2)(c), (g), and (k) and subsection (3)(d), (g), and (h) of the Michigan Public Health Code may be exercised by the patient's representative.

You are entitled to be fully informed, as evidenced your written acknowledgment, before or at the time of admission and during stay, of the policy required by this section of state law. The policy shall provide that if a patient or resident is adjudicated incompetent and not restored to legal capacity, the rights and responsibilities set forth in this section shall be exercised by a person designated by the patient or resident. The health facility or agency shall provide proper forms for you to provide for the designation of this person at the time of admission.

Your Responsibilities Under Michigan Law

You are responsible for following the health facility rules and regulations affecting patient or resident care and conduct.

You are responsible for providing a complete and accurate medical history.

You are responsible for making it known whether you clearly comprehend a contemplated course of action and the things you are expected to do.

You are responsible for following the recommendations and advice prescribed in a course of treatment by the physician.

You are responsible for providing information about unexpected complications that arise in an expected course of treatment.

You are responsible for being considerate of the rights of other patients or residents and health facility personnel and property.

You are responsible for providing the health facility with accurate and timely information concerning your sources of payment and ability to meet financial obligations.