

SENATE, No. 2880

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED SEPTEMBER 14, 2020

Sponsored by:
Senator JAMES BEACH
District 6 (Burlington and Camden)

SYNOPSIS

Requires residential psychiatric and long-term care facilities to provide certain financial information to facility residents and other individuals.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT requiring residential psychiatric and long-term care
2 facilities to provide certain financial information to residents and
3 other individuals and amending various parts of the statutory
4 law.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 1 of P.L.2011, c.58 (C.26:2H-128) is amended to
10 read as follows:

11 1. a. Each assisted living facility and comprehensive personal
12 care home provider licensed pursuant to P.L.1971, c.136 (C.26:2H-
13 1 et seq.) shall distribute to each resident and post in a conspicuous,
14 public place in the facility or home, as applicable, a statement of
15 resident rights. The statement of rights shall include, at a minimum,
16 the rights set forth in subsection b. of this section. Each resident,
17 resident family member, and legally appointed guardian, as
18 applicable, shall be informed of the resident rights, and provided
19 with explanations if needed. The provider shall ensure that each
20 resident, or the resident's legally appointed guardian, as applicable,
21 signs a copy of the statement of rights.

22 b. Every resident of an assisted living facility or
23 comprehensive personal care home that is licensed in the State shall
24 have the right to:

25 (1) receive personalized services and care in accordance with
26 the resident's individualized general service or health service plan;

27 (2) receive a level of care and services that address the resident's
28 changing physical and psychosocial status;

29 (3) have the resident's independence and individuality;

30 (4) be treated with respect, courtesy, consideration, and dignity;

31 (5) make choices with respect to services and lifestyle;

32 (6) privacy;

33 (7) have or not to have families' and friends' participation in
34 resident service planning and implementation;

35 (8) receive pain management as needed, in accordance with
36 Department of Health regulations;

37 (9) choose a physician, advanced practice nurse, or physician
38 assistant;

39 (10) appeal an involuntary discharge as specified in department
40 regulations;

41 (11) receive written documentation that fee increases based on
42 a higher level of care are based on reassessment of the resident and
43 in accordance with department regulations;

44 (12) receive a written explanation of fee increases that are not
45 related to increased services, upon request by the resident;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (13) participate, to the fullest extent that the resident is able, in
- 2 planning the resident's own medical treatment and care;
- 3 (14) refuse medication and treatment after the resident has been
- 4 informed, in language that the resident understands, of the possible
- 5 consequences of this decision;
- 6 (15) refuse to participate in experimental research, including
- 7 the investigations of new drugs and medical devices, and to be
- 8 included in experimental research only when the resident gives
- 9 informed, written consent to such participation;
- 10 (16) be free from physical and mental abuse and neglect;
- 11 (17) be free from chemical and physical restraints, unless a
- 12 physician, advanced practice nurse, or physician assistant
- 13 authorizes the use for a limited period of time to protect the resident
- 14 or others from injury. Under no circumstances shall a resident be
- 15 confined in a locked room, or restrained, including with the use of
- 16 excessive drugs, for punishment or for the convenience of staff;
- 17 (18) manage the resident's own finances, and **【to】** delegate that
- 18 responsibility to a family member, assigned guardian, facility
- 19 administrator, or some other individual with power of attorney. The
- 20 resident's authorization delegating such authority shall be witnessed
- 21 and in writing;
- 22 (19) receive prior to or at the time of admission, and afterwards
- 23 through addenda, an admission agreement that complies with all
- 24 applicable State and federal laws, describes the services provided
- 25 and the related charges, and includes the policies for payment of
- 26 fees, deposits, and refunds;
- 27 (20) receive a quarterly written account of the resident's funds,
- 28 the itemized property deposited with the facility for the resident's
- 29 use and safekeeping, and all financial transactions with the resident,
- 30 next-of-kin, **【or】** and guardian, if any, which account shall show the
- 31 amount of property in the account at the beginning and end of the
- 32 accounting period, as well as a list of all deposits and withdrawals,
- 33 substantiated by receipts. The written account and copies of receipts
- 34 shall be given to the resident **【or】**, the resident's guardian, if any,
- 35 the resident's next-of-kin, and, if the resident has been adjudicated
- 36 an incapacitated individual by a court of competent jurisdiction and
- 37 is a ward of the State, any other individual whom the resident
- 38 identified upon becoming a ward of the State to receive written
- 39 accounts and copies of receipts;
- 40 (21) have daily access during specified hours to the money and
- 41 property that the resident has deposited with the facility, and to
- 42 delegate, in writing, this right of access to a representative;
- 43 (22) live in safe and clean conditions that do not admit more
- 44 residents than can safely be accommodated;
- 45 (23) not be arbitrarily and capriciously moved to a different bed
- 46 or room;
- 47 (24) wear the resident's own clothes;

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- 1 (25) keep and use the resident's personal property, unless doing
- 2 so would be unsafe, impractical, or an infringement on the rights of
- 3 other residents;
- 4 (26) reasonable opportunities for private and intimate physical
- 5 and social interaction with other people, including the opportunity
- 6 to share a room with another individual unless it is medically
- 7 inadvisable;
- 8 (27) confidential treatment with regard to information about the
- 9 resident, subject to the requirements of law;
- 10 (28) receive and send mail in unopened envelopes, unless the
- 11 resident requests otherwise, and the right to request and receive
- 12 assistance in reading and writing correspondence unless medically
- 13 contraindicated;
- 14 (29) have a private telephone in the resident's living quarters at
- 15 the resident's own expense;
- 16 (30) meet with any visitors of the resident's choice, at any time,
- 17 in accordance with facility policies and procedures;
- 18 (31) take part in activities, and **【to】** meet with and participate
- 19 in the activities of any social, religious, and community groups, as
- 20 long as these activities do not disrupt the lives of other residents;
- 21 (32) refuse to perform services for the facility;
- 22 (33) request visits at any time by representatives of the religion
- 23 of the resident's choice and, upon the resident's request, **【to】** attend
- 24 outside religious services at the resident's own expense;
- 25 (34) participate in meals, recreation, and social activities
- 26 without being subjected to discrimination based on age, race,
- 27 religion, sex, marital status, nationality, or disability;
- 28 (35) organize and participate in a resident council that presents
- 29 residents' concerns to the administrator of the facility;
- 30 (36) be transferred or discharged only in accordance with the
- 31 terms of the admission agreement and with N.J.A.C. 8:36-5.1(d);
- 32 (37) receive written notice at least 30 days in advance when the
- 33 facility requests the resident's transfer or discharge, except in an
- 34 emergency, which notice shall include the name and contact
- 35 information for the New Jersey Office of the Ombudsman for the
- 36 Institutionalized Elderly;
- 37 (38) receive a written statement of resident rights and any
- 38 regulations established by the facility involving resident rights and
- 39 responsibilities;
- 40 (39) retain and exercise all constitutional, civil, and legal rights
- 41 to which the resident is entitled by law;
- 42 (40) voice complaints without fear of interference, discharge,
- 43 reprisal, and obtain contact information respecting government
- 44 agencies to which residents can complain and ask questions, which
- 45 information also shall be posted in a conspicuous place in the
- 46 facility;

1 (41) hire a private caregiver or companion at the resident's
2 expense and responsibility, as long as the caregiver or companion
3 complies with the facility's policies and procedures; and

4 (42) obtain medications from a pharmacy of the resident's
5 choosing, as long as the pharmacy complies with the facility's
6 medication administration system, if applicable.
7 (cf: P.L.2012, c.17, s.254)

8

9 2. Section 23 of P.L.2015, c.125 (C.26:2H-154) is amended to
10 read as follows:

11 23. a. Every resident of a dementia care home facility shall have
12 the right:

13 (1) To manage the resident's own financial affairs;

14 (2) To wear the resident's own clothing;

15 (3) To determine the resident's own dress, hair style, or other
16 personal effects according to individual preference;

17 (4) To retain and use the resident's personal property in the
18 resident's immediate living quarters, so as to maintain individuality
19 and personal dignity, except where the facility can demonstrate that
20 it would be unsafe, impractical to do so, or infringe upon the rights
21 of others, and that mere convenience is not the facility's motive to
22 restrict this right;

23 (5) To receive and send unopened correspondence;

24 (6) To unaccompanied access to a telephone at a reasonable
25 hour and to a private phone at the resident's expense;

26 (7) To privacy;

27 (8) To retain the services of the resident's own personal
28 physician at the resident's own expense or under a health care plan
29 and to confidentiality and privacy concerning the resident's medical
30 condition and treatment;

31 (9) To unrestricted communication, including personal visitation
32 with any person of the resident's choice, at any reasonable hour;

33 (10) To make contacts with the community and to achieve the
34 highest level of independence, autonomy, and interaction with the
35 community of which the resident is capable;

36 (11) To present grievances on behalf of the resident or others to
37 the operator, State governmental agencies, or other persons without
38 threat of reprisal in any form or manner;

39 (12) To a safe and decent living environment and considerate
40 and respectful care that recognizes the dignity and individuality of
41 the resident;

42 (13) To refuse to perform services for the facility, except as
43 contracted for by the resident and the operator;

44 (14) To practice the religion of the resident's choice, or to
45 abstain from religious practice; **and**

46 (15) To not be deprived of any constitutional, civil, or legal
47 right solely by reason of residence in a dementia care home; and

1 (16) To receive a quarterly written account of the resident's
2 funds, the itemized property deposited with the facility for the
3 resident's use and safekeeping, and all financial transactions with
4 the resident, next-of-kin, and guardian, if any, which account shall
5 show the amount of property in the account at the beginning and
6 end of the accounting period, as well as a list of all deposits and
7 withdrawals, substantiated by receipts. The written account and
8 copies of receipts shall be given to the resident, the resident's
9 guardian, if any, the resident's next-of-kin, and, if the resident has
10 been adjudicated an incapacitated individual by a court of
11 competent jurisdiction and is a ward of the State, any other
12 individual whom the resident identified upon becoming a ward of
13 the State to receive written accounts and copies of receipts.

14 b. The operator of a dementia care home shall ensure that a
15 written notice of the rights set forth in subsection a. of this section
16 is given to every resident upon admittance to the facility and to each
17 resident upon request. The operator shall also post this notice in a
18 conspicuous public place in the facility. This notice shall include
19 the name, address, and telephone numbers of the Office of the
20 Ombudsman for the Institutionalized Elderly, county welfare
21 agency, and county office on aging.

22 c. A person or resident whose rights as set forth in subsection
23 a. of this section are violated shall have a cause of action against
24 any person committing the violation. The action may be brought in
25 any court of competent jurisdiction to enforce those rights and to
26 recover actual and punitive damages for their violation. A plaintiff
27 who prevails in the action shall be entitled to recover reasonable
28 attorney's fees and costs of the action.

29 (cf: P.L.2015, c.125, s.23)

30

31 3. Section 10 of P.L.1965, c.59 (C.30:4-24.2) is amended to
32 read as follows:

33 10. a. Subject to any other provisions of law and the
34 Constitutions of New Jersey and the United States, no patient shall
35 be deprived of any civil right solely because of receipt of treatment
36 under the provisions of this Title nor shall the treatment modify or
37 vary any legal or civil right of any patient, including, but not
38 limited to, the right to register for and to vote at elections, or rights
39 relating to the granting, forfeiture, or denial of a license, permit,
40 privilege, or benefit pursuant to any law.

41 b. Every patient in treatment shall be entitled to all rights set
42 forth in P.L.1965, c.59 and shall retain all rights not specifically
43 denied him under this Title. A notice of the rights set forth in
44 P.L.1965, c.59 shall be given to every patient within five days of
45 admission to treatment. The notice shall be written in simple
46 understandable language. It shall be in a language the patient
47 understands and if the patient cannot read the notice, it shall be read
48 to the patient. If a patient is adjudicated incapacitated, the notice

1 shall be given to the patient's guardian. Receipt of this notice shall
2 be acknowledged in writing, with a copy placed in the patient's file.
3 If the patient or guardian refuses to acknowledge receipt of the
4 notice, the person delivering the notice shall state this in writing,
5 with a copy placed in the patient's file.

6 c. No patient may be presumed to be incapacitated because of
7 an examination or treatment for mental illness, regardless of
8 whether the evaluation or treatment was voluntarily or involuntarily
9 received. A patient who leaves a mental health program following
10 evaluation or treatment for mental illness, regardless of whether that
11 evaluation or treatment was voluntarily or involuntarily received,
12 shall be given a written statement of the substance of P.L.1965,
13 c.59.

14 d. Each patient in treatment shall have the following rights, a
15 list of which shall be prominently posted in all facilities providing
16 these services and otherwise brought to the patient's attention by
17 additional means as the department may designate:

18 (1) To be free from unnecessary or excessive medication. No
19 medication shall be administered unless at the written order of a
20 physician. Notation of each patient's medication shall be kept in the
21 patient's treatment records. At least weekly, the attending physician
22 shall review the drug regimen of each patient under the physician's
23 care. All physician's orders or prescriptions shall be written with a
24 termination date, which shall not exceed 30 days. Medication shall
25 not be used as punishment, for the convenience of staff, as a
26 substitute for a treatment program, or in quantities that interfere
27 with the patient's treatment program. Voluntarily committed
28 patients shall have the right to refuse medication.

29 (2) Not to be subjected to experimental research, shock
30 treatment, psychosurgery, or sterilization, without the express and
31 informed consent of the patient after consultation with counsel or
32 interested party of the patient's choice. The consent shall be in
33 writing, a copy of which shall be placed in the patient's treatment
34 record. If the patient has been adjudicated incapacitated, a court of
35 competent jurisdiction shall determine the necessity of the
36 procedure at a hearing where the client is physically present,
37 represented by counsel, and provided the right and opportunity to be
38 confronted with and to cross-examine witnesses alleging the
39 necessity of the procedures. In these proceedings, the burden of
40 proof shall be on the party alleging the necessity of the procedures.
41 If a patient cannot afford counsel, the court shall appoint an
42 attorney not less than 10 days before the hearing. An attorney so
43 appointed shall be entitled to a reasonable fee to be determined by
44 the court and paid by the county from which the patient was
45 admitted. Under no circumstances may a patient in treatment be
46 subjected to experimental research not directly related to the
47 specific goals of the patient's treatment program.

1 (3) To be free from physical restraint and isolation. Except for
2 emergency situations, in which a patient has caused substantial
3 property damage or attempted to harm himself or others and in
4 which less restrictive means of restraint are not feasible, a patient
5 may be physically restrained or placed in isolation, only on a
6 medical director's written order or that of the director's physician
7 designee which explains the rationale for the action. The written
8 order may be entered only after the medical director or physician
9 designee has personally seen the patient, and evaluated the episode
10 or situation causing the need for restraint or isolation. Emergency
11 use of restraints or isolation shall be for no more than one hour, by
12 which time the medical director or physician designee shall have
13 been consulted and shall have entered an appropriate written order.
14 The written order shall be effective for no more than 24 hours and
15 shall be renewed if restraint and isolation are continued. While in
16 restraint or isolation, the patient must be bathed every 12 hours and
17 checked by an attendant every two hours, which actions shall be
18 noted in the patient's treatment record along with the order for
19 restraint or isolation.

20 (4) To be free from corporal punishment.

21 e. Each patient receiving treatment pursuant to this Title, shall
22 have the following rights, a list of which shall be prominently
23 posted in all facilities providing these services and otherwise
24 brought to the patient's attention by additional means as the
25 commissioner may designate:

26 (1) To privacy and dignity.

27 (2) To the least restrictive conditions necessary to achieve the
28 purposes of treatment.

29 (3) To wear the patient's own clothes; to keep and use personal
30 possessions including toilet articles; and to keep and be allowed to
31 spend a reasonable sum of money for canteen expenses and small
32 purchases.

33 (4) To have access to individual storage space for private use.

34 (5) To see visitors each day.

35 (6) To have reasonable access to and use of telephones, both to
36 make and receive confidential calls.

37 (7) To have ready access to letter writing materials, including
38 stamps, and to mail and receive unopened correspondence.

39 (8) To regular physical exercise several times a week. It shall be
40 the duty of the hospital to provide facilities and equipment for the
41 exercise.

42 (9) To be outdoors at regular and frequent intervals, in the
43 absence of medical considerations.

44 (10) To suitable opportunities for interaction with members of
45 the opposite sex, with adequate supervision.

46 (11) To practice the patient's religion of choice or abstain from
47 religious practices. Provisions for worship shall be made available
48 to each person on a nondiscriminatory basis.

1 (12) To receive prompt and adequate medical treatment for any
2 physical ailment.

3 (13) To receive a quarterly written account of the patient's
4 funds, the itemized property deposited with the facility for the
5 patient's use and safekeeping, and all financial transactions with the
6 patient, next-of-kin, and guardian, if any, which account shall show
7 the amount of property in the account at the beginning and end of
8 the accounting period, as well as a list of all deposits and
9 withdrawals, substantiated by receipts. The written account and
10 copies of receipts shall be given to the patient, the patient's
11 guardian, if any, the patient's next-of-kin, and, if the patient has
12 been adjudicated an incapacitated individual by a court of
13 competent jurisdiction and is a ward of the State, any other
14 individual whom the patient identified upon becoming a ward of the
15 State to receive written accounts and copies of receipts.

16 f. Rights designated under subsection d. of this section may
17 not be denied under any circumstances.

18 g. (1) A patient's rights designated under subsection e. of this
19 section may be denied for good cause when the director of the
20 patient's treatment program feels it is imperative to do so; provided,
21 however, under no circumstances shall a patient's right to
22 communicate with the patient's attorney, physician, or the courts be
23 restricted. Any denial of a patient's rights shall take effect only
24 after a written notice of the denial has been filed in the patient's
25 treatment record, including an explanation of the reason for the
26 denial.

27 (2) A denial of rights shall be effective for a period not to
28 exceed 30 days and shall be renewed for additional 30-day periods
29 only by a written statement entered by the director of the program
30 in the patient's treatment record indicating the detailed reason for
31 renewal of the denial.

32 (3) In each instance of a denial or a renewal, the patient, the
33 patient's attorney, the patient's guardian, if the patient has been
34 adjudicated incapacitated, and the department shall be given written
35 notice of the denial or renewal and the reason.

36 h. A patient subject to this Title shall be entitled to a writ of
37 habeas corpus upon proper petition by the patient, a relative, or a
38 friend to any court of competent jurisdiction in the county in which
39 the patient is detained and shall further be entitled to enforce any of
40 the rights herein stated by civil action or other remedies otherwise
41 available by common law or statute.

42 (cf: P.L.2013, c.103, s.79)

43

44 4. Section 3 of P.L.1976, c.120 (C.30:13-3) is amended to read
45 as follows:

46 3. Every nursing home shall have the responsibility for:

47 a. (1) Maintaining a complete record of all funds, personal
48 property, and possessions of a nursing home resident from any

1 source whatsoever, which have been deposited for safekeeping with
2 the nursing home for use by the resident. This record shall contain
3 a listing of all deposits and withdrawals transacted, and these shall
4 be substantiated by receipts given to the resident, **【or his】**, the
5 resident's guardian, if any, the resident's next-of-kin, and, if the
6 resident has been adjudicated an incapacitated individual by a court
7 of competent jurisdiction and is a ward of the State, any other
8 individual whom the resident identified upon becoming a ward of
9 the State to receive written accounts and copies of receipts. A
10 nursing home shall provide to each resident **【or his】**, the resident's
11 guardian, if any, the resident's next-of-kin, and, if the resident has
12 been adjudicated an incapacitated individual by a court of
13 competent jurisdiction and is a ward of the State, any other
14 individual whom the resident identified upon becoming a ward of
15 the State to receive such statements, a quarterly statement which
16 shall account for all of such resident's property on deposit at the
17 beginning of the accounting period, all deposits and withdrawals
18 transacted during the period, and the property on deposit at the end
19 of the period. The resident **【or his】**, the resident's guardian, if any,
20 the resident's next-of-kin, or, if the resident has been adjudicated an
21 incapacitated individual by a court of competent jurisdiction and is
22 a ward of the State, any other individual whom the resident
23 identified upon becoming a ward of the State to receive written
24 accounts, copies of receipts, and quarterly statements, shall be
25 allowed daily access to his property on deposit during specific
26 periods established by the nursing home for such transactions at a
27 reasonable hour. A nursing home may, at its own discretion, place a
28 limitation as to dollar value and size of any personal property
29 accepted for safekeeping.

30 (2) Offering an incoming resident or the resident's guardian, in
31 accordance with current law, at the time of admission to a nursing
32 home on or after the effective date of P.L.2015, c.230, a form
33 designating the beneficiary of any remaining balance in the
34 resident's personal needs allowance account that does not exceed
35 \$1,000 upon the resident's death. In the case of a person residing in
36 a nursing home prior to the effective date of P.L.2015, c.230, the
37 nursing home shall have the responsibility for offering the resident
38 or the resident's guardian, in accordance with current law, whenever
39 possible, a form designating the beneficiary of any remaining
40 balance in the resident's personal needs allowance account that does
41 not exceed \$1,000 upon the resident's death. Funds remaining in a
42 personal needs allowance account at the time of a resident's death
43 shall be included in that resident's estate and shall, consistent with
44 N.J.S.3B:22-2, be subject to claims made by estate creditors prior to
45 distribution to a designated beneficiary.

46 b. Providing for the spiritual needs and wants of residents by
47 notifying, at a resident's request, a clergyman of the resident's
48 choice and allowing unlimited visits by such clergyman.

1 Arrangements shall be made, at the resident's expense, for
2 attendance at religious services of his choice when requested. No
3 religious beliefs or practices, or any attendance at religious services,
4 shall be imposed upon any resident.

5 c. Admitting only that number of residents for which it
6 reasonably believes it can safely and adequately provide nursing
7 care. Any applicant for admission to a nursing home who is denied
8 such admission shall be given the reason for such denial in writing.

9 d. Ensuring that an applicant for admission or a resident is
10 treated without discrimination as to age, race, religion, sex or
11 national origin. However, the participation of a resident in
12 recreational activities, meals or other social functions may be
13 restricted or prohibited if recommended by a resident's attending
14 physician in writing and consented to by the resident.

15 e. Ensuring that no resident shall be subjected to physical
16 restraints except upon written orders of an attending physician for a
17 specific period of time when necessary to protect such resident from
18 injury to himself or others. Restraints shall not be employed for
19 purposes of punishment or the convenience of any nursing home
20 staff personnel. The confinement of a resident in a locked room
21 shall be prohibited.

22 f. Ensuring that drugs and other medications shall not be
23 employed for purposes of punishment, for convenience of any
24 nursing home staff personnel or in such quantities so as to interfere
25 with a resident's rehabilitation or his normal living activities.

26 g. Permitting citizens, with the consent of the resident being
27 visited, legal services programs, employees of the Office of Public
28 Defender and employees and volunteers of the Office of the
29 Ombudsman for the Institutionalized Elderly, whose purposes
30 include rendering assistance without charge to nursing home
31 residents, full and free access to the nursing home in order to visit
32 with and make personal, social and legal services available to all
33 residents and to assist and advise residents in the assertion of their
34 rights with respect to the nursing home, involved governmental
35 agencies and the judicial system.

36 (1) Such access shall be permitted by the nursing home at a
37 reasonable hour.

38 (2) Such access shall not substantially disrupt the provision of
39 nursing and other care to residents in the nursing home.

40 (3) All persons entering a nursing home pursuant to this section
41 shall promptly notify the person in charge of their presence. They
42 shall, upon request, produce identification to substantiate their
43 identity. No such person shall enter the immediate living area of
44 any resident without first identifying himself and then receiving
45 permission from the resident to enter. The rights of other residents
46 present in the room shall be respected. A resident shall have the
47 right to terminate a visit by a person having access to his living area
48 pursuant to this section at any time. Any communication

1 whatsoever between a resident and such person shall be confidential
2 in nature, unless the resident authorizes the release of such
3 communication in writing.

4 h. Ensuring compliance with all applicable State and federal
5 statutes and rules and regulations.

6 i. Ensuring that every resident, prior to or at the time of
7 admission and during his stay, shall receive a written statement of
8 the services provided by the nursing home, including those required
9 to be offered by the nursing home on an as-needed basis, and of
10 related charges, including any charges for services not covered
11 under Title XVIII and Title XIX of the Social Security Act, as
12 amended, or not covered by the nursing home's basic per diem rate.
13 This statement shall further include the payment, fee, deposit and
14 refund policy of the nursing home.

15 j. Ensuring that a prospective resident or the resident's family
16 or guardian receives a copy of the contract or agreement between
17 the nursing home and the resident prior to or upon the resident's
18 admission.

19 (cf: P.L.2015, c.230, s.1)

20

21 5. Section 3 of P.L.2013, c.167 (C.52:27D-360.3) is amended
22 to read as follows:

23 3. a. Unless a resident has violated the continuing care
24 agreement or facility rules, or the facility has cancelled the
25 agreement with sufficient notice and cause, or if the facility for
26 sound business reasons decides to raze or to otherwise cease
27 operating the structure, or the part of it, in which the resident's unit
28 is located, a resident may occupy the resident's chosen unit for as
29 long as the resident can function independently, with or without the
30 assistance of an aide or aides. Any determination that the resident
31 can no longer function independently, with or without the assistance
32 of an aide or aides, shall be made by the director of medical
33 services of the facility and be subject to the requirements of section
34 4 of P.L.2013, c.167 (C.52:27D-360.4), and the facility shall notify
35 the resident in writing of any right that the resident may have to
36 appeal that determination.

37 b. Each resident shall have privacy within their unit, except
38 that personnel must be admitted for contracted services or to
39 respond to an emergency or complaint.

40 c. Any resident may serve or participate in a local, State, or
41 national residents' association, or other similar organization without
42 discrimination or reprisal.

43 d. Each resident shall retain and be able to exercise all
44 constitutional, civil, and other rights to which they are entitled by
45 law.

46 e. Each resident shall be treated with respect, courtesy,
47 consideration, and dignity.

- 1 f. Any resident or legal representative of the resident may
2 refuse medication or treatment after being fully informed of the
3 possible benefits or risks.
- 4 g. Each resident has the right to express complaints without
5 fear of interference, discharge, or reprisal, and the right to contact
6 the Office of the Ombudsman for the Institutionalized Elderly, or
7 any advocate or agency which provides health, social, legal, or
8 other services to advocate on behalf of residents if the resident feels
9 that their rights are being violated.
- 10 h. Each resident has the right to expect the facility to promptly
11 investigate and try to resolve all concerns the resident expresses. A
12 record shall be kept of all written complaints made to the facility's
13 senior management concerning residents' rights. This record shall
14 be available to only the particular resident or the resident's legal
15 representative, immediate family members, the residents'
16 physicians, and agents of the State of New Jersey. Each resident
17 may file a complaint with an appropriate agency, including the
18 appropriate State office, without fear of reprisal from the facility.
- 19 i. The facility shall not modify or reduce the scope of provided
20 services, with the exception of modifications required by State or
21 federal assistance programs, without providing the residents with a
22 minimum of 30-days' prior notice of the modification or reduction.
23 All services to be provided shall be listed in a form designated by
24 the department pursuant to N.J.A.C.5:19-6.4(a)(2).
- 25 j. Each resident is entitled to 30-days' advance written notice
26 prior to the increase of any fees.
- 27 k. A resident may choose any outside physician as their
28 primary care physician.
- 29 l. A resident may hire a private caregiver or companion at the
30 resident's own expense and responsibility, as long as the caregiver
31 or companion complies with the facility's policies and procedures.
- 32 m. Each resident is entitled to view or receive a copy of their
33 own medical record, free of charge.
- 34 n. Each resident may participate personally, or through a legal
35 representative, in all decisions regarding their own health care.
- 36 o. Each resident or legal representative of the resident shall
37 receive, upon request, a complete explanation of their medical
38 condition, any recommended treatment, and the possible benefits or
39 risks involved.
- 40 p. A resident may appoint a legal representative with a durable
41 power of attorney to handle financial matters if the resident is
42 unable to do so.
- 43 q. Pursuant to section 4 of the "New Jersey Advance Directives
44 for Health Care Act," P.L.1991, c.201 (C.26:2H-56), a resident may
45 execute an advance directive concerning the use of life-sustaining
46 treatment, and may appoint a legal representative with a durable
47 power of attorney to act on behalf of the resident with regard to
48 health care decisions. The resident has the right to expect that the

1 provisions of the advance directive will be executed to the fullest
2 extent possible.

3 r. Each resident shall receive every service, as contracted in
4 the continuing care agreement that was executed upon the resident's
5 admission, unless waived in writing by the resident, with the
6 exception of changes required by State or federal law or permitted
7 in the continuing care agreement.

8 s. A resident shall have the right to receive guests and visitors
9 at the facility, and the right to allow guests to stay for a reasonable
10 temporary period of time in a guest apartment or unit in the facility,
11 subject to reasonable policies and procedures of the facility.

12 t. A resident may leave and return to the resident's independent
13 living unit at will, provided the resident informs the facility if the
14 resident will be temporarily absent overnight, or for a longer period
15 of time. The facility shall notify residents in writing as to whether
16 they will be charged a per diem fee during any such time that they
17 are absent from the facility.

18 u. A resident has the right to refuse to perform work or services
19 for the facility without coercion, discrimination, or reprisal by the
20 facility.

21 v. Each resident shall not be requested or required to accept
22 any restriction of the rights or privileges of a resident as set forth
23 herein.

24 w. A resident may request from the facility, and shall receive
25 without undue delay or cost, a copy of the rights of nursing home
26 residents, as provided in section 5 of P.L.1976, c.120 (C.30:13-5).

27 x. A resident may request from the facility, and shall receive
28 without undue delay or cost, a copy of the rights of residents of
29 assisted living facilities, as provided in section 1 of P.L.2011, c.58
30 (C.26:2H-128).

31 y. A resident may request from the facility, and shall receive
32 without undue delay or cost, a copy of the "Bill of Rights for
33 Continuing Care Retirement Community Residents in Independent
34 Living," as provided in section 5 of P.L.2013, c.167 (C.52:27D-
35 360.5).

36 z. A resident who is insured by a health maintenance
37 organization has the right to be referred by their primary care
38 physician to the nursing care unit that is part of the resident's
39 facility instead of any other unit, provided that the unit has the
40 capacity to provide the services needed and that it is in the best
41 interests of the resident, and further provided that the facility
42 accepts the applicable reimbursement rate. This right also applies
43 to any resident being discharged from a hospital or similar facility.

44 aa. A resident has the right to receive a quarterly written
45 account of the resident's funds, the itemized property deposited with
46 the facility for the resident's use and safekeeping, and all financial
47 transactions with the resident, next-of-kin, and guardian, if any,
48 which account shall show the amount of property in the account at

1 the beginning and end of the accounting period, as well as a list of
2 all deposits and withdrawals, substantiated by receipts. The written
3 account and copies of receipts shall be given to the resident, the
4 resident's guardian, if any, the resident's next-of-kin, and, if the
5 resident has been adjudicated an incapacitated individual by a court
6 of competent jurisdiction and is a ward of the State, any other
7 individual whom the resident identified upon becoming a ward of
8 the State to receive written accounts and receipts.

9 (cf: P.L.2013, c.167, s.3)

10
11 6. Section 5 of P.L.1976, c.120 (C.30:13-5) is amended to read
12 as follows:

13 5. Every resident of a nursing home shall:

14 a. Have the right to manage his own financial affairs unless he
15 or his guardian authorizes the administrator of the nursing home to
16 manage such resident's financial affairs. Such authorization shall
17 be in writing and shall be attested by a witness that is unconnected
18 with the nursing home, its operations, its staff personnel and the
19 administrator thereof, in any manner whatsoever.

20 b. Have the right to wear his own clothing. If clothing is
21 provided to the resident by the nursing home, it shall be of a proper
22 fit.

23 c. Have the right to retain and use his personal property in his
24 immediate living quarters, unless the nursing home can demonstrate
25 that it is unsafe or impractical to do so.

26 d. Have the right to receive and send unopened correspondence
27 and, upon request, to obtain assistance in the reading and writing of
28 such correspondence.

29 e. Have the right to unaccompanied access to a telephone at a
30 reasonable hour, including the right to a private phone at the
31 resident's expense.

32 f. Have the right to privacy.

33 g. Have the right to retain the services of his own personal
34 physician at his own expense or under a health care plan. Every
35 resident shall have the right to obtain from his own physician or the
36 physician attached to the nursing home complete and current
37 information concerning his medical diagnosis, treatment and
38 prognosis in terms and language the resident can reasonably be
39 expected to understand, except when the physician deems it
40 medically inadvisable to give such information to the resident and
41 records the reason for such decision in the resident's medical record.
42 In such a case, the physician shall inform the resident's next-of-kin
43 or guardian. The resident shall be afforded the opportunity to
44 participate in the planning of his total care and medical treatment to
45 the extent that his condition permits. A resident shall have the right
46 to refuse treatment. A resident shall have the right to refuse to
47 participate in experimental research, but if he chooses to participate,
48 his informed written consent must be obtained. Every resident shall

1 have the right to confidentiality and privacy concerning his medical
2 condition and treatment, except that records concerning said
3 medical condition and treatment may be disclosed to another
4 nursing home or health care facility on transfer, or as required by
5 law or third-party payment contracts.

6 h. Have the right to unrestricted communication, including
7 personal visitation with any persons of his choice, at any reasonable
8 hour.

9 i. Have the right to present grievances on behalf of himself or
10 others to the nursing home administrator, State governmental
11 agencies or other persons without threat of discharge or reprisal in
12 any form or manner whatsoever. The administrator shall provide all
13 residents or their guardians with the name, address, and telephone
14 number of the appropriate State governmental office where
15 complaints may be lodged. Such telephone number shall be posted
16 in a conspicuous place near every public telephone in the nursing
17 home.

18 j. Have the right to a safe and decent living environment and
19 considerate and respectful care that recognizes the dignity and
20 individuality of the resident, including the right to expect and
21 receive appropriate assessment, management and treatment of pain
22 as an integral component of that person's care consistent with sound
23 nursing and medical practices.

24 k. Have the right to refuse to perform services for the nursing
25 home that are not included for therapeutic purposes in his plan of
26 care as recorded in his medical record by his physician.

27 l. Have the right to reasonable opportunity for interaction with
28 members of the opposite sex. If married, the resident shall enjoy
29 reasonable privacy in visits by his spouse and, if both are residents
30 of the nursing home, they shall be afforded the opportunity, where
31 feasible, to share a room, unless medically inadvisable.

32 m. Not be deprived of any constitutional, civil or legal right
33 solely by reason of admission to a nursing home.

34 n. Have the right to receive, upon request, food that meets the
35 resident's religious dietary requirements, provided that the request is
36 made prior to or upon admission to the nursing home, and if the
37 resident is not a Medicaid recipient, that the resident agrees to
38 assume any additional cost incurred by the nursing home in order to
39 meet those dietary requirements. If the resident is a Medicaid
40 recipient upon admission, or becomes eligible for Medicaid after
41 admission, the nursing home shall include the cost of the religious
42 dietary requirements in its Medicaid cost report for consideration
43 under applicable reimbursement processes. As used in this section,
44 "Medicaid" means the Medicaid program established pursuant to
45 P.L.1968, c.413 (C.30:4D-1 et seq.).

46 o. Have the right to receive a quarterly written account of the
47 resident's funds, the itemized property deposited with the facility
48 for the resident's use and safekeeping, and all financial transactions

1 with the resident, next-of-kin, and guardian, if any, which account
2 shall show the amount of property in the account at the beginning
3 and end of the accounting period, as well as a list of all deposits and
4 withdrawals, substantiated by receipts. The written account and
5 copies of receipts shall be given to the resident, the resident's
6 guardian, if any, the resident's next-of-kin, and, if the resident has
7 been adjudicated an incapacitated individual by a court of
8 competent jurisdiction and is a ward of the State, any other
9 individual whom the resident identified upon becoming a ward of
10 the State to receive written accounts and copies of receipts.

11 (cf: P.L.2008, c.43)

12
13 7. The Commissioner of Human Services, pursuant to the
14 "Administrative Procedure Act" P.L.1968, c.410 (C.52:14B-
15 1 et seq.), shall adopt rules and regulations necessary to implement
16 the provisions of this act.

17
18 8. This act shall take effect immediately.
19
20

21 STATEMENT

22
23 This bill expands the types of residential long-term care facilities
24 that are required to provide quarterly financial accounting
25 statements to a resident, the resident's next-of-kin, the resident's
26 guardian, if any, and, if the resident is a ward of the State, an
27 individual whom the resident identified upon becoming a ward of
28 the State to receive the quarterly statements. Under this bill,
29 residential long-term care facilities would be required to provide a
30 written account of the resident's funds, an itemized list of property
31 deposited with the facility for the resident's use, and all financial
32 transactions with the resident, the resident's next-of-kin or
33 authorized representative, and any guardian appointed for the
34 resident. Moreover, these quarterly statements would report the
35 amount of property in the resident's account at the start and end of
36 the accounting period, as well as a listing of all deposits and
37 withdrawals, which transactions would be substantiated with copies
38 of receipts to be provided to the resident, the resident's next of kin
39 or authorized representative, and any appointed guardian. Facilities
40 affected by this new requirement are: nursing homes, assisted
41 living facilities, comprehensive personal care homes, dementia care
42 homes, inpatient psychiatric facilities, and continuing care
43 residential communities.

44 Under current law, only nursing homes, assisted living facilities
45 and comprehensive personal care homes are required to provide
46 quarterly accounting statements, and only to the resident or the
47 resident's guardian. By requiring these residential care facilities to
48 provide regular, detailed accounting statements to a resident, the

1 resident's next-of-kin, and a trusted representative named by a
2 resident who is a ward of the State, the bill's sponsor intends to
3 make it more difficult for unscrupulous guardians or relatives to
4 siphon money or other financial resources from a vulnerable
5 individual who has become a ward of the State. It is the hope of the
6 sponsor that, by providing a clear financial accounting to the
7 resident and the resident's trusted advisors, any financial
8 improprieties would be more readily identified and thwarted.