

Nebraska Nursing Facility Licensure Regulations (175 NAC 12)

12-006.05 Resident Rights: The facility must inform residents of their rights in writing. The operations of the facility must afford residents the opportunity to exercise their rights, which must include, but are not limited to, the following. Residents must have the right to:

1. Be fully informed in writing prior to or at the time of admission and during his or her stay, of services available in the facility, and of related charges including any charges for services not covered by the facility's basic per diem rate;
2. Be fully informed of his or her rights and responsibilities as a resident and of all rules and regulations governing resident conduct and responsibilities. This information must be provided prior to or at the time of admission and its receipt acknowledged by the resident in writing, or, in the case of residents already in the facility, upon the facility's adoption or amendment of resident rights policies;
3. Be fully informed by a physician of his or her health and medical condition unless medically contraindicated;
4. Participate in the planning of his or her total care and medical treatment, or to refuse treatment. A resident may participate in experimental research only upon informed written consent;
5. Be free from arbitrary transfer or discharge. The resident must be informed at the time of admission that he or she may be transferred or discharged only upon the following terms:
 - a. Upon his or her consent;
 - b. For medical reasons, which must be based on the resident's needs and be determined and documented by a physician;
 - c. For the resident's safety or the safety of other residents or facility employees;
 - d. When rehabilitation is such that movement to a less restrictive setting is possible; or
 - e. For nonpayment of the resident's stay, except as prohibited by Title XVIII or XIX of the Social Security Act as amended, or the Nebraska Nursing Home Act, Neb. Rev. Stat. §§ 71-6008 to 71-6037. Nonpayment under the Nebraska Nursing Home Act must not include a change in resident economic status so that the resident receives Medicaid or becomes eligible for Medicaid if the resident has resided in the facility for a period of at least one year after July 17, 1986, unless 10% of the facility's residents are receiving Medicaid or are eligible for Medicaid. This provision does not apply to Nebraska Veterans' Homes established under Chapter 80, Article 3 of Nebraska Statutes.

A minimum of 30 days written notice must be given to the resident or to his or her designee prior to involuntary transfer or discharge of a resident, except that:

- (1) Five days written notice must be given if the transfer is to a less restrictive setting due to rehabilitation.

(2) Ten days written notice will be given if the resident is five or more days in arrears of payment for stay.

(3) Written notice is not required in the event of emergency transfer or discharge if the transfer or discharge is mandated by the resident's health care needs and is in accord with the written orders and medical justification of the attending physician, or if mandated for safety of other residents or facility employees as is documented in the facility's records.

Written notice must contain:

(1) The stated reason for transfer or discharge;

(2) The effective date of the transfer or discharge; and

(3) In not less than 12-point type, the following text:

A health care facility or health care service shall not discriminate or retaliate against a person residing in, served by, or employed at the facility or service who has initiated or participated in any proceeding authorized by the Health Care Facility Licensure Act or who has presented a complaint or provided information to the administrator of the facility or service, the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure. Such person may maintain an action for any type of relief, including injunctive and declaratory relief, permitted by law.

6. Exercise rights as a resident of the facility and as a citizen of the United States;
7. Voice complaints and grievances without discrimination or reprisal and have those grievances addressed;
8. Be free from chemical and physical restraints imposed for the purposes of discipline or convenience, and not required to treat the resident's medical symptoms;
9. Be free from abuse, neglect and misappropriation of their money and personal property;
10. Refuse to perform services for the facility;
11. Examine the results of the most recent survey of the facility conducted by the Department;
12. Privacy in written communication including sending and receiving mail;
13. Receive visitors as long as this does not infringe on the rights and safety of other residents in the facility. The administrator may refuse access to any person for any of the following reasons:
 - a. The resident refuses to see the visitor;
 - b. The presence of that person would be injurious to the health and safety of a resident, especially as documented by the attending physician;

- c. The visitor's behavior is unreasonably disruptive to the facility and this behavior is documented by the facility;
- d. The presence of that person would threaten the security of a resident's property or facility property; or
- e. The visit is for commercial purposes only.

Any person refused access to a facility may, within 30 days of such refusal, request a hearing by the Department. The wrongful refusal of a nursing home to grant access to any person as required in Neb. Rev. Stat. §§ 71-6019 and 71-6020 constitutes a violation of the Nebraska Nursing Home Act. A nursing home may appeal any citation issued pursuant to this section as provided in 175 NAC 12-008.02;

- 14. Have access to the use of a telephone with auxiliary aides where calls can be made in private;
- 15. Retain and use personal possessions, including furnishings, and clothing as space permits, unless to do so would infringe upon the rights and safety of other residents;
- 16. Self-administer medications if it is safe to do so;
- 17. Form and participate in an organized resident group that functions to address facility issues;
- 18. Review and receive a copy of their permanent record, within two working days;
- 19. Manage his or her personal financial affairs. Under specific written authorization by the resident, the facility may assist in such management to the extent specified by the resident;
- 20. Receive confidential treatment of all information contained in his or her records, including information contained in an electronic data bank. His or her written consent or that of the resident's designee is required for the release of information to persons not otherwise authorized under law to receive it; and
- 21. Be treated with consideration, respect, and full recognition of his or her dignity and individuality, including privacy in treatment and in care for his or her personal needs.