

## “Nursing Home Residents Have Rights, Too!”

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Contrary to popular opinion (both by residents and by nursing home personnel), a person does not lose his or her rights upon entering a long term care facility. In fact, both the federal and state government have special legislation guaranteeing the rights of nursing home residents. The federal law called “Nursing Home Reform Law” was passed in 1987 and applies to all facilities which accept reimbursement from the Medicare and/or Medicaid Program. The state law, known as the “Patients’ Bill of Rights,” was originally enacted in 1958 and it applies to all nursing home facilities in Connecticut.

The following are some common questions and answers which illustrate patients’ nursing home rights.

**Question:** I signed as “responsible party” for my mother’s nursing home admission and now the nursing home has billed me personally. Am I legally responsible for paying?

**Answer:** Under federal law, a nursing home cannot require a resident’s family member or friend to become *personally liable* for nursing home charges. If you signed at the request of the nursing home employee, you probably did not know that you did not have to do so. **Tip:** If you have not signed yet but you worry that the nursing home won’t accept your mother if you do not sign, try to put off completing the paperwork until after your mother’s admission.

**Question:** My daughter works until 8:00 p.m. and the nursing home has told us that she cannot visit then because visiting hours end at 8:00. Can she visit me after work?

**Answer:** Yes, she may visit any time because a nursing home resident must be allowed “immediate access” to her “immediate family or other relatives.” If you share a room with another resident, you and your daughter may have to visit in the lounge or other common area where you will not disturb your roommate. **Tip:** You may need to call in advance to make arrangements for “after hours” visits because most nursing homes lock their doors at a certain hour for the safety of the residents.

**Question:** My father recently had a stroke. He spent 4 days in the hospital and was then transferred to a nursing home. Medicare paid for the nursing home for 15 days and then the social worker told me that Medicare would not pay any longer because my father’s condition wasn’t improving. She also told me my father would have to move to a different room since his “Medicare bed” could only be used by someone who is receiving Medicare payment. My father is comfortable in his room. Is there anything I can do?

**Answer:** Yes. First, you should give the nursing home a written request to submit the bill to Medicare. The nursing home does not make the decision to terminate Medicare, but if it thinks Medicare won’t cover, it may not submit the bill to the Medicare agency. If you ask the facility to submit the bill to Medicare, it must do so. If your father still needs skilled rehabilitation therapy, Medicare should

continue to cover the cost (at least partially), but you will not know unless the bill is submitted by the nursing home. Your father's condition does *not* have to be "improving" in order for him to receive Medicare payment. The Medicare program, however, will not pay indefinitely for your father's nursing home care. At most, it will pay 100 days, with your father paying a daily copay of \$95 for days 21 through 100. A "Medicare bed" is a bed which is certified by the Medicare program, which means the nursing home can bill the Medicare program. It is also, however, a regular nursing home bed. Your father has the right to refuse any bed-to-bed transfer if the reason is move him out of a Medicare certified bed.

**Question:** My mother's money has almost run out and I have filed the application for Title 19, but what if it is not granted before her money runs out? Will she be discharged?

**Answer:** Although nursing homes may discharge residents for nonpayment of their bill, your mother is "Title 19 pending" and she may not be discharged during the application processing time. Moreover you do not need to pay the bill during this time. The nursing home must simply wait for payment until the State has issued a decision.

**Question:** My husband is awakened every morning at 6:00 a.m. This is very upsetting to him because he has always been something of a night owl and his normal waking time is between 9:00 and 10:00. Is there anything we can do?

**Answer:** Under federal law a nursing home is required to provide services and activities to "attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident." A nursing facility must employ enough qualified employees to accommodate a resident's reasonable request. All residents do not have to awaken or turn lights out at the same time. **Tip:** Make sure that your husband's preferences are clearly recorded in his care plan. This is done through attendance at the monthly care planning conferences.

The Nursing Home Reform Act was passed because of widespread problems concerning the care (or *lack* thereof) of the elderly in long term care facilities. Most nursing homes in this area today are far superior to those causing concerns when the law was enacted and most are quite willing to work with patients and families to make a patient's stay as pleasant as possible. Do not be afraid to voice your preferences and concerns at the appropriate time and place. Conferences are held periodically on all residents and family members are always invited to participate. This is an ideal time to discuss concerns. If you believe your concerns will take longer than the normally scheduled time, inform the staff in advance and request additional time. If you wish to have someone else present to express your ideas or concerns or to give you moral support (such as a geriatric care manager or an attorney), you are allowed to do so. Remember that you are your loved one's link from his or her previous lifestyle to his new one and you must be an advocate on your loved one's behalf.