YOUR RIGHTS AND RESPONSIBILITIES

AS A RESIDENT OF WINNING WHEELS, INC. AND/OR S.T.R.I.V.E.

The following is a summary of Resident's Rights as enumerated in Part I of Article II of the Nursing Home Care Act, including blended language from Chapter 2 of the Mental Health & Development Disabilities, as applicable. In parenthesis following each summarized right is a citation of the Section of the Act in which the right of the resident is set out in full. Persons interested in a particular resident right should consult the Statute for the complete wording of such right or responsibility.

1. Constitutional and legal rights. No resident shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of his status as a resident of the facility. (2-101) A person with a known or suspected mental illness or developmental disability shall not be denied mental health or developmental services because of age, sex, race, religious belief, ethnic origin, marital status, physical or mental disability or criminal record unrelated to present dangerousness. (2-100 Mental Health Code).

2. Legal disability – determination. No recipient of services shall be presumed legally disabled, nor shall such person be held legally disabled except as determined by a court. Such determination shall be separate from a judicial proceeding held to determine whether a person is subject to involuntary admission or meets the standard for judicial admission. (2-101 Mental Health Code)

3. Spousal Impoverishment. All new residents and their spouses shall be informed on admittance of their spousal impoverishment rights as defined at Section 5-4 of the Illinois Public Aid Code. That Section provides that in determining the amount and nature of medical assistance for which a person may qualify, consideration shall not be given to the value of cash, property or other assets held in the name of the person's spouse pursuant to a written agreement dividing the marital property into equal but separate shares or pursuant to a transfer of the person's interest in a home to his spouse; provided that the spouse's share of the marital property is not made available to the person seeking medical assistance and that such person does not reside in the home. A person seeking medical assistance, or his guardian, shall be informed at the time of application that an equal division of marital property with or transfer of interest in a home to his spouse shall not affect his eligibility for such assistance. However, if Federal law or regulation requires consideration of any of the resources described in this paragraph, such resources shall be considered in determining the amount and nature of medical assistance for which a person may qualify. (2-101.1 and ch. 23, par. 5-4).

4. Financial Affairs. A resident shall be permitted to manage his or her own financial affairs if such resident so wishes. (2-102).

5. Personal Property. A resident shall be permitted to retain and use or wear his personal property in his immediate living quarters, unless deemed medically inappropriate by a physician and so documented in the resident's clinical record. If clothing is provided to the resident by the facility, it shall be of a proper fit. The facility shall provide adequate storage space for the personal property of the resident. The facility shall provide a means of safeguarding small items of value for its residents in the rooms or in any other part of the facility so long as the residents have daily access to such valuables. The facility shall develop procedures for investigating complaints concerning theft of residents, property and shall promptly investigate all such complaints. (2-103)

(a) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission.

(b) The professional responsible for overseeing the implementation of a recipient’s services plan may, with the approval of the facility director, restrict the right to property when necessary to protect such recipient or others from harm.

(c) When a recipient is discharged from the mental health or developmental disabilities facility, all of his lawful personal property which is in the custody of the facility shall be returned to him. (5/2-104 Mental Health Code).

6. Care Services – Psychotropic medication.

A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan, which shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and, where appropriate, such recipient’s nearest of kin or guardian. If the services include the administration of psychotropic medication, the physician shall advise the recipient, in writing, of the side effects of the medication to the extent such advice is consistent with the nature and frequency of the side effects and the recipient’s ability to understand the information communicated. Any recipient who is a resident of the mental health or developmental disabilities facility shall be advised in writing of his right to refuse such services pursuant to Section 2-107 of Mental Health Code. A qualified professional shall be responsible for overseeing the implementation of such plan. Such care and treatment shall include the regular use of sign language for any hearing impaired individual for whom sign language is a primary mode of communication. (5/2-102 Mental Health Code)

7. Medical Treatment / Experimental Research / Treatment Records.

(a) A resident shall be permitted to retain the services of his own personal physician at his own expense or under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage. However, the facility is not liable for the negligence of any such personal physician. Every resident shall be permitted to obtain from his own physician or the physician attached to the facility complete and current information concerning his medical diagnosis, treatment and prognosis in terms and language the resident can reasonably be expected to understand. Every resident shall be permitted to participate in the planning of his total care and medical treatment to the extent that his condition permits. No resident shall be subjected to experimental research or treatment shall be authorized and monitored by an institutional review committee appointed by the administrator of the facility where such research and treatment is conducted. The membership, operating procedures and review criteria for institutional review committees shall be prescribed under rules and regulations of the Illinois Department of Public Health.

(b) All medical treatment and procedures shall be administered as ordered by a physician. All new physician orders shall be reviewed by the facility's director of nursing or charge nurses designee within 24 hours after such orders have been issued to assure facility compliance with such orders. According to rules adopted by the Department, every woman resident of child-bearing age shall receive routine obstetrical and gynecological evaluations as well as necessary prenatal care.

(c) Every resident shall be permitted to refuse medical treatment and to know the consequences of such action, unless such refusal would be harmful to the health and safety of others and such harm is documented by a physician in the resident's clinical record. The resident's refusal shall free the facility from the obligation to provide the treatment.

(d) Every resident, resident's guardian, or parent if the resident is a minor shall be permitted to inspect and copy all his clinical and other records concerning his care and maintenance kept by the facility or by his physician. The facility may charge a reasonable fee for duplication of a record. (2-104).

8. Transfer of Private Ownership Following Suspension or Revocation - Resident Evaluation. Whenever ownership of a private facility is transferred to another private owner following a final order for a suspension or revocation of the facility's license, the new owner, if the Department so determines, shall thoroughly evaluate the condition and needs of each resident as if each resident were being newly admitted to the facility. The evaluation shall include a review of the medical record and the conduct of a physical examination of each resident which shall be performed within 30 days after the transfer of ownership. (Ill.Rev.Stat. ch. 111 1/2, par. 4152-104.1).

9. Privacy. A resident shall be permitted respect and privacy in his medical and personal care program. Every resident's case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly, and those persons not directly involved in the resident's care must have his permission to be present. (2-105).

10. Physical Restraints and Confinements. Neither physical restraints nor confinements shall be employed for the purpose of punishment or for the convenience of any facility personnel. No physical restraints or confinements shall be employed except as ordered by a physician who documents the need for such restraints or confinements in the resident's clinical record. (2-106).

11. Abuse or Neglect - Duty to Report. An owner, licensee, administrator, employee or agent of a facility shall not abuse or neglect a resident. It is the duty of any facility employee or agent who becomes aware of such abuse or neglect to report it as provided in "The Abused and Neglected Long Term Care Facility Residents Reporting Act." (2 -107)

12. Communications - Visits - Married Residents. Every resident shall be permitted unimpeded, private and uncensored communication of his choice by mail, public telephone or visitation.

(a) The administrator shall ensure that correspondence is conveniently received and mailed, and that telephones are reasonably accessible.

(b) The administrator shall ensure that residents may have private visits at any reasonable hour unless such visits are not medically advisable for the resident as documented in the resident's clinical record by the resident's physician.

(c) The administrator shall ensure that space for visits is available and that facility personnel knock, except in an emergency, before entering any resident's room.

(d) Unimpeded, private and uncensored communication by mail, public telephone and visitation may be reasonably restricted by a physician only in order to protect the resident or others from harm, harassment or intimidation, provided that the reason for any such restriction is placed in the resident's clinical record by the physician and that notice of such restriction shall be given to all residents upon admission. However, all letters addressed by a resident to the Governor, members of the General Assembly, Attorney General, judges, state's attorneys, officers of the Department, or licensed attorneys at law shall be forwarded at once to the persons to whom they are addressed without examination by facility personnel. Letters in reply from the officials and attorneys mentioned above shall be delivered to the recipient without examination by facility personnel.

(e) The administrator shall ensure that married residents residing in the same facility be allowed to reside in the same room within the facility unless there is no room available in the facility or it is deemed medically inadvisable by the resident's attending physician and so documented in the resident's medical records. (2-108).

13. Religion. A resident shall be permitted to the free exercise of religion. Upon a resident's request, and if necessary at his expense, the administrator shall make arrangements for a resident's attendance at religious services of the resident's choice. However, no religious beliefs or practices, or attendance at religious services, may be imposed upon any resident. (2-109).

14. Access - Inspection. Any employee or agent of a public agency, any representative of a community legal services program or any other member of the general public shall be permitted access at reasonable hours to any individual resident of any facility, but only if there is neither a commercial purpose nor effect to such access and if the purpose is to do any of the following:

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

(2) Inform residents of their rights and entitlements and their corresponding obligations, under Federal and State laws, by means of educational materials and discussions in groups and with individual residents; (3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or

(4) Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights. (2-110).

15. Discharge. A resident may be discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his guardian or if the resident is a minor, his parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well-being. (2-111).

16. Grievances. A resident shall be permitted to present grievances on behalf of himself or others to the administrator, the Long-Term Care Facility Advisory Board, the residents, advisory council, State governmental agencies or other persons without threat of discharge or reprisal in any form or manner whatsoever. The administrator shall provide all residents or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged.

(2-112).

17. Labor. A resident may refuse to perform labor for a facility. (2-113).

Rights Contained in the Code of Federal Regulations:

18. Resident Rights. The resident has a right to a dignified existence, self determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights. (42 CFR 483.10)

19. Exercise of Rights. The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States. (42 CFR 483.10al)

20. No Coercion. The resident has the right to be free of interference, coercion, discrimination, or reprisal from the facility in exercising his or her rights. (42 CFR 483.lOa2)

21. Exercise of Rights by Guardian. In the case of a resident adjudged incompetent under the laws of a State by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed under State law to act on the Resident's behalf. (42 CFR 483.lOa3)

22. Notice of Rights and Services. The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. Such notification must be made prior to or upon admission and during the resident's stay. Receipt of such information and any amendments to it must be acknowledged in writing. (42 CFR 10bl)

23. Right to Copies of Records. The resident has the right to inspect and purchase photocopies of all records pertaining to the resident upon written request and forty-eight (48) hours notice to the facility.

(42 CFR 483.lOb3)

24. Health Status. The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition.

(42 CFR 483.1ob3)

25. Refusal of Treatment. The resident has the right to refuse treatment, and to refuse to participate in experimental research. (42 CFR 483.lOb4)

26. Medicaid Benefits and Charges. The facility must inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or, when the resident becomes eligible for Medicaid of

(A) the items and services that are included in the nursing facility services under the State Plan and for which the resident may not be charged, and

(B) those other items and services that the facility offers and for which the resident may be charged and the amount of charges for those services. Also, the facility must inform each resident when changes are made to the items and services specified herein. (42 CFR 483.lOb5)

27. Services and Charges. The facility must inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered by the facility's per them rate.

(42 CFR 483.lOb6)

28. Personal Funds and Complaints. The facility must furnish a written description of legal rights which includes a description of the manner of protecting personal funds, and a statement that the resident may file a complaint with the State Survey and Certification Agency concerning resident abuse, neglect, and misappropriation of resident property in the facility. (42 CFR 483.1ob7)

29. Money – Deposits – Payees. A recipient of services may use his money as he chooses, unless he is a minor or prohibited from doing so under a court guardianship order. A recipient may deposit or cause to be deposited money in his name with a service provider or financial institution with the approval of the provider or financial institution. Money deposited with a service provider shall not be retained by the service provider. Any earnings attributable to a recipient’s money shall accrue to him. Except where a recipient has given informed consent, no service provider nor any of its employees shall be made representative payee for his social security, pension, annuity, trust fund, or any other form of direct payment or assistance. When a recipient is discharged from a service provider, all of his money, including earning, shall be returned to him. (5/2-105 Mental Health Code)

30. Physician Contacts. The facility must inform each resident of the name, specialty and way of contacting the physician responsible for his or her care. (42 CFR 483.lOb8)

31. Medicare/Medicaid Benefits. The facility must prominently display in the facility written information, and provide to residents and potential residents oral and written information about how to apply for and use Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits. (42 CFR 483.lOb9)

32. Notification of Changes. Except in a medical emergency or when a resident is incompetent, a facility must consult with the resident immediately and notify the resident's physician, and if known, the resident's legal representative or interested family member within twenty-four (24) hours when there is

(a) an accident involving the resident which results in injury,

(b) a significant change in the resident's physical, mental, or psychosocial status,

(c) a need to alter treatment significantly, or

(d) a decision (by the facility) to transfer or discharge the resident from the facility. (42 CFR 483.lobloi)

33. Change of Room or Roommate. The facility must also promptly notify the resident and, if known, the resident's legal representative or interested family member when there is

(a) a change in room or roommate assignment, or

(b) a change in resident rights under Federal or State law or regulations. (42 CFR 483.10bl0ii)

34. Address Update of Representative. The facility must record and periodically update the address and phone number of the resident's legal representative or interested family member. (42 CFR 483.10bi0iii)

35. Protection of Resident Funds. The resident has the right to manage his or her financial affairs and the facility may not require residents to deposit their personal funds with the facility. (42 CFR 483.10cl)

36. Management of Personal Funds. Upon written authorization of a resident, the facility must hold, safeguard, manage and account for the personal funds of the resident deposited with the facility.

(42 CFR 483.lOc2)

37. Funds in Excess of $50.00. The facility must deposit any resident's personal funds in excess of $50-00 in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned on the resident's account to his or her account. (42 CFR 483.lOc3i)

38. Funds Less Than $50.00. The facility may maintain a resident's personal funds that do not exceed $50.00 in a non-interest bearing account or petty cash fund. (42 CFR 483.lOc3ii)

39. Accounting and Records. The facility must establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf. The system must preclude any commingling of resident's funds with facility's funds or with the funds of any person other than another resident. The individual financial record must be available on request to the resident or his or her legal representative. (42 CFR 483.lOc4)

40. Notice of Certain Balances. The facility must notify each resident that receives Medicaid benefits (1) when the amount in the resident's account reaches $200.00 less than the SSI resource limit for one person and (2) that, if the amount in the account, in addition to the value of the resident's other non-exempt resources, reaches the SSI resource limit for one person, the resident may loose eligibility for Medicaid or SSI. (42 CFR 483.lOcS)

41. Conveyance Upon Death. Upon the death of a resident with a personal fund deposited with the facility, the facility must convey promptly the resident's funds, and a final accounting of those funds, and a final accounting of those funds to the individual administering the resident's estate. (42 CFR 483.lOc6)

42. Assurance of Financial Security. The facility must purchase a surety bond, or provide insurance to assure the security of all personal funds of residents deposited with the facility. (42 CFR 483.lOc7)

43. Limitation on Charges to Personal Funds. The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid or Medicare.

(42 CFR 483.lOc8)

44. Free Choice. The resident has the right to choose a personal attending physician. (42 CFR 483.10di)

45. Changes of Care. The resident has the right to be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well being. (42 CFR 483.lOd2)

46. Care Planning. The resident has the right to, unless adjudged incompetent or otherwise found to be incapacitated under the laws of the State, participate in planning, care and treatment or changes in care and treatment. (42 CFR 483.lOd3)

47. Privacy and Confidentiality. The resident has the right to personal privacy and confidentiality of his or her personal and clinical records. Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room. (42 CFR 483.10e)

48. Record Release. The resident may approve or refuse the release of personal and clinical records to any individual outside the facility. However, the resident's right to refuse release of personal and clinical records does not apply when (1) the resident is transferred to another health care institution, or (2) record release is required by law or third-party payment contract. (42 CFR 483. lOe2, 3)

49. Grievances. The resident has 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. (42 CFR 483.10fl)

49. Grievance Resolution. A resident has 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. (42 CFR 483.lOf2)

50. Examination of Survey Results. A resident has the right to 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. The results must be posted by the facility in a place readily accessible to residents.

(42 CFR 483.10gl)

51. Resident Advocates. A resident has the right to receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies. (42 CFR 483.lOg2)

52. Work. The resident has the right to refuse to perform services for the facility. (42 CFR 483.10hl)

53. Right to Work. The resident has the right to perform services for the facility if he or she chooses, when the facility has documented the need or desire for work in the plan of care and the plan specifies the nature of the services performed and whether the services are voluntary or paid. Compensation for paid services must be at or above prevailing rates. The resident must agree to the work arrangement described in the plan of care. (42 CFR 483.10h)

54. Mail – Telephone - Visits. The resident has the right to privacy in written communications, including the right to:

(1) send and receive mail promptly that is unopened, and

(2) have access to stationery, postage and writing implements at the resident's own expense.

Except provided in this Section, a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation.

(a) The facility director shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonable accessible, and that space for visits is available. Writing materials, postage and telephone usage funds shall be provided in reasonable amounts to recipients who reside in Department facilities and who are unable to procure such items.

(b) Reasonable times and places for the use of telephones and for visits may be established in writing by the facility director.

(c) Unimpeded, private and uncensored communication by mail, telephone, and visitation may be reasonable restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission. When communications are restricted, the facility shall advise the recipient that he has the right to require the facility to notify the affected parties of the restrictions, and to notify such affected party when the restrictions are no longer in effect. However, all letters addressed by a recipient to the Governor, members of the General Assembly, Attorney General, judges, state’s attorneys, Guardianship and Advocacy Commission, or the Agency designated pursuant to “An act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named,” approved September 20, 1985, officers of the Department, or licensed attorneys at law must be forwarded at once to the persons to whom they are addressed without examination by the facility authorities. Letters in reply from the officials and attorneys mentioned above must be delivered to the recipient without examination by the facility authorities.

(d) No facility shall prevent any attorney who represents a recipient or who has been requested to do so by any relative or family member of the recipient, from visiting a recipient during normal business hours, unless that recipient refuses to meet with the attorney. (5/2-103 Mental Health Code)

55. Access to Facility. The resident has the right to receive visitors and the facility must allow access to the resident for such visitors at any reasonable hour. (42 CFR 483.10j)

56. Access and Visitations Rights. The resident has the right to receive visitors and the facility must provide immediate access to any resident by the following:

(1) any representative of the Secretary of the (Federal) Department of Health and Human Services;

(2) any representative of the State;

(3) the resident's individual physician;

(4) the State Long-Term Care Ombudsman;

(5) the agency responsible for the protection and advocacy system for developmentally disabled individuals;

(6) the agency responsible for the protection and advocacy system for mentally ill individuals;

(7) immediate family or other relatives of the resident, subject to the resident's right to deny or withdraw consent at any time; and

(8) others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw his or her consent at any time. (42 CFR 483.lokl)

57. Access by Advocates. The facility must provide reasonable access to any 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. (42 CFR 483.lOk2)

58. Examination of Records by Ombudsman. The facility must allow representatives of the State Ombudsman to examine a resident's clinical records with the permission of the resident or the resident's legal representative, and consistent with State law. (42 CFR 483.1ok3)

59. Telephone. The resident has the right to have regular access to the private use of a telephone.

(42 CFR 483.101)

60. Personal Property. The resident has the right to retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents. (42 CFR 483.10m)

61. Married Couples. The resident has the right to share a room with his or her spouse when married residents live in the same facility and both spouses consent to the arrangement. (42 CFR 483.10n)

62. Self Administration of Drugs. Each resident has the right to self-administer drugs unless the interdisciplinary team has determined for each resident that this practice is unsafe. (42 CFR 483.10o)

63. Transfer and Discharge Requirements. The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless

(1) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met at the facility, or

(2) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility, or

(3) the safety of individuals in the facility is endangered, or

(4) the health of individuals in the facility would otherwise be endangered, or

(5) the resident has failed, after reasonable and appropriate notice, to pay for or to have paid under Medicare or Medicaid a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid, or

(6) the facility ceases to operate. (42 CFR 483.12al)

64. Documentation. When the facility transfers or discharges a resident the resident's clinical record must be documented. The documentation must be made by the resident's physician when the transfer or discharge is necessary

(1) for the resident's welfare and the resident's needs cannot be met in the facility, or

(2) when the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility. (42 CFR 483.12a2i)

65. Documentation. When the facility transfers or discharges a resident because the health of individuals in the facility would otherwise be endangered the resident's record must be documented by a physician. (42 CFR 483.12a2ii)

66. Notice Before Transfer. Before a facility transfers or discharges a resident, the facility must

(1) notify the resident and, if known a family member or legal representative of the resident of the transfer or discharge and the reasons,

(2) record the reasons in the resident's clinical record, and

(3) include in the notice all items required by Federal regulations. (42 CFR 483.12a3)

67. Timing of the Notice. The notice of transfer or discharge by the facility must be made at least thirty (30) days before the resident is transferred or discharged unless otherwise provided by Federal regulation. Notice may be made as soon as practicable before transfer or discharge when

(A) the health or safety of individuals within the facility would be endangered;

(B) the resident's health improves sufficiently to allow a more immediate transfer or discharge; or

(C) an immediate transfer or discharge is required by the resident's urgent medical needs.

(42 CFR 483.12a4)

68. Contents of Notice. The written notice of transfer or discharge must include the following:

(a) the reason for transfer or discharge;

(b) the effective date of transfer or discharge;

(c) the location to which the resident is transferred or discharged; and

(d) a statement that the resident has the right to appeal the action to the State agency designated by the State for such appeals. The notice of resident transfer or discharge must also include the name, address and telephone number of the State Long-Term Care Ombudsman. (42 CFR 483.12a5)

69. Orientation for Transfer or Discharges. A facility must provide sufficient preparation and orientation to residents to insure safe and orderly transfer or discharge from the facility. (42 CFR 483.12a6)

70. Notice of Bed-Hold Policy and Readmission. Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the facility must provide written information to the resident and a family member or legal representative that specifies

(1) the duration of the bed hold policy under the State plan, if any, during which the resident is permitted to return and resume residence in the facility, and

(2) the facility's policies regarding bed hold periods permitting a resident to return. (42 CFR 483.12bl)

71. Notice Upon Transfer. At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and a family member or legal representative, which specifies the duration of the bed hold policy specified herein. (42 CFR 483.12b2)

72. Permitting Resident to Return to Facility. A nursing facility must establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed hold period under the State Plan, is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident requires the services provided by the facility and if the resident is eligible for Medicaid nursing facility services. (42 CFR 483.12b3)

73. Equal Access to Quality Care. A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the State's Plan for all individuals regardless of source of payment. (42 CFR 483.12cl)

74. Admissions Policy. (Regarding Medicaid Recipients) The facility must

(1) not require a third party guarantee of payment to the facility as a condition of admission, or continued stay in the facility, or

(2) not charge, solicit, accept or receive, in addition to any otherwise required under the State Plan, any gift, money, donation or other consideration as a precondition of admission or continued stay in the facility. (42 CFR 483.12di)

75. No Admissions Waivers. A facility must:

(1) not require residents or potential residents to waive their rights to Medicare or Medicaid, and

(2) not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits. (42 CFR 483.12d2)

76. Restraints. The resident has the right to be free from any physical restraints imposed or psychoactive drug administered for purpose of discipline or convenience, and not required to treat the resident's medical symptoms. (42 CFR 483.13a) Restraints may be used only as a therapeutic measure to prevent a recipient from causing physical harm to himself or physical abuse to others. Restraint may only be applied by a person who has been trained in the application of the particular type of restraint to be utilized. In no event shall restraint be utilized to punish or discipline a recipient, nor is restraint to be used as a convenience for the staff.

(a) Except as provided in this Section, restraint shall be employed only upon the written order of a physician, clinical psychologist, clinical social worker, or registered nurse with supervisory responsibilities. No restraint shall be ordered unless the physician, clinical psychologist, clinical social worker, or registered nurse with supervisory responsibilities, after personally observing and examining the recipient, is clinically satisfied that the use of restraint is justified to prevent the recipient from causing physical harm to himself or others. In no event may restraint continue for longer than 2 hours unless within that time period a nurse with supervisory responsibilities or a physician confirms, in writing, following a personal examination of the recipient, that the restraint does not pose an undue risk to the recipient’s health in light of the recipient’s physical or medical condition. The order shall state the event leading up the need for restraint and the purposes of length of time restraint is to be employed and the clinical justification for that length of time. No order for restraint shall be valid for more than 16 hours. If further restraint is required, a new order must be issued pursuant to the requirements provided in this Section.

(b) In the event there is an emergency requiring the immediate use of restraint, it may be ordered temporarily by a qualified person only where a physician, clinical psychologist, clinical social worker, or registered nurse with supervisory responsibilities is not immediately available. In that event, an order by a nurse, clinical psychologist, clinical social worker, or physician shall be obtained pursuant to the requirements of this Section as quickly as possible, and the recipient shall be examined by a physician or supervisory nurse within 2 hours after the initial employment of the emergency restraint. Whoever orders restraint in emergency situations shall document its necessity and place that documentation in the recipient’s record.

(c) The person who orders restraint shall inform the facility director or his designee in writing of the use of restraint within 24 hours.

(d) The facility director shall review all restraint orders daily and shall inquire into the reasons for the orders for restraint by any person who routinely orders them.

(e) Restraint may be employed during all or part of one 24-hour period, the period commencing with the initial application of the restraint. However, once restraint has been employed during one 24 hour period, it shall not be used again on the same recipient during the next 48 hours without the prior written authorization of the facility director.

(f) Restraint shall be employed in a humane and therapeutic manner and the person being restrained shall be observed by a qualified person as often as is clinically appropriate but in no event less than once every 15 minutes. The qualified person shall maintain a record of the observations. Specifically, unless there is an immediate danger that the recipient will physically harm himself or others, restraint shall be loosely applied to permit freedom of movement. Further, the recipient shall be permitted to have regular meals and toilet privileges free from the restraint, except when freedom of action may result in physical harm to the recipient or others.

(g) Every facility that employs restraint shall provide training in the safe and humane application of each type of restraint employed. The facility shall not authorize the use of any type of restraint by an employee who has not received training in the safe and humane application of that type of restraint. Each facility in which restraint is used shall maintain records detailing which employees have been trained and are authorized to apply restraint, the date of the training and the type of restraint that the employee was trained to use.

(h) Whenever restraint is imposed upon any recipient whose primary mode of communication is sign language, the recipient shall be permitted to have his hands free from restraint for brief periods each hour, except when freedom nay result in physical harm to the recipient or others.

(i) A recipient who is restrained may not be involuntarily secluded. Whenever a recipient is restrained, a member of the facility staff shall remain with the recipient at all times.

(j) Whenever restraint is used, the recipient shall be advised of his right, pursuant to Sections 2-200 and 2-201 of the Mental Health Code, to have any person of his choosing, including the Guardianship and Advocacy Commission or the agency designated pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act notified of the restraint. A recipient who is under guardianship may request that any person of his choosing be notified of the restraint whether or not the guardian approves the notice. Whenever the Guardianship or Advocacy Commission is notified that a recipient has been restrained, it shall contact that recipient to determine the circumstances of the restraint and whether further action is warranted. (5/2-108 Mental Health Code)

77. Seclusion. The use of seclusion shall not be permitted.

78. Electro-convulsion therapy – Psychosurgery – Consent. No recipient of services shall be subjected to electro-convulsive therapy, or to any unusual, hazardous, or experimental services or psychosurgery, without his written or informed consent. If a recipient is a mnor or is under guardianship, such recipient’s parent or guardian is authorized, only with the approval of the court, to provide informed consent for participation of the ward in any such services which the guardian deems to be in the best interests of the ward.

79. Resident Care Policies. The facility must have written resident care policies that govern the continuing nursing care, and medical or other services furnished by the facility. (42 CFR 483.12e)

80. Abuse. The resident has the right to be free from verbal, sexual, physical or mental abuse, corporal punishment, and involuntary seclusion. (42 CFR 483.13b)

81. The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of residents. (42 CFR 483.13c)

82. Quality of Life. A facility must care for its residents in a manner and in an environment that promotes maintenance of enhancement of each resident's quality of life. (42 CFR 483.13c)

83. Dignity. The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect and full recognition of his or her individuality. (42 CFR 483.15a)

84. Self-Determination and Participation. The resident has the right to (1) choose activities, schedules, and health care consistent with his or her interests, assessments and plans of care; (2) interact with members of the community both inside and outside the facility; and (3) make choices about aspects of his or her life in the facility that are significant to the resident. (42 CFR 483.15b3)

85. Participation in Resident and Family Groups. A resident has the right to organize and participate in resident groups in the facility. A resident's family has the right to meet in the facility with the families or other residents in the facility. The facility must provide a resident or family group, if one exists, with private space. (42 CFR 483.15b7)

86. A resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. (42 CFR 483.15d)

87. Aresident has the right to reside and receive services in the facility with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other residents would be endangered. (42 CFR 483.15el)

88. Aresident has the right to receive notice before the resident's room or roommate in the facility is changed. (42 CFR 483.15e2)