

Access and Visitation Rights

During FY '09, Ombudsmen responded to 228,219 complaints from Nursing Home Residents. Out of that number, 56,863 complaints involved resident rights, 54,649 pertained to resident care, and 40,632 were related to quality of life.

KNOW YOUR RIGHTS REGARDING VISITORS

What do the regulations say?

483.10(j) (1) *The resident has the right and the facility must provide immediate access to any resident by the following:*

- (i) Any representative of the Secretary;
- (ii) Any representative of the State;
- (iii) The resident's physician;
- (iv) The State long term care ombudsman (established under section 307 (a)(12) of the Older Americans act of 1965)
- (v) The agency responsible for the protection and advocacy system for developmentally disabled individuals (established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act)
- (vi) The agency responsible for the protection and advocacy system for mentally ill individuals (established under the Protection and Advocacy for Mentally Ill Individuals Act);
- (vii) Subject to the resident's right to deny or withdraw consent at any time, immediate family or other relatives of the resident; and
- (viii) Subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, others who are visiting with the consent of the resident.

483.10(j)(2) *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.*

What does this mean?

Interpretive Guidelines: 483.10(j)(1) and (2)

- 1- **The facility must provide immediate access to any representative of the Secretary of the Department of Health and Human Services, the State, the resident's individual physician, the State long term care ombudsman, or the agencies responsible for the protection and advocacy of developmentally disabled or mentally ill individuals.**
 - The residents cannot refuse to see surveyors.

- Representatives of the Department of Health and Human Services, the State, the State ombudsman system, and protection and advocacy agencies for mentally ill and mentally retarded individuals are not subject to visiting hour limitations.

2- Immediate family or other relatives are not subject to visiting hour limitations or other restrictions not imposed by the resident.

- The facility may try to change the location of visits to assist care giving or protect the privacy of other residents.
- Special care should be taken to ensure that visitation rights do not infringe upon the rights of other residents in the facility. For example, family members who visit in the late evening should be encouraged to meet in another area to prevent the resident's roommate from losing sleep.

3- Non-family visitors must also be granted "immediate access" to the resident.

- The facility may place reasonable restrictions upon the exercise of this right such as reasonable visitation hours to facilitate care giving for the resident or to protect the privacy of other residents, such as requiring visits not take place in the resident's room if the roommate is asleep or receiving care.

4- An individual or representative of an agency that provides health, social, legal, or other services to the resident has the right of "reasonable access" to the resident.

- The facility may establish guidelines regarding the timing or other circumstances of the visit, such as location. These guidelines must allow for ready access of residents to these services.

Facilities support this right by:

- Making sure residents and families are informed about their rights regarding visitation.
- Ensuring that a private space is available for residents to entertain visitors during the day and in the evening.
- Informing residents and their visitors of space that is available for visiting. Suggest using the chapel, activity room, or an empty office as long as there is no activity going on in the room at the time.
- Supporting a resident's right to choose whether or not to accept a visitor.

Right to Privacy

KNOW YOUR RIGHTS REGARDING PRIVACY

What do the regulations say?

483.10(e) *Privacy and confidentiality. The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.*

(1) Personal privacy includes accommodations, medical treatment, **written and telephone communications**, personal care, **visits**, and **meetings with family and resident groups**, but this does not require the facility to provide a private room for each resident.

What does this mean?

Interpretive Guidelines: 483.10 (e)

1. **"Right to privacy" means that the resident has the right to privacy with *whomever* the resident wishes to be private and that this privacy should include full visual, and, to the extent desired, for visits or other activities, auditory privacy.**
 - Private space may be created flexibly and need not be dedicated solely for visitation purposes.
 - For example, privacy for visitation or meetings might be arranged by using a dining area between meals, a vacant chapel, office or room; or an activities area when activities are not in progress.
2. **Arrangements for private space could be accomplished through cooperation between the facility's administration and resident or family groups so that private space is provided for those requesting it without infringement on the rights of other residents.**

Facilities support this right by:

- Assisting residents in finding a private place to communicate with family and friends.
- Remembering to knock and listen for a response before entering a resident's room.
- Offering residents the use of a cordless phone or the use of a private office to make a telephone call.

Right to Self-Determination

KNOW YOUR RIGHT REGARDING INDEPENDENT CHOICE

What do the regulations say?

483.15(b) *Self-Determination and Participation. The resident has the right to:*

(b)(1) Choose activities, schedules, and health care consistent with his or her interest, assessments, and plans of care;

(b)(2) Interact with members of the community both inside and outside the facility; and

(b)(3) Make choices about aspects of his or her life in the facility that are significant to the resident.

What does this mean?

Interpretive Guidelines: 483.15 (b)(3)

1. The intent of this requirement is to specify that the facility must create an environment that is respectful of the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life.

Facilities can support this right by:

- Offering residents choices in regards to activities and daily routines.
- Making opportunities for residents to visit outside the facility by going home for a few hours with family members or friends.
- Encourage community involvement in activities and visitation programs.
- Developing a full range of activities that include varied representatives from the community at large (ie. churches, synagogues, social organizations, political parties, etc.)

Resident Rights to Visitation

The rights discussed in this section relate to visitation and are based on the Bill of Rights from the Nursing Home Reform Act of 1987. Your state may have adopted some rights for residents of Assisted Living Facilities, Board and Care Homes, or Personal Care Homes. Even if these resident rights laws do not apply to facilities that are not nursing homes in your state, facilities should implement the following recommendations as ways to respect the dignity and individuality of residents. Rights regarding access to visitors are essential to quality of life.

The resident rights are part of the Federal Code of Regulations Title 42 Section 483.10.