

Why the Recently-Revised Nursing Home Regulations are Vital for Nursing Home Residents

Almost all nursing homes accept Medicare or Medicaid, or both. As a condition of accepting federal reimbursement, these nursing homes follow quality of care standards set by the Nursing Home Reform Law. The Reform Law became effective in 1990, and corresponding regulations were issued in 1991.

The nursing home regulations became dated during the 25 years since they first were issued. To incorporate modern-day language, technological advances, and best practices, the Centers for Medicare and Medicaid Services (CMS) released a comprehensive revision of the regulations in September 2016.

The revised regulations contain important consumer protections that were not included in the previous regulations.

Protections Include:

- **Greater focus on addressing a resident's individual needs and preferences.** A nursing home must learn more about who the resident is as a person, provide greater support for resident preferences, and give residents increased control and choice.
- **Prompt development of a care plan.** The original regulations allowed a resident to be without a care plan for as long as 21 days following admission. Now, a facility must develop and implement a care plan within 48 hours of a resident's admission.
- **More comprehensive care.** Treatment and services have been expanded to include pain management, dialysis, and behavioral health services.
- **Improved training.** Training requirements have been expanded to apply to all staff, contractual employees, and volunteers. Mandatory topics include communication, residents' rights, and prevention of abuse, neglect and exploitation. Training for nursing assistants is expanded to include dementia management and resident abuse prevention.
- **Improved protections against abuse, neglect and exploitation.** A nursing home must not employ a licensed individual with a disciplinary action, and must report suspicions of a crime to law enforcement and the state survey and certification agency.
- **Better protection of resident property.** Nursing homes are now required to take reasonable care of resident belongings and can no longer seek waivers of their responsibility for lost or stolen property.

- **Increased visitation rights.** A resident can accept visitors at any time of the day.
- **Protection against evictions.** Eviction for non-payment is not allowed when a third-party payor (such as Medicaid) is evaluating a claim for payment. For evictions based on a nursing home's supposed inability to meet a resident's needs, the nursing home must document its attempts to meet the resident's needs, and the ability of a receiving nursing home to meet those needs.
- **Limiting nursing home's ability to "dump" a resident at the hospital.** In an effort to evade eviction safeguards, some nursing homes "dump" residents by refusing to readmit them from hospitalizations. Now, a nursing home must follow eviction procedures and give a hospitalized resident an opportunity to appeal, when the nursing home claims that the resident cannot return.
- **Prohibiting forced arbitration of claims of misconduct.** Currently, many nursing home admission agreements compel a resident to bring any future claims about abuse, neglect or other quality of care issues through private arbitration. The revised regulations prohibit nursing homes from forcing residents to arbitrate disputes, but allow voluntary arbitration agreed to after a dispute arises.