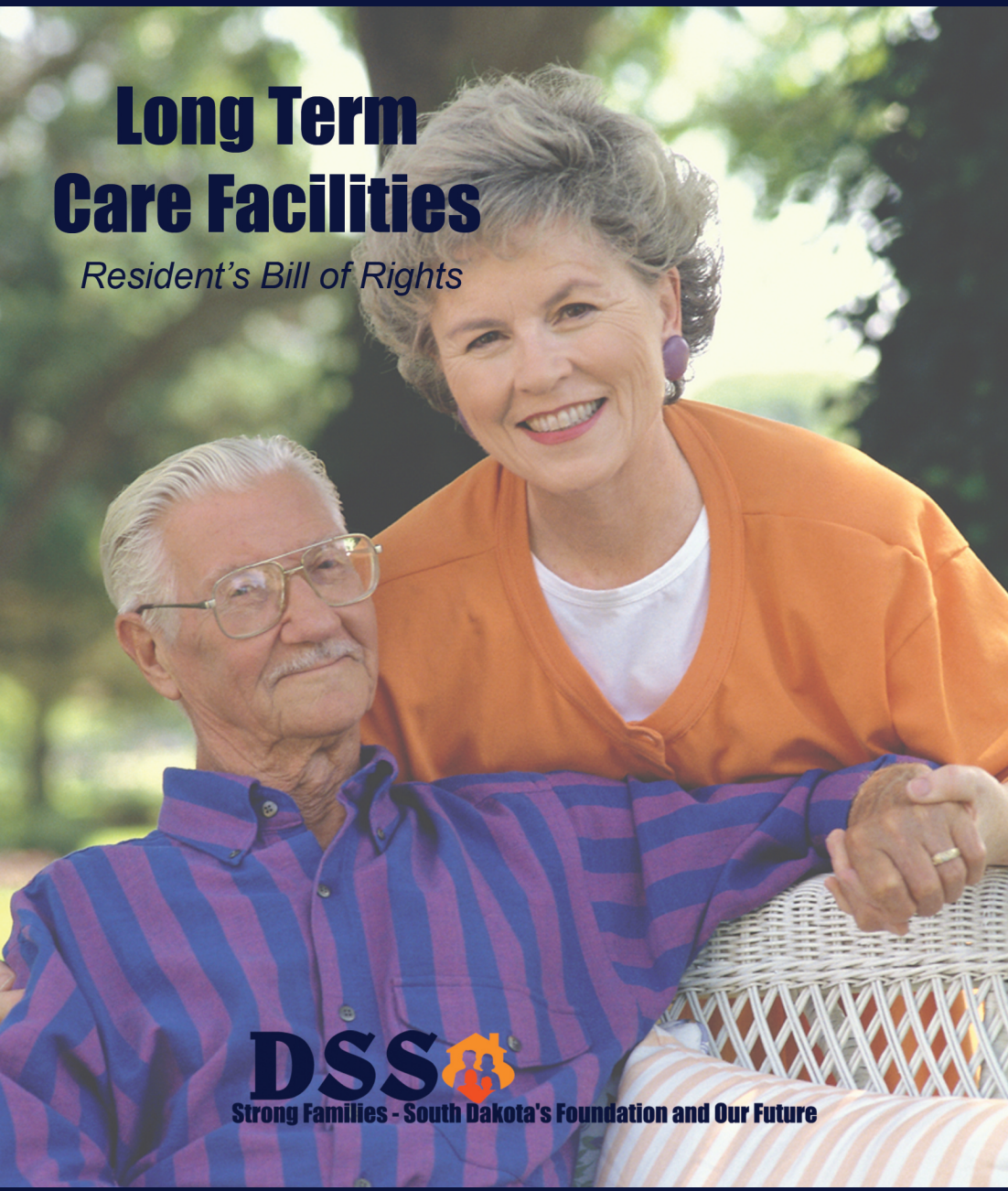
Long Term Care Facilities

Resident's Bill of Rights



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Strong Families - South Dakota's Foundation and Our Future

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Introduction

The resident's rights outlined in this booklet have been taken from the South Dakota Department of Health's Administrative Rules Chapter 44:04:17 to help you and your family members better understand what your rights are during your time in a long term care facility.

Long term care facilities must ensure all residents receive a copy of their rights and that these rights are implemented. Administrative rules require assisted living communities to inform residents of the rights included in this book both orally and in writing.

Long term care facilities must also provide all residents with a copy of its rules governing a resident's conduct and responsibilities.

Long term care facilities must comply with this chapter

Long term care facilities must establish policies consistent with this chapter to protect and promote the rights of each resident.

Long term care facilities must inform you of your rights

Long term care facilities must inform you both orally and in writing of your rights. The facility must also explain the rules regarding your conduct and responsibilities while living there. This information must be given to you before or when you are admitted and during your stay. Proof that the information was given to you and any changes must be acknowledged in writing. The information must contain the following:

2. The long term care facility must notify you and a family member or client advocate in writing at least 30 days before the transfer or discharge, unless a change in your health requires immediate transfer or discharge or you have not resided in the facility for 30 days. The notice must specify the reason for and effective date of the transfer or discharge and your new location.

3. Conditions under which you may request or refuse transfer within the facility.

4. A description of how you may appeal a decision by the facility to transfer or discharge you.

In South Dakota, a resident or legal representative may appeal a facility's decision to transfer the resident by contacting:

Office of Administrative Hearings
700 Governors Drive
Pierre, SD 57501
(605) 773-6851
http://dss.sd.gov/adminhearings/index.asp

A resident or legal representative may also receive assistance from the Ombudsman Program by contacting:

Division of Adult Services and Aging
Ombudsman Program
700 Governors Drive
Pierre, SD 57501
(605) 773-3656 or 1-866-854-5465
http://dss.sd.gov/elderlyservices/services/ombudsman.asp

1. You have all of the rights given to you as a resident of the long term care facility and as a citizen of the United States.

2. You have the right to be free of interference, coercion, discrimination and reprisal from the facility when exercising your rights.

3. You have the right to have a person appointed to act on your behalf. The facility must have the appointed person's address and phone number.

4. You have the right to your records. You may purchase photocopies of your records, and the cost cannot exceed standards for photocopying. The facility must provide the photocopies within two working days after your request.

5. You have the right to be fully informed of your health status and medical care.

6. You have the right to refuse treatment or participation in experimental research. If you refuse treatment, you must be informed of the results plus any available alternatives.

7. You have the right to formulate a durable power of attorney for health care as provided in SDCL chapter 59-7-2.1 and a living will declaration as provided in SDCL chapter 34-12D.

8. You have the right to receive visitors. Visiting hours and policies must permit and encourage visits from your friends and relatives.

Providing information on available services

A long term care facility must provide information about available services. A long term care facility must provide you with the following information in writing:

1. A list of services available and charges for the services.

2. A description of how a resident can protect personal funds, including the right to apply for Medicaid.

3. A list of client advocate names, addresses and telephone numbers. Client advocates are agencies responsible for the protection and advocacy of patients and residents. For residents of assisted living communities, the State Ombudsman is the client advocate. (Chapter 44:04:01:01)

4. A description of how to file a complaint with the Department of Health concerning abuse, neglect, exploitation and the misuse of property.

5. A description of how you can contact your physician, including the physician's name and specialty.

6. A description of how you can apply for and use Medicare and Medicaid benefits, plus the addresses and phone numbers of the nearest Department of Social Services and Social Security offices.

7. A description of the bed-hold policy which indicates the length of time your bed will be held, policies regarding the held bed and your readmission rights.

8. A description explaining the responsibilities of the resident and family members regarding self-administered medications.

A signed and dated admissions agreement between you or your legal representative and the long term care facility must include this entire section.

The agreement must be completed before or at the time of admission and before you have made a commitment for payment. The agreement may not include unclear or misleading information and may not be in conflict with this chapter. The agreement must be printed so you can read it. If the agreement exceeds three pages, it must contain a table of contents or an index of sections. You must be provided with any changes.

Resident Condition Changes

A long term care facility must notify you when your condition changes. A facility must inform you, consult with your physician and, if known, notify your legal representative or interested family member when any of the following occurs:

1. You were injured in an accident and may potentially require a physician.

2. Your physical, mental or psychosocial status changes significantly.

3. Your treatment needs altered significantly.

4. The facility decides to transfer or discharge you.

Change in room assignment or rights

A long term care facility must notify you about changes in your room assignment or rights. A facility must promptly notify you and, if known, your legal representative or interested family member when there has been a change in your room or roommate assignment or your rights.

Right to manage financial affairs

You have the right to manage your personal financial affairs. A facility may not require residents to deposit their personal funds with the facility. If you choose to deposit funds with the facility and give written authorization, the facility must hold the funds in accordance with SDCL 34-12-15.1 to 34-12-15.10, inclusive.

Choice in care planning

You can help plan your care. You may choose a personal attending physician. You also have the right to be informed in advance about care and treatment and of any changes that may affect your well-being, and unless you are incompetent or otherwise found to be incapacitated under state law, you may participate in planning care and treatment, or changes in care or treatment.

Cross-References:

a Right to choose own physician unimpaired by public health programs – Misdemeanor – SDCL 34-1-20.

a Rights of authorized person as incapacitated person – SDCL 34-12C-6.

a Liability of health care provider – Liability of authorized decision maker – SDCL 34-12C-7.

Privacy and confidentiality

You have the right to privacy and confidentiality in a long term care facility. This includes your accommodations, medical treatment, written and telephone communications, personal care, visits and meetings with family and resident groups. Facilities are not required to provide a private room for each resident. A facility must permit you to:

1. Send and receive mail and purchase stationery, postage and writing instruments.

2. Use a telephone without being overheard.

3. Visit your spouse, if you are married. If you and your spouse live in the same facility, you have a right to share the same room, if both of you agree to it.

4. Close your door and require others to knock before entering, except in an emergency.

5. Have only authorized staff present during treatment or activities of personal hygiene.

6. Retire and rise when you wish.

7. Meet with people in a private setting within the facility.

8. Participate in social, religious and community activities that do not interfere with the rights of other residents.

9. Approve or refuse the release of your personal and medical records to anyone outside the facility, except when you are transferred or when the release of your records are required by law. With your permission, the state ombudsman or a representative of the ombudsman are allowed access to your medical records.

Quality of life

You are entitled to quality of life. A facility must provide care and an environment that contributes to your quality of life including:

1. A safe, clean, comfortable and home-like environment.

2. Maintenance or enhancement of your ability to preserve individuality, exercise self-determination and control every day physical needs.

3. Freedom from physical or chemical restraints used for purposes of discipline or convenience.

4. Freedom from theft of personal property; verbal, sexual, physical or mental abuse; and involuntary seclusion, neglect or exploitation imposed by anyone.

5. Use of your personal possessions, including furnishings and clothing, as space permits, unless to do so would infringe upon the rights, health and safety of other residents.

Grievances

You may voice grievances without discrimination or reprisal. Your grievance may be in writing or oral and may relate to treatment, behavior of other residents or infringement of your rights. A long term care facility must adopt a grievance process and make the process known to you and your immediate family. The grievance process must include the facility's efforts to resolve the grievance, documentation of the grievance, names of the people involved, nature of the matter and the date.

Availability of survey results

You may examine the Department of Health's most recent survey results of your long term care facility and any plan of correction in effect. A facility must make this information available to residents plus the survey conducted by the United States Department of Health and Human Services and any plans of correction in effect, if applicable. You may request this information from client advocates and be allowed to contact these agencies. South Dakota Nursing Facility Survey Reports are also available online at http://doh.sd.gov/survey/default.aspx

Right to refuse to perform services

You have the right to refuse to perform services. You may refuse to perform services, unless you agreed to otherwise in your plan of care. You may perform services for the facility when the following conditions are met:

1. The plan of care includes documentation of the need or desire for work.

2. The nature of the services performed is specified, including whether the services are voluntary or paid.

3. Compensation for paid services is at or above prevailing rates.

4. You agree to the work arrangement.

Self-administration of drugs

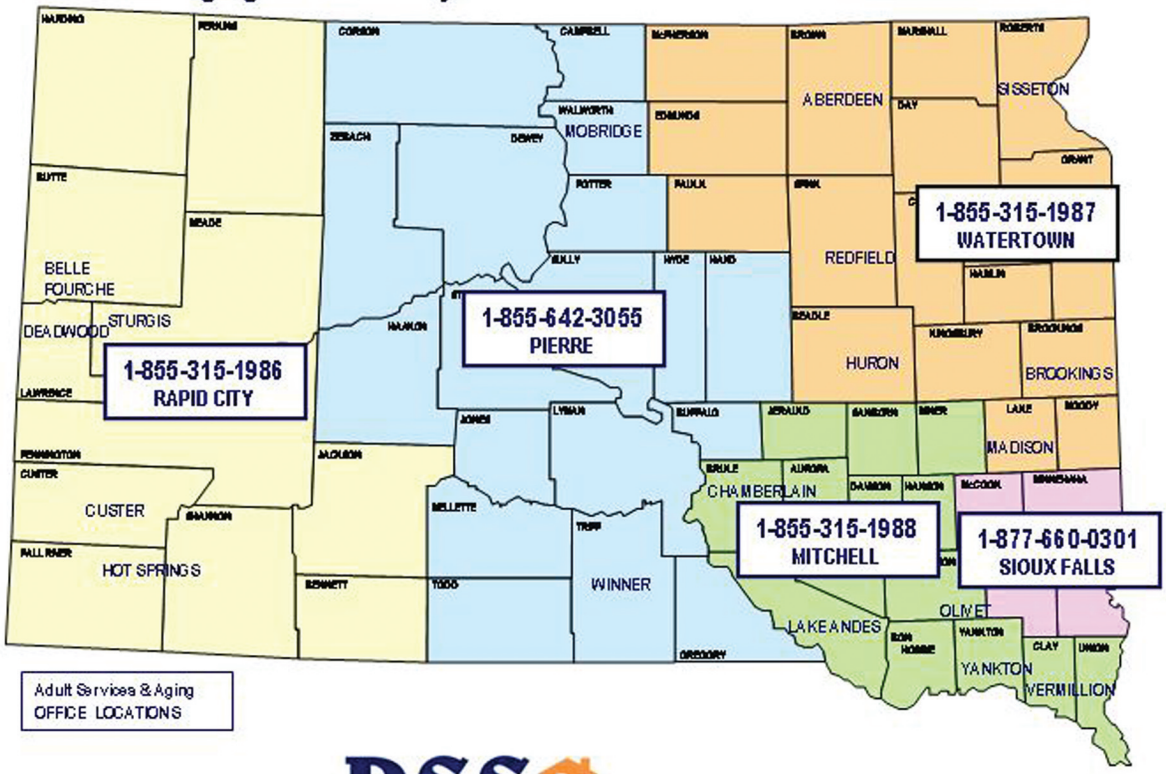
Self-administration of drugs. A resident may self-administer drugs if the registered nurse (if applicable), physician and pharmacist have determined the practice to be safe.

Admission, transfer and discharge policies

Admission, transfer and discharge policies. A long term care facility must establish and maintain policies and practices for admission, discharge and transfer of residents which prohibit discrimination based upon payment source and which are made known to residents at or before the time of admission. The policies and practices must include:

1. You may remain in the facility and not be transferred or discharged unless: your needs and welfare cannot be met by the facility; you no longer need the services; you endanger the safety or health of others; you have failed to pay for allowable billed services as agreed to; or the facility ceases to operate.

Aging and Disability Resource Connections Call Centers



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