



**Lieutenant Governor's  
Office on Aging**

South Carolina Long Term Care Ombudsman Program

**Resident's Rights**

In

**Long Term Care Facilities**

**A Consumer's Guide to Resident's Rights**

**A** Long Term Care Ombudsman serves as the advocate for residents in long term care facilities. They investigate complaints and negotiate on the residents' behalf to resolve complaints to the residents' satisfaction. This is the only program of its kind that is totally devoted to the concerns of facility residents.

The Long Term Care Ombudsman Program is governed by the federal Older Americans Act. The South Carolina Lieutenant Governor's Office on Aging administers the statewide Long Term Care Ombudsman Program through ten regional offices located throughout the state. There is no charge for services provided by the Ombudsman Program.

The complete federal regulations for the rights of Older Americans can be found by searching the *Omnibus Budget Reconciliation Act of 1987*, entitled:

**CFR Title 42 (Public Health), Volume 3  
Chapter 4, Part 483**

*"The rights of every person are diminished when the rights of one are threatened."*

*-John F. Kennedy*

## CFR Title 42: Vol. 3, Chapter 4; Part 483

### **RESIDENT'S RIGHTS: PROMOTING THE RIGHTS OF LONG TERM CARE RESIDENTS**

**T**he Nursing Home Reform Amendments of OBRA 1987 require that nursing facilities “promote and protect the rights of each resident.” The resident’s rights must be displayed in the nursing facility along with a contact number for the state’s Long Term Care Ombudsman.

#### **THE GENERAL GOALS OF THE LAW**

- 1.) **Quality of Life:** The law requires long term care facilities to “care for the residents and provide an environment that will promote maintenance or enhancement of the life of each resident. An emphasis is placed on dignity, choice and self-determination for nursing facility residents.”
- 2.) **Provision of Services and Activities:** The law requires each long term care facility to “provide services and activities that will result in or maintain the highest level of practical physical, mental and psychosocial well-being of each resident in accordance with a written plan or care which...is initially prepared, with participation to the extent that is practical of the resident or the resident’s legal representative.

- 3.) **Participation in Facility Administration:** The law makes “resident and advocate participation” a criteria for assessing a facility’s compliance with administration requirements.
- 4.) **Assuring Access to the Ombudsman Program:** The law grants immediate access by ombudsmen to residents and reasonable access, in accordance with state law, by ombudsman to records. It also requires facilities to inform residents how to contact the ombudsmen to voice complaints or in the event of a transfer or discharge from the facility. State agencies are also required, by this law, to share inspection results with ombudsmen.

#### **SPECIFIC RESIDENT’S RIGHTS**

##### **1.) Rights to Self-Determination**

*Residents have the right:*

- a. To choose their personal physician;
- b. To full information, in advance, and participation in planning and making any changes in their care and treatment;
- c. To reside and receive services with reasonable accommodation by the facility of the individual needs and preferences;
  - i. To voice grievances about care or treatment they do or do not receive without discrimination or reprisal, and to receive prompt responses from the facility; and

- ii. To organize and participate in resident groups (and their families have the right to organize family groups) in the facility.

## 2.) Personal and Privacy Rights

*Residents have the right:*

- a. To participate in social, religious and community activities as they choose;
- b. To privacy in medical treatment, accommodations, personal visits, written and telephone conversations and meetings of resident and family groups; and
- c. To confidentiality of personal and clinical records.

## 3.) Rights Regarding Abuse and Restraints

*Resident's have the right:*

- a. To be free from physical or mental abuse, corporal punishment, involuntary seclusion or disciplinary use of restraints;
- b. To be free of restraints used for the convenience of the staff rather than the well-being of the residents;
- c. To have restraints used only under written physician's orders to treat a resident's medical symptoms and to ensure his/her safety and the safety of others; and
- d. To be given psychopharmacologic medication only as ordered by a physician as a part of a written plan of care for a specific medical symptom, with annual review for

appropriateness by an independent, external expert.

## 4.) Rights to Information

*Long Term Care Facilities Must:*

- a. Upon request provide residents with the latest inspection results and any plan of correction submitted by the facility;
- b. Notify residents in advance of any plans to change their rooms or roommate;
- c. Inform residents of their rights upon admission and provide a written copy of the rights, including their rights regarding personal funds and their right to file a complaint with the state survey agency;
- d. Inform residents in writing, at admission and throughout their stay, of the services available under the basic rate and of any extra charges for extra services, including, for Medicaid residents, a list of services covered by Medicaid and those for which there is an extra charge; and
- e. Prominently display and provide oral and written information for residents about how to apply for and use Medicaid benefits and how to receive a refund for previous private payments that Medicaid will pay retroactively.

## 5.) Rights to Visits

### *Long Term Care Facilities Must:*

- a. Permit immediate visits by a resident's personal physician;
- b. Permit immediate visits by representatives from the licensing agency and the Ombudsman Program;
- c. Permit immediate visits by a resident's relatives; with the resident's consent;
- d. Permit visits "subject to reasonable restriction" for others who visit with the resident's consent; and
- e. Permit ombudsmen to review resident's clinical records if a resident grants permission.

## 6.) Transfer and Discharge Rights: Long Term Care Facilities "must permit each resident to remain in the facility and must not transfer or discharge the resident unless:"

- a. The transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met by the facility;
- b. Appropriate because the resident's health has improved such that the resident no longer needs nursing home care;
- c. The health or safety of other residents is endangered; or
- d. The resident has failed, after reasonable notice, to pay an allowable facility charge for an item or service provided upon the resident request; and

- e. The facility ceases to operate.

## 7.) NOTICE MUST BE GIVEN TO RESIDENTS AND THEIR REPRESENTATIVES BEFORE TRANSFER:

- a. **Timing:** At least 30 days in advance, or as soon as possible if more immediate changes in health require more immediate transfer;
- b. **Content:** Reasons for transfer, the resident's right to appeal the transfer, and the name, address and phone number of the Ombudsman Program and protection and advocacy programs for mentally ill and developmentally disabled;
- c. **Returning to the Facility:** The right to request that a resident's bed be held, including information on about how many days Medicaid will pay for the bed to be held and the facilities bed-hold policies, and the right to return to the next available bed if Medicaid bed-holding coverage lapses.

## 8.) Protection of Personal Funds

### *Long Term Care Facilities Must:*

- a. Not require residents to deposit their personal funds with the facility; and
- b. If it accepts written responsibility for resident's funds:
  - i. Keep funds over \$50.00 in an interest bearing account, separate from the facility's account;
  - ii. Keep other funds available in a separate account or petty cash fund;

- iii. Keep a complete and separate accounting of each resident's funds, with a written record of all transactions, available for review by residents and their representatives;
- iv. Notify Medicaid residents when their balance account comes within \$200.00 of the Medicaid limit and the effect of this on their eligibility;
- v. Upon a resident's death, turn funds over to the resident's trustee;
- vi. Purchase a surety bond to secure residents' funds in its keeping; and
- vii. Do not charge a resident for any item or service covered by Medicaid, specifically including routine personal hygiene items and services.

**9.) Protection Against Medicaid Discrimination**

*Long Term Care Facilities Must:*

- a. Establish and maintain identical policies and practices regarding transfer, discharge and the provision of services required under Medicaid for all individuals regardless of source of payment;
- b. Not require residents to waive their rights to Medicaid, and must provide information about how to apply for Medicaid;
- c. Not require a third party to guarantee payment as a condition of admission or continued stay; and

- d. Not "charge, solicit, accept or receive" gifts, money, donations or "other consideration" as a precondition for admission or for continued stay for persons eligible for Medicaid.

**I**f you feel that your rights or the rights of someone you love are not being respected, please contact one of the agencies below to seek guidance and resolution.

**The South Carolina Department of Health & Environmental Control (SCDHEC)**

**Lieutenant Governor's Office on Aging  
State Long Term Care Ombudsman (SLTCOP)**

**Regional Long Term Care Ombudsman's Office**

**SCDHEC  
Department of Health Licensing  
(803) 545-4370  
Department of Certification**

**Lieutenant Governor's Office on Aging**



**SLTCOP  
(803)734-9900  
1-800-868-9095**

**Regional Long Term Care Ombudsman Offices:**

**Anderson, Cherokee, Greenville, Oconee, Pickens and  
Spartanburg Counties  
Appalachian Council of Governments  
864-242-9733**

**Abbeville, Edgefield, Greenwood, Laurens,  
McCormick and Saluda Counties  
Upper Savannah Council of Governments  
864-941-8070  
1-800-922-7729**

**Chester, Lancaster, York and Union Counties  
Catawba Area Agency on Aging  
803-329-9670  
1-800-662-8330**

**Fairfield, Lexington, Newberry and Richland  
Counties  
Central Midlands Council of Governments  
803-376-5389  
1-800-391-1185**

**Aiken, Allendale, Bamberg, Barnwell, Calhoun and  
Orangeburg Counties  
Lower Savannah Council of Governments  
803-649-7981  
1-866-845-1550**

**Clarendon, Kershaw, Lee and Sumter Counties  
Santee Lynches Council of Governments  
803-775-7381  
1-800-948-1042**

**Chesterfield, Darlington, Dillon, Florence, Marion  
and Marlboro Counties  
Vantage Point  
843-383-8632 ext. 106**

**Georgetown, Horry and Williamsburg Counties  
Waccamaw Regional Council of Governments  
843-546-8502  
1-800-569-1957**

**Berkeley, Charleston and Dorchester Counties  
Trident Area Agency on Aging  
843-554-2280  
843-554-2281  
1-800-864-6446**

**Beaufort, Colleton, Hampton and Jasper Counties  
Lowcountry Council of Governments  
843-726-5536  
843-524-2625**