

**Title 19—DEPARTMENT OF
HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation
and Licensure
Chapter 88—Resident’s Rights and
Handling Resident Funds and
Property in Long-Term Care
Facilities**

19 CSR 30-88.010 Resident Rights

PURPOSE: This rule establishes requirements for protection of resident rights in all types of licensed long-term care facilities.

PUBLISHER’S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

Editor’s Note: All rules relating to long-term care facilities licensed by the department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(1) The facility shall retain and make available for public inspection at the facility to facility personnel, residents, their next of kin, legal representatives or designees and the general public, a list of names, addresses and occupations of all individuals who have a property interest in the facility as well as a complete copy of each official notification from the Department of Health and Senior Services (the department) of violations, deficiencies, licensure approval, disapprovals, or a combination of these, and responses. This includes, as a minimum, statements of deficiencies, copies of plan(s) of correction, acceptance or rejection notice regarding the plan(s) of corrections and revisit inspection report. II/III

(2) Any notice of noncompliance shall be posted in a conspicuous location along with a copy of the most recent inspection reports, as required by section 198.026(6), RSMo. II/III

(3) A copy of the most current department rules governing the facility shall be kept available and easily accessible in the facility for review by residents, their next of kin, legally authorized representatives or designees, and the public. II/III

(4) Each resident admitted to the facility, or his or her next of kin, legally authorized representative or designee, shall be fully informed of the individual’s rights and responsibilities as a resident. These rights shall be reviewed annually with each resident, and/or his or her next of kin, legally authorized representative or designee, either in a group session or individually. II/III

(5) All incoming and present residents, or their next of kin, legally authorized representatives or designees in a facility shall be provided statements of resident rights and a copy of any facility policies which relate to resident conduct and responsibilities. Such information shall be provided in a manner which effectively communicates, in terms the resident can reasonably be expected to understand, those rights and responsibilities. II/III

(6) The facility shall document the disclosure of resident’s rights information as required in sections (4) and (5). III

(7) Information regarding resident rights and facility rules shall be posted in a conspicuous location in the facility and copies shall be provided to anyone requesting this information. Informational documents which contain, but are not limited to, updated information on selecting an Alzheimer’s special care unit or program shall be given by a facility offering to provide or providing these services to any person seeking information about or placement in an Alzheimer’s special care unit or program. III

(8) Prior to or at the time of admission and during his or her stay in the facility, each resident and/or his or her next of kin, legally authorized representative or designee shall be fully informed, in writing, of services available in the facility and of related charges, including any charges for services not covered by the facility’s basic per diem rate or federal or state programs. Information shall include procedures to be followed by the facility in cases of medical emergency, including transfer agreements and costs. All residents who receive treatment in an Alzheimer’s special care program or unit and their next of kin, legally authorized representatives or designees shall be given a copy of the Alzheimer’s Special Care Services Disclosure Form at the time of admission. Residents also shall be informed of services outside the facility which may reasonably be made available to the resident and of any reasonable estimate of any foreseeable costs connected with those services. II/III

(9) Prior to or upon admission, each prospective resident or each resident, or his or her next of kin, legally authorized representative or designee shall be informed of the home and community based services available in this state by providing such resident a copy of Missouri’s Guide to Home and Community Based Services (Revised 4/4/05), incorporated by reference, provided by the Missouri Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and which is available to long-term care facilities at www.ged.oa.mo.gov/PICServices/Pamphlet/index.shtml or by telephone at 1-800-235-5503. This rule does not incorporate any subsequent amendments or additions. III

(10) Prior to or upon admission and at least annually after that, each resident or his or her next of kin, legally authorized representatives or designees shall be informed of facility policies regarding provision of emergency and life-sustaining care, of an individual’s right to make treatment decisions for himself or herself and of state laws related to advance directives for health-care decision making. The annual discussion may be handled either on a group or on an individual basis. Residents’ next of kin, legally authorized representatives or designees shall be informed, upon request, regarding state laws related to advance directives for health-care decision making as well as the facility’s policies regarding the provision of emergency or life-sustaining medical care or treatment. If a resident has a written advance health-care directive, a copy shall be placed in the resident’s medical record and reviewed annually with the resident unless, in the interval, he or she has been determined incapacitated, in accordance with section 475.075 or 404.825, RSMo. Residents’ next of kin, legally authorized representatives or designees shall be contacted annually to assure their accessibility and understanding of the facility policies regarding emergency and life-sustaining care. II/III

(11) A physician shall fully inform each resident of his or her health and medical condition unless medically contraindicated. If the physician determines the resident’s medical condition contraindicates the resident being fully informed of his or her diagnosis, treatment or any known prognosis, the medical record shall contain documentation and justification of this signed by the physician. If there is a legally authorized representative to make health-care decisions, or the resident has designated any individual to have access, that person shall be fully informed of the resident’s medical condition and shall have free access to the resident’s medical records for that purpose, subject to the limitations provided by a power of attorney, duly-executed authorization or any federal law. I/II

(12) If the facility has a policy which requires that residents’ medications be bubble packed or otherwise individual dose packaged, the facility shall, prior to each resident’s admission, make such information available to the resident and/or his or her next of kin, legally authorized representatives, designees or placement authority. II/III

(13) Each resident shall be afforded the opportunity to participate in the planning of his or her total care and medical treatment, to refuse treatment and to participate in experimental research only upon his or her informed written consent. If a resident refuses treatment, this refusal shall be documented in the resident’s record and the resident, his or her legally authorized representatives or designees, or both, shall be informed of possible consequences of not receiving treatment. II

(14) Each resident shall have the privilege of selecting his or her own physician who will be responsible for the resident’s total care. I

(15) No resident shall be transferred or discharged except in the case of an emergency discharge unless the resident, and the next of kin, or a legally authorized representative or designee, and the resident’s attending physician and the responsible agency, if any, are notified at least thirty (30) days in advance of the transfer or discharge, and casework services or other means are utilized to assure that adequate arrangements exist for meeting the resident’s needs. In the event that there is no next of kin, legally authorized representative or designee known to the facility, the facility shall notify the appropriate regional coordinator of the Missouri State Ombudsman’s office. II

(16) A resident may be transferred or discharged only for medical reasons or for his or her welfare or that of other residents, or for nonpayment for his or her stay. II

(17) No resident may be discharged without full and adequate notice of his or her right to a hearing before the department’s Administrative Hearings Unit and an opportunity to be heard on the issue of whether his or her discharge is necessary. Such notice shall be given in writing no less than thirty (30) days in advance of the discharge except in the case of an emergency discharge and must comply with the requirements set forth in 19 CSR 30-82.050. II/III

(18) In emergency discharge situations the facility shall submit to the resident and his or her next of kin, legally authorized representative or designee a written notice of discharge. The written notice of discharge shall be given as soon as practicable and advise the resident of the right to request an expedited hearing. In the event that there is no next of kin, legally authorized representative or designee known to the facility, the facility shall send a copy of the notice to the appropriate regional coordinator of the Missouri State Ombudsman’s office. II/III

(19) A room transfer of a resident within a facility, except in an emergency situation, requires consultation with the resident as far ahead of time as possible and shall not be permitted where this transfer would result in any avoidable detriment to the resident’s physical, mental or emotional condition. II/III

(20) Each resident shall be encouraged and assisted, throughout his or her period of stay, to exercise his or her rights as a resident and as a citizen and to this end a resident may voice grievances and recommend changes in policies and services to facility personnel or to outside representatives of his or her choice. A staff person shall be designated to receive grievances and the residents shall be free to voice their complaints and recommendations to the staff designee, an ombudsman or to any person outside the facility. Residents shall be informed of and provided a viable format for recommending changes in policy and services. The facility shall assist residents in exercising their rights to vote. II/III

(21) The exercise of resident rights shall be free from restraint, interference, coercion, discrimination or reprisal. II/III

(22) Each resident shall be free from mental and physical abuse. I

(23) The resident has the right to be free from any physical or chemical restraint except as follows:

(A) When used to treat a specified medical symptom as a part of a total program of care to assist the resident to attain or maintain the highest practicable level of physical, mental or psychosocial well-being. The use of restraints must be authorized in writing by a physician for a specified period of time; or

(B) When necessary in an emergency to protect the resident from injury to himself or herself or to others, in which case restraints may be authorized by professional personnel so designated by the facility. The action taken shall be reported immediately to the resident’s physician and an order obtained which shall include the reason for the restraint, when the restraint may be removed, the type of restraint and any other actions required. When restraints are indicated, only devices that are the least restrictive for the resident and consistent with the resident’s total treatment program shall be used. I/II

(24) In a residential care facility or an assisted living facility, if it is ever necessary to use a restraint in case of emergency, the resident shall be reevaluated immediately for appropriateness of placement and transferred if necessary. II/III

(25) All information contained in a resident’s medical, personal or financial record and information concerning source of payment shall be held confidential. Facility personnel shall not discuss aspects of the resident’s record or care in front of persons not involved in the resident’s care or in front of other residents. Written consent of the resident or his or her legally authorized representative shall be required for the release of information to persons not otherwise authorized by law to receive it. II/III

(26) Each resident shall be treated with consideration, respect and full recognition of his or her dignity and individuality, including privacy in treatment and care of his or her personal needs. All persons, other than the attending physician, the facility personnel necessary for any treatment or personal care, or the department or Department of Mental Health staff, as appropriate, shall be excluded from observing the resident during any time of examination, treatment or care unless consent has been given by the resident. II/III

(27) No resident shall be required to perform services for the facility. If the resident desires and it is not contraindicated by his or her physician, the resident may perform tasks or services for himself or herself or others. II/III

(28) Each resident shall be permitted to communicate, associate and meet privately with persons of his or her choice whether on the resident’s initiative or the other person’s initiative, unless to do so would infringe upon the rights of other residents. The person(s) may visit, talk with and make personal, social or legal services available, inform residents of their rights and entitlements by means of distributing educational materials or discussions, assisting residents in asserting their legal rights regarding claims for public assistance, medical assistance and Social Security benefits and engaging in any other methods of assisting, advising and representing residents so as to extend to them the full enjoyment of their rights. The facility, however, may place reasonable limitations on solicitations. II/III

(29) The facility shall permit a resident to meet alone with a person or persons of his or her choice and provide an area which assures privacy. II/III

(30) Telephones appropriate to the residents’ needs shall be accessible at all times. Telephones available for residents’ use shall enable all residents to make and receive calls privately. II/III

(31) If the resident cannot open mail, written consent by the resident or his or her legally authorized representative shall be obtained to have all mail opened and read to the resident. II/III

(32) Each resident shall be permitted to participate, as well as not participate, in activities of social, religious or community groups at his/her discretion, both within the facility, as well as outside the facility, unless contraindicated for reasons documented by physician in the resident’s medical record. II/III

(33) Each resident shall be permitted to retain and use personal clothing and possessions as space permits. Personal possessions may include furniture and decorations in accordance with the facility’s policies and shall not create a fire hazard. The facility shall maintain a record of any personal items accompanying the resident upon admission to the facility, or which are brought to the resident during his or her stay in the facility, which are to be returned to the resident or responsible party upon discharge, transfer or death. II/III

(34) Each married resident shall be assured privacy for visits by his or her spouse. II/III

(35) If both husband and wife are residents, they shall be allowed the choice of sharing or not sharing a room. III

(36) If siblings and/or a parent and his or her child are both residents, the facility shall allow the family members the choice of sharing or not sharing a room upon availability of room(s) appropriate to accommodate the residents. III

(37) Each resident shall be allowed the option of purchasing or renting goods or services not included in the per diem or monthly rate from a supplier of his or her own choice, provided the quality of goods or services meets the reasonable standards of the facility. Each resident shall be allowed the option of purchasing his or her medications from a pharmacy of his or her choice, provided the quality of the medications and packaging meets reasonable standards of the facility.

(38) Residents shall not have their personal lives regulated or controlled beyond reasonable adherence to meal schedules and other written policies which may be necessary for the orderly management of the facility and the personal safety of the residents. II

(39) All written accounts of the resident’s funds shall be brought current monthly and a written statement showing the current balance and all transactions shall be given to the resident, or his or her next of kin, legally authorized representative or designee on a quarterly basis and upon request. The facility shall keep written receipts of all personal possessions and all funds received by or deposited with the facility and all disbursements made to or on behalf of the resident and shall disclose such receipts to the resident, and/or his or her next of kin, legally authorized representative or designee upon request. II/III

(40) The resident, or his or her next of kin, legally authorized representative or designee shall receive an itemized bill for all goods and services actually rendered. No later than thirty (30) days after the discharge or death of a resident, the operator of the facility shall submit a final itemized bill for all goods and services rendered, showing any credit balances accruing on the date of discharge or death of the resident, and a complete account of the resident’s remaining funds with the facility, in any account, with whatever title the account(s) may be known, to the resident’s guardian, conservator, fiduciary of the resident’s estate or the individual who was designated to receive the quarterly accounting of all financial transactions made. II/III

AUTHORITY: sections 198.009, 198.076, 198.079 and 198.088, RSMo 2000 and 198.005, 198.073, 660.050 and 660.060, RSMo Supp. 2006. This rule originally filed as 13 CSR 15-18.010. Original rule filed July 13, 1983, effective Oct. 13, 1983. Amended: Filed Sept. 12, 1984, effective Dec. 13, 1984. Amended: Filed Jan. 3, 1992, effective Aug. 6, 1992. Amended: Feb. 13, 1998, effective Sept. 30, 1998. Moved to 19 CSR 30-88.010, effective Aug. 28, 2001. Amended: Filed March 1, 2004, effective Oct. 30, 2004. Amended: Filed Dec. 15, 2005, effective July 30, 2006. Amended: Filed Aug. 23, 2006, effective April 30, 2007.*

**Original authority: 198.005, RSMo 2006; 198.009, RSMo 1979, amended 1993, 1995; 198.073, RSMo 1979, amended 1984, 1992, 1999, 2006; 198.076, RSMo 1979, amended 1984; 198.079, RSMo 1979; 198.088, RSMo 1979, amended 1988, 1989, 1994; 660.050, RSMo 1984, amended 1988, 1992, 1993, 1994, 1995, 2001 and 660.060, RSMo 2001.*