

**44:04:17:02. Facility to inform resident of rights.** Prior to or at the time of admission, a facility must inform the resident, both orally and in writing, of the resident's rights and of the rules governing the resident's conduct and responsibilities while living in the facility. The resident must acknowledge in writing that the resident received the information. During the resident's stay the facility must notify the resident, both orally and in writing, of any changes to the original information. The information must contain the following:

(1) The resident's right to exercise the resident's rights as a resident of the facility and as a citizen of the United States;

(2) The resident's right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising the resident's rights;

(3) The resident's right to have a person appointed to act on the resident's behalf. If a resident has been adjudged incompetent or incapacitated, the resident's rights shall be exercised by the person appointed under state law to act on the resident's behalf. If a resident has not been adjudged to be incompetent or incapacitated, the resident's rights may be exercised by the legal surrogate recognized under state law, whether statutory or as recognized by the courts of the state to act on the resident's behalf. The facility must record and keep up to date the appointed person's address and phone number;

(4) The resident's right to access records pertaining to the resident. The resident may purchase photocopies of the resident's records or any portions of them. The cost to the resident may not exceed community standards for photocopying, and the facility must provide the photocopies within two working days after the request;

(5) The resident's right to be fully informed of the resident's total health status, including functional status, medical care, nursing care, nutritional status, rehabilitation and restorative potential, activities potential, cognitive status, oral health, psychosocial status, and sensory and physical impairments;

(6) The resident's right to refuse treatment and to refuse to participate in experimental research. A resident's right to refuse treatment does not absolve a facility from responsibility to provide for necessary medical services and treatment. Residents who refuse treatment must be informed of the results of that refusal, plus any alternatives that may be available;

(7) The resident's right to formulate a durable power of attorney for health care as provided in SDCL chapter 59-7 and a living will declaration as provided in SDCL chapter 34-12D; and

(8) The resident's right to receive visitors. Visiting hours and policies of the facility must permit and encourage the visiting of residents by friends and relatives.

**Source:** SL 1975, ch 16, § 1; 6 SDR 93, effective July 1, 1980; 14 SDR 81, effective December 10, 1987; 19 SDR 95, effective January 7, 1993; subdivision (8) transferred from § 44:04:12:03, 22 SDR 70, effective November 19, 1995; 27 SDR 59, effective December 17, 2000.

**General Authority:** SDCL 34-12-13.

**Law Implemented:** SDCL 34-12-13.

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