Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1109
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-10.2-02 of the North Dakota Century Code, relating to health care facility residents' rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-10.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-10.2-02. Residents' rights - Implementation.

1. All facilities shall, upon a resident's admission, provide in hand to the resident and a member of the resident's immediate family or any existing legal guardian of the resident a statement of the resident's rights while living in the facility. Within thirty days after admission, the statement must be orally explained to the resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident, and thereafter annually so long as the resident remains in the facility. The statement must include rights, responsibilities of both the resident and the facility, and rules governing resident conduct. Facilities shall treat residents in accordance with provisions of the statement. The statement must include provisions ensuring each resident the following minimum rights:

   a. The right to civil and religious liberties, including knowledge of available choices, the right to independent personal decisions without infringement, and the right to encouragement and assistance from the staff of the facility to promote the fullest possible exercise of these rights.

   b. The right to have private meetings, associations, and communications with any person of the resident's choice within the facility.

   c. The right of each resident, the resident's immediate family, any existing legal guardian of the resident, friends, facility staff, and other persons to present complaints on the behalf of the resident to the facility's staff, the facility's administrator, governmental officials, or to any other person, without fear of reprisal, interference, coercion, discrimination, or restraint. The facility shall adopt a grievance process and make the process known to each resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident. An individual making a complaint in good faith is immune from any civil liability that otherwise might result from making the complaint.

   d. The right to send and receive unopened personal mail and the right of access to and use of telephones for private conversations.

   e. The right to assured private visits by one's spouse, or if both are residents of the same facility, the right to share a room, within the capacity of the facility, unless sharing a room is not medically advisable as documented in the medical records by the attending physician.

   f. The right to manage one's own financial affairs if not under legal guardianship, or to delegate that responsibility in writing to the administrator or manager of the facility, but only to the extent of funds held in trust by the facility for the resident. If such a trust is

established, then a written quarterly accounting of any transactions made on behalf of the resident must be furnished along with an explanation by the facility to the resident or the person legally responsible for the resident.

g. The right to be fully informed in writing prior to or at the time of admission and during one's stay, of services provided and the charges for those services, including ancillary charges. Residents, or their legal guardians, must be informed at least thirty days prior to any change in the costs or availability of the services. No facility may demand or receive any advance payment or gratuity to assure admission.

h. The right to be adequately informed of one's medical condition and proposed treatment and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, to be discharged from the facility upon written request, and to be notified by the resident's attending physician of the medical consequences of any such actions.

i. The right to have privacy in treatment and in caring for personal needs, to use personal belongings, to have security in storing and using personal possessions, and to have confidentiality in the treatment of personal and medical records. The resident has the right to view, and authorize release of, any personal or medical records.

j. The right to be treated courteously, fairly, and with the fullest measure of dignity.

k. The right to be free from mental and physical abuse and the right to be free from physical or chemical restraint except in documented emergencies or when necessary to protect the resident from injury to self or to others. In such cases, the restraint must be authorized and documented by a physician for a limited period of time and, if the restraint is a chemical one, it must be administered by a licensed nurse or physician. Except as provided in this subdivision, drugs or physical restraints may not be used or threatened to be used for the purposes of punishment, for the convenience of staff, for behavior conditioning, as a substitute for rehabilitation or treatment, or for any other purpose not part of an approved treatment plan.

l. The right not to be transferred or discharged except for:

(1) Medical reasons;

(2) The resident's welfare or that of other residents; ~~or~~

(3) Nonpayment of one's rent or fees~~.~~

~~Residents may be temporarily transferred~~; or

(4) A temporary transfer during times of remodeling.

m. The right to receive at least a thirty-day written advance notice of any transfer or discharge when the resident is being discharged to another facility or the resident's own home, or when the resident is being transferred or discharged because of a change in the resident's level of care; ~~and the right to receive~~however, advance notice of transfer or discharge ~~under all other circumstances to the extent not prohibited by sound medical reasons, or incompatibility which affects a resident's welfare or that of another resident~~may be less than thirty days if the resident has urgent medical needs that require a more immediate transfer or discharge, or a more immediate transfer or discharge is required to protect the health and safety of residents and staff within the facility.

n. The right to refuse to perform services on behalf of the facility, unless agreed to by the resident or legal guardian and established in the plan of care.

o. The right to a claim for relief against a facility for any violation of rights guaranteed under this chapter.

p. The right to have each facility display a notice that the following information is available for public review and make the information available on request:

(1) A complete copy of every inspection report, deficiency report, and plan of correction the facility received during the previous two years.

(2) The facility's grievance process.

(3) A copy of the statement of ownership, board membership, and partners.

(4) A statement of ownership setting forth any conflict of interest in the operation of the facility.

q. The right to a pharmacist of the resident's choice irrespective of the type of medication distribution system used by the facility.

r. The right to not be discriminated against by a facility in the admissions process or in the provision of appropriate care on the basis of the resident's source of payment to the facility. Any applicant for admission to a facility who is denied admission must be given the reason for the denial in writing upon request.

s. The right of residents and their families to organize, maintain, and participate in resident advisory and family councils.

t. The right of residents receiving services performed by a provider from outside the facility to be informed, on request, of the identity of the provider.

2. Waiver of any of the rights guaranteed by this chapter may not be made a condition of admission to a facility.

3. Each facility shall prepare a written plan and provide staff training to implement this chapter.

4. ~~The department shall hold open meetings at least once every two years in each region established by the governor's executive order 1978-12 dated October 5, 1978, having a facility, to advise and to facilitate communication and cooperation between facility personnel and the residents in their mutual efforts to improve resident care; and to document concerns and issues needing to be addressed. Appropriate advance notice must be given.~~

~~5.~~ The department shall develop and coordinate with the facility licensing and regulatory agencies a relocation plan in the event a facility is decertified or unlicensed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1109.

House Vote:	Yeas 93	Nays 0	Absent 1
Senate Vote:	Yeas 47	Nays 0	Absent 0

Chief Clerk of the House

Received by the Governor at 9:13 A.M. on March 24, 2015.

Approved at 2:18 P.M. on March 25, 2015.

Governor

Filed in this office this 25th day of March, 2015,

at 3:45 o'clock P. M.

Secretary of State