

**481—62.23(135C) Residents' rights in general.**

**62.23(1)** Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, all of the following provisions (subrules 62.23(2) to 62.23(22)) and which govern all areas of service provided to staff, residents, their families or legal representatives and shall be available to the public and shall be reviewed annually. (II)

**62.23(2)** Grievances. Written policies and procedures shall include a method for submitting grievances and recommendations by residents or their responsible party and for ensuring a response and disposition by the facility. The written procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

*a.* An employee or an alternate designated to be responsible for handling grievances and recommendations; (II) and

*b.* Methods to investigate and assess the validity of a grievance or recommendation, resolve grievances, and take action. (II)

**62.23(3)** Informed of rights. Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission, or in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies and be posted in locations accessible to all residents. (II)

*a.* The facility shall make known to residents what they may expect from the facility and its staff, and what is expected from residents. The facility shall communicate these expectations during the period of not more than two weeks before or five days after admission. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following admission. (II)

*b.* Resident's rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are not English-speaking or are deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities and these questions shall be answered. (II)

*c.* A statement shall be signed by the resident and legal guardian, if applicable, indicating an understanding of these rights and responsibilities, and the statement shall be maintained in the record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or legal guardian. (II)

*d.* All residents, next of kin, or legal guardian shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be used to inform non-English-speaking, deaf or blind residents of changes. (II)

**62.23(4)** Informed of health condition. Each resident or legal guardian shall be fully informed by a physician of the resident's health and medical condition unless medically contraindicated as documented by a physician in the resident's record. (II)

**62.23(5)** Research. The resident or legal guardian shall make the decision as whether to participate in experimental research and then only upon written informed consent. (II, III)

Any clinical investigation involving residents must be under the sponsorship of an institution with a human subjects review board functioning in accordance with the requirement of Public Law 93-348, as implemented by Part 46 of Title 45 of the Code of Federal Regulations, as amended to December 1, 1981 (45 CFR 46). (III)

**62.23(6)** Resident work. Services performed by the resident for the facility shall be in accordance with the IPP. (II)

*a.* Residents shall not be used to provide a source of labor for the facility against the resident's will. Physician's approval is required for all work programs and must be renewed yearly. (II, III)

*b.* If the individual program plan requires activities for therapeutic or training reasons, the plan for these activities must be professionally developed and implemented. Therapeutic or training goals must be clearly stated and measurable and the plan shall be time-limited and reviewed at least quarterly. (II)

*c.* A resident engaged in work programs in the RCF/PMI shall be paid wages commensurate with wage and hour regulations for comparable work and productivity. (II)

*d.* The resident shall have the right to employment options commensurate with training and skills. (II)

**62.23(7)** Residents performing work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

**62.23(8)** Encouragement to exercise rights. Each resident shall be encouraged and assisted throughout the resident's period of stay, to exercise resident and citizen rights and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

**62.23(9)** Posting of names. The facility shall post in a prominent area the name, telephone number, and address of the long-term care resident's advocate/ombudsman, survey agency, local law enforcement agency, care review committee members, Iowa Protection and Advocacy Services, Inc., and text of Iowa Code section 135C.46, to provide to residents another course of redress. (II)

**62.23(10)** Dignity preserved. Each resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care of personal needs. (II)

*a.* Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of the individuality and dignity of human beings. (II)

*b.* Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping, eating, and times to retire at night and arise in the morning shall be elicited and considered by the facility. The facility shall make every effort to match nonsmokers with other nonsmokers. (II)

*c.* Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

*d.* Privacy for each person shall be maintained when residents are being taken to the toilet or being bathed and while they are being helped with other types of personal hygiene, except as needed for resident safety or assistance. (II)

*e.* Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This does not apply under emergency conditions. (II)

**62.23(11)** Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents. Each resident may send and receive personal mail unopened unless prohibited in the IPP which has explicit approval of the resident or legal guardian. (II)

**62.23(12)** Visiting hours. Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

*a.* Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

- (1) The resident refuses to see the visitor(s). (II)
- (2) The visit would not be in accordance with the IPP. (II)
- (3) The visitor's behavior is unreasonably disruptive to the functioning of the facility.

Reasons for denial of visitation shall be documented in the resident's records. (II)

*b.* Decisions to restrict a visitor are reevaluated at least quarterly by the QMHP or at the resident's request. (II)

**62.23(13)** Privacy. Space shall be provided for residents to receive visitors in comfort and privacy. (II)

**62.23(14)** Telephone calls. Telephones consistent with ANSI standards 42 CFR 405.1134(c) (10-1-86) shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

**62.23(15)** Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

**62.23(16)** Residents shall be permitted to leave the facility and environs at reasonable times unless there are justifiable reasons established in writing by the attending physician, QMHP, or facility administrator for refusing permission. (II)

**62.23(17)** Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules; however, residents shall be encouraged to participate in recreational programs. (II)

**62.23(18)** Resident activities. Each resident may participate in activities of social, religious, and community groups as desired unless contraindicated for reasons documented by the attending physician or qualified mental health professional, as appropriate, in the resident's record. (II)

Residents who wish to meet with or participate in activities of social, religious or community groups in or outside the facility shall be informed, encouraged, and assisted to do so. (II)

**62.23(19)** Resident property. Each resident may retain and use personal clothing and possessions as space permits and provided use is not otherwise prohibited in these rules. (II)

*a.* Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The personal property shall be kept in a secure location which is convenient to the resident. (II)

*b.* Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry. (II)

*c.* Any personal clothing or possessions retained by the facility for the resident shall be identified and recorded on admission and the record placed on the resident's chart. The facility shall be responsible for secure storage of items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

*d.* A resident's personal property shall not be used without the written consent of the resident or the resident's guardian. (II)

*e.* A resident's personal property shall be returned to the resident when it has been used without the written consent of the resident or the resident's guardian. The department may report findings that a resident's property has been used without written consent to the local law enforcement agency, as appropriate. (II)

**62.23(20)** Sharing rooms. Residents, including spouses staying in the same facility, shall be permitted to share a room, if available, if requested by both parties, unless contraindicated in the IPP and when the reasons for denial are documented in the resident's record. (II)

**62.23(21)** Choice of physician and pharmacy. Each resident shall be permitted free choice of a physician and a pharmacy. The facility may require the pharmacy selected to use a drug distribution system compatible with the system currently used by the facility. (II)

**62.23(22)** Incompetent residents.

*a.* Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's legal guardian when a resident is adjudicated incompetent in accordance with state law or, in the case of a resident who has not been adjudicated incompetent under the laws of the state, in accordance with 42 CFR 483.10. This paragraph is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II)

*b.* The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the legal guardian, if any, and acquire a statement indicating an understanding of resident's rights. (II)

**62.23(23)** Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from physical, sexual, mental and verbal abuse, exploitation, and physical injury. (I, II)

**62.23(24)** Upon a claim of dependent adult abuse of a resident being reported, the administrator of the facility shall separate the victim and accused abuser immediately and maintain the separation until the abuse investigation is completed. (I, II)

**62.23(25)** Pursuant to Iowa Code chapter 235B, a mandatory reporter of dependent adult abuse is any person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse. This includes a member of the staff or employee of a health care facility. (II, III)

If a staff member or employee is required to report pursuant to this subrule, the staff member or employee shall immediately notify the person in charge of the facility or the person's designated agent, and the person in charge or the designated agent shall make the report to the department of human services. (II, III)

This rule is intended to implement Iowa Code sections 135C.14(8) and 135C.24.