

HOUSE BILL 229

Introduced by Harrington, et al.

1/19	Introduced
1/19	Referred to Human Services & Aging
1/19	First Reading
2/03	Hearing
2/25	Missed Transmittal Deadline

1 House BILL NO. 229  
 2 INTRODUCED BY Harry M. Mendenhall  
 3 Carl W. Weyer  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GIVING A RESIDENT OF A  
 5 LONG-TERM CARE FACILITY THE RIGHT TO CHOOSE A PHARMACY; AND  
 6 AMENDING SECTION 50-5-1104, MCA."  
 7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 **Section 1.** Section 50-5-1104, MCA, is amended to read:

10 "50-5-1104. Rights of long-term care facility  
 11 residents. (1) The state adopts by reference for all  
 12 long-term care facilities the rights for long-term care  
 13 facility residents applied by the federal government to  
 14 facilities that provide skilled nursing care or intermediate  
 15 nursing care and participate in a medicaid or medicare  
 16 program (42 U.S.C. 1395x(j) and 1396d(c), as implemented by  
 17 regulation).

18 (2) In addition to the rights adopted under subsection  
 19 (1), the state adopts for all residents of long-term care  
 20 facilities the following rights:

21 (a) A resident or his the resident's authorized  
 22 representative must be informed by the facility at least 30  
 23 days in advance of any changes in the cost or availability  
 24 of services, unless to do so is beyond the facility's  
 25 control.

1 (b) Regardless of the source of payment, each resident  
 2 or his the resident's authorized representative is entitled,  
 3 upon request, to receive and examine an explanation of his  
 4 the resident's monthly bill.

5 (c) Residents have the right to organize, maintain, and  
 6 participate in resident advisory councils. The facility  
 7 shall afford reasonable privacy and facility space for the  
 8 meetings of the councils.

9 (d) A resident has the right to present a grievance on  
 10 his the resident's own behalf or that of others to the  
 11 facility or the resident advisory council. The facility  
 12 shall establish written procedures for receiving, handling,  
 13 and informing residents or the resident advisory council of  
 14 the outcome of any grievance presented.

15 (e) A resident has the right to ask a state agency or a  
 16 resident advocate for assistance in resolving grievances,  
 17 free from restraint, interference, or reprisal.

18 (f) During his a resident's stay in a long-term care  
 19 facility, a resident retains the prerogative to exercise  
 20 decisionmaking rights in all aspects of his health care,  
 21 including placement and treatment issues such as medication,  
 22 special diets, or other medical regimens.

23 (g) The resident's authorized representative must be  
 24 notified in a prompt manner of any significant accident,  
 25 unexplained absence, or significant change in the resident's

1 health status.

2 (h) A resident has the right to be free from verbal,  
3 mental, and physical abuse, neglect, or financial  
4 exploitation. Facility staff shall report to the department  
5 and the long-term care ombudsman any suspected incidents of  
6 abuse under the Montana Elder and Developmentally Disabled  
7 Abuse Prevention Act, Title 52, chapter 3, part 8.

8 (i) Each resident has the right to privacy in his the  
9 resident's room or portion of the room. If a resident is  
10 seeking privacy in his the resident's room, staff members  
11 should make reasonable efforts to make their presence known  
12 when entering the room.

13 (j) In case of involuntary transfer or discharge, a  
14 resident has the right to reasonable advance notice to  
15 ensure an orderly transfer or discharge. Reasonable advance  
16 notice requires at least 21 days' written notification of  
17 any interfacility transfer or discharge except in cases of  
18 emergency or for medical reasons documented in the  
19 resident's medical record by the attending physician.

20 (k) If clothing is provided to the resident by the  
21 facility, it must be of reasonable fit.

22 (l) A resident has the right to reasonable safeguards  
23 for his personal possessions brought to the facility. The  
24 facility shall provide a means for safeguarding the  
25 resident's small items of value in his the resident's room

1 or in another part of the facility where he the resident  
2 must have reasonable access to the items.

3 (m) The resident has the right to have all losses or  
4 thefts of personal possessions promptly investigated by the  
5 facility. The results of the investigation must be reported  
6 to the affected resident.

7 (n) A resident has the right to obtain prescription  
8 drugs or other medicines from a pharmacy of the resident's  
9 choice. A facility may not assess a fee for administering a  
10 prescription drug or other medicine to a resident who has  
11 obtained the drug or medicine from a pharmacy other than the  
12 pharmacy operated by the facility.

13 (3) The administrator of the facility shall adopt  
14 whatever additional measures are necessary to implement the  
15 residents' rights listed in subsections (1) and (2) and meet  
16 any other requirements relating to residents' health and  
17 safety that are conditions of participation in a state or  
18 federal program of medical assistance."

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