

House BILL NO. 328

INTRODUCED BY Walt

A BILL FOR AN ACT ENTITLED: "AN ACT GIVING A RESIDENT OF A LONG-TERM CARE FACILITY THE RIGHT TO CHOOSE A PHARMACY; AND AMENDING SECTION 50-5-1104, MCA."

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

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

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

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

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

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

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

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

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

(f) During ~~his~~ the resident's stay in a long-term care facility, a resident retains the prerogative to

1 exercise decisionmaking rights in all aspects of ~~his~~ health care, including placement and treatment issues
 2 such as medication, special diets, or other medical regimens.

3 (g) The resident's authorized representative must be notified in a prompt manner of any significant
 4 accident, unexplained absence, or significant change in the resident's health status.

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

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

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

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

17 (l) A resident has the right to reasonable safeguards for ~~his~~ personal possessions brought to the
 18 facility. The facility shall provide a means for safeguarding the resident's small items of value in ~~his~~ the
 19 resident's room or in another part of the facility where ~~he~~ the resident must have reasonable access to the
 20 items.

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

23 (n) A resident has the right to obtain prescription drugs or other medicines from a pharmacy of the
 24 resident's choice. A facility may not assess a fee for administering a prescription drug or other medicine
 25 to a resident who has obtained the drug or medicine from a pharmacy other than the pharmacy operated
 26 by the facility.

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

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