

## TO BE RESCINDED

5122-33-23

**Residents' rights.**

(A) As used in this rule:

- (1) "Abuse" means the unreasonable confinement or intimidation of a resident, or the infliction of injury or cruel punishment upon a resident, resulting in physical harm, pain, or mental anguish.
- (2) "Exploitation" means the unlawful or improper utilization of an adult resident or his or her resources for personal or monetary benefit, profit, or gain.
- (3) "Neglect" means failure to provide a resident with the goods or services necessary to prevent physical harm, mental anguish, or mental illness.
- (4) "Physical restraint" includes, but is not limited to, the locked door of a room or any article, device, or garment that interferes with the free movement of the resident and that he or she is unable to remove easily.

(B) As specified in division (B) of section 5119.81 of the Revised Code, the facility must assure the rights of a resident of an ACF include all of the following:

- (1) The right to a safe, healthy, clean, and decent living environment;
- (2) The right to be treated at all times with courtesy and respect, and with full recognition of personal dignity and individuality;
- (3) The right to practice a religion of his or her choice or to abstain from the practice of religion;
- (4) The right to manage personal financial affairs;
- (5) The right to retain and use personal clothing;
- (6) The right to ownership and reasonable use of personal property so as to maintain personal dignity and individuality;
- (7) The right to participate in activities within the facility and to use the common areas of the facility;
- (8) The right to engage in or refrain from engaging in activities of the resident's

own choosing within reason;

- (9) The right to private and unrestricted communications, including the right to receive, send, and mail sealed, unopened correspondence, the right to reasonable access to a telephone for private communications, and the right to private visits at any reasonable hour;
- (10) The right to initiate and maintain contact with the community, including the right to participate in the activities of community groups at the resident's initiative or at the initiative of community groups;
- (11) The right to state grievances to the owner or the manager of the facility, to any governmental agency, or to any other person without reprisal;
- (12) Prior to becoming a resident, the right to visit the facility alone or with the individual's sponsor;
- (13) The right to retain the services of any health or social services practitioner at the resident's own expense;
- (14) The right to refuse medical treatment or services, or if the resident has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code and has not been restored to legal capacity, the right to have the resident's legal guardian make decisions about medical treatment and services for the resident;
- (15) The right to be free from abuse, neglect, or exploitation;
- (16) The right to be free from physical restraints;
- (17) The right not to be deprived of any legal rights solely by reason of residence in an ACF;
- (18) The right to examine records maintained by the ACF concerning the resident, upon request;
- (19) The right to confidential treatment of the resident's personal records, and the right to approve or refuse the release of these records to any individual outside the facility, except upon transfer to another ACF or a nursing home, residential care facility, home for the aging, hospital, or other health care facility or provider, and except as required by law or rule or as required by a

third-party payment contract;

- (20) The right to be informed in writing of the rates charged by the facility as well as any additional charges, and to receive thirty days notice in writing of any change in the rates and charges;
  - (21) The right to have any significant change in the resident's physical health or behavioral status reported to the resident's case manager and sponsor; and
  - (22) The right to share a room with a spouse, if both are residents of the facility.
- (C) In addition to the residents' rights enumerated in division (B) of section 5119.81 of the Revised Code and paragraph (B) of this rule, residents of adult care facilities also shall have the following rights:
- (1) The right not to be locked out of the facility. If the facility is locked during any portion of the day, each resident shall be provided with a key or a staff member shall be immediately available on the premises to open the door;
  - (2) The right not to be locked in the facility at any time for any reason. All lockable doors shall be capable of being opened by residents from the inside without using a key; and
  - (3) The right not to be isolated or to have food or other services withheld for punishment, incentive, convenience, or due to the ACF manager or staff member exceeding instructions contained in a mental health plan for care.
- (D) Each ACF shall establish a written residents' rights policy containing:
- (1) The text of sections 5119.81 and 5119.83 of the Revised Code and paragraph (C) of this rule;
  - (2) A discussion of the rights and responsibilities of residents under those provisions; and
  - (3) The text of any additional rule for residents developed by the facility.
- (E) The facility shall establish procedures for facilitating residents' exercise of their rights.
- (F) At the time of admission, the manager shall give a copy of the residents' rights policy

to the resident and the resident's sponsor, if any, and shall explain the contents of the policy to them.

- (G) Each ACF shall post prominently within the facility a copy of the residents' rights listed in division (B) of section 5119.81 of the Revised Code and paragraph (C) of this rule and the addresses and telephone numbers of the state long-term care facilities ombudsperson and the regional ombudsperson for the area in which the facility is located and of the central and district offices of the department.
- (H) A sponsor, the director of mental health, the director of aging, or a residents' rights advocate registered under section 3701.07 of the Revised Code and any of the following entities, acting within their respective scope of statutory authority, may assert on behalf of a resident any of the rights enumerated under section 5119.81 or 5119.83 of the Revised Code, this rule, or rule 5122-33-24 of the Administrative Code:

Employees of a mental health agency, or mental health board.

Effective: 01/01/2018

Five Year Review (FYR) Dates: 01/20/2017

CERTIFIED ELECTRONICALLY

---

Certification

04/05/2017

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5119.34  
Rule Amplifies: 5119.34  
Prior Effective Dates: 5-6-1991 (Emer.), 8-4-1991, 12-16-1993, 9-5-1997,  
10-15-2000, 6-1-2006, 3/28/11, 2/17/2012