

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 121

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE IDAHO RESIDENTIAL CARE OR ASSISTED LIVING ACT; AMENDING SEC-
2 TION 39-3316, IDAHO CODE, TO PROVIDE FOR IN-PERSON VISITATION RIGHTS
3 AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PRO-
4 VIDING AN EFFECTIVE DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 39-3316, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 39-3316. RESIDENT RIGHTS. A residential care or assisted living fa-
10 cility must protect and promote the rights of each resident, including each
11 of the following rights:

12 (1) Resident records. Each facility must maintain and keep current a
13 record of the following information on each resident:

14 (a) A copy of the resident's current negotiated service agreement and
15 physician's order.

16 (b) Written ~~acknowledgement~~ acknowledgment that the resident has re-
17 ceived copies of the rights.

18 (c) A record of all personal property and funds ~~which~~ that the resi-
19 dent has entrusted to the facility, including copies of receipts for the
20 property.

21 (d) Information about any specific health problems of the resident
22 ~~which~~ that may be useful in a medical emergency.

23 (e) The name, address and telephone number of an individual identified
24 by the resident who should be contacted in the event of an emergency or
25 death of the resident.

26 (f) Any other health-related, emergency, or pertinent information
27 ~~which~~ the resident requests the facility to keep on record.

28 (g) The current admission agreement between the resident and the facil-
29 ity.

30 (2) Privacy. Each resident must be assured the right to privacy with
31 regard to accommodations, medical and other treatment, written and tele-
32 phone communications, visits, and meetings of family and resident groups.

33 (3) Humane care and environment (dignity and respect).

34 (a) Each resident shall have the right to humane care and a humane envi-
35 ronment, including the following:

36 (i) The right to a diet ~~which is~~ consistent with any religious or
37 health-related restrictions.

38 (ii) The right to refuse a restricted diet.

39 (iii) The right to a safe and sanitary living environment.

40 (b) Each resident shall have the right to be treated with dignity and
41 respect, including:

42 (i) The right to be treated in a courteous manner by staff.

- 1 (ii) The right to receive a response from the facility to any re-
2 quest of the resident within a reasonable time.
- 3 (iii) The right to be communicated with, orally and/or in writing,
4 in a language ~~they~~ the resident understands.
- 5 (4) Personal possessions. Each resident shall have the right to:
- 6 (a) Wear his own clothing.
- 7 (b) Determine his own dress or hair style.
- 8 (c) Retain and use his own personal property in his own living area so as
9 to maintain individuality and personal dignity.
- 10 (d) Be provided a separate storage area in his own living area and at
11 least one (1) locked cabinet or drawer for keeping personal property.
- 12 (5) Personal funds. Residents whose board and care is paid for by pub-
13 lic assistance shall retain, for their personal use, the difference between
14 their total income and the applicable board and care allowance established
15 by department rules.
- 16 (a) A facility shall not require a resident to deposit his personal
17 funds with the facility.
- 18 (b) Once the facility accepts the written authorization of the resi-
19 dent, it must hold, safeguard, and account for such personal funds under
20 a system established and maintained by the facility in accordance with
21 this paragraph.
- 22 (6) Management of personal funds. Upon a facility's acceptance of
23 written authorization of a resident, the facility must manage and account
24 for the personal funds of the resident deposited with the facility as fol-
25 lows:
- 26 (a) The facility must deposit any amount of a resident's personal funds
27 in excess of five (5) times the personal needs allowance in an interest-
28 bearing account (or accounts) that is separate from any of the facil-
29 ity's operating accounts and credit all interest earned on such sepa-
30 rate account to such account. The facility must maintain any other per-
31 sonal funds in a noninterest-bearing account or petty cash fund.
- 32 (b) The facility must assure a full and complete separate accounting of
33 each resident's personal funds, maintain a written record of all finan-
34 cial transactions involving each resident's personal funds deposited
35 with the facility, and afford ~~the~~ each resident (or a legal representa-
36 tive of ~~the~~ each resident) reasonable access to such record.
- 37 (c) Upon the death of a resident with such an account, the facility must
38 promptly convey the resident's personal funds (and a final accounting
39 of such funds) to the individual administering the resident's estate.
40 For clients of the department, the remaining balance of funds shall be
41 refunded to the department.
- 42 (7) Access and visitation rights. Each facility must permit:
- 43 (a) Immediate in-person access to any resident by any representative of
44 the department, by the state ombudsman for the elderly or his designees,
45 or by the resident's individual physician.
- 46 (b) Immediate in-person access to a resident, subject to the resident's
47 right to deny or withdraw consent at any time, by immediate family or
48 other relatives.

1 (c) Immediate access to a resident, subject to reasonable restrictions
2 and the resident's right to deny or withdraw consent at any time, by oth-
3 ers who are visiting with the consent of the resident.

4 (d) Reasonable access to a resident by any entity or individual that
5 provides health, social, legal, or other services to the resident, sub-
6 ject to the resident's right to deny or withdraw consent at any time.

7 (8) Employment. Each resident shall have the right to refuse to per-
8 form services for the facility except as contracted for by the resident and
9 the administrator of the facility. If the resident is hired by the facility
10 to perform services as an employee of the facility, the wage paid to the resi-
11 dent shall be consistent with state and federal law.

12 (9) Confidentiality. Each resident shall have the right to confiden-
13 tiality of personal and clinical records.

14 (10) Freedom from abuse, neglect, and restraints. Each resident shall
15 have the right to be free from physical, mental, or sexual abuse, neglect,
16 corporal punishment, involuntary seclusion, and any physical or chemical
17 restraints.

18 (11) Freedom of religion. Each resident shall have the right to prac-
19 tice the religion of his choice or to abstain from religious practice. Res-
20 idents shall also be free from the imposition of the religious practices of
21 others.

22 (12) Control and receipt of health-related services. Each resident
23 shall have the right to control his receipt of health-related services, in-
24 cluding:

25 (a) The right to retain the services of his own personal physician, den-
26 tist and other health care professionals.

27 (b) The right to select the pharmacy or pharmacist of ~~their~~ his choice
28 so long as it meets the statute and rules governing residential care or
29 assisted living and the policies and procedures of the residential care
30 or assisted living facility.

31 (c) The right to confidentiality and privacy concerning his medical or
32 dental condition and treatment.

33 (d) The right to refuse medical services based on informed decision-
34 making. Refusal of treatment does not relieve the facility of its obli-
35 gations under this chapter.

36 (13) Grievances. Each resident shall have the right to voice grievances
37 with respect to treatment or care that is (or fails to be) furnished, with-
38 out discrimination or reprisal for voicing the grievances and the right to
39 prompt efforts by the facility to resolve grievances the resident may have,
40 including those with respect to the behavior of other residents.

41 (14) Participation in resident and family groups. Each resident shall
42 have the right to organize and participate in resident groups in the facility
43 and the right of the resident's family to meet in the facility with the fami-
44 lies of other residents in the facility.

45 (15) Participation in other activities. Each resident shall have the
46 right to participate in social, religious, and community activities that do
47 not interfere with the rights of other residents in the facility.

48 (16) Examination of survey results. Each resident shall have the right
49 to examine, upon reasonable request, the results of the most recent survey of

1 the facility conducted by the department with respect to the facility and any
2 plan of correction in effect with respect to the facility.

3 (17) Access by advocates and representatives. A residential care or as-
4 sisted living facility shall permit advocates and representatives of commu-
5 nity legal services programs, whose purposes include rendering assistance
6 without charge to residents, to have access to the facility at reasonable
7 times in order to:

8 (a) Visit, talk with, and make personal, social and legal services
9 available to all residents.

10 (b) Inform residents of their rights and entitlements, and their cor-
11 responding obligations, under state, federal and local laws by distri-
12 bution of educational materials and discussion in groups and with indi-
13 viduals.

14 (c) Assist residents in asserting their legal rights regarding claims
15 for public assistance, medical assistance and social security bene-
16 fits, and in all other matters in which residents are aggrieved, which
17 may be provided individually, or in a group basis, and may include orga-
18 nizational activity, counseling and litigation.

19 (d) Engage in all other methods of assisting, advising and representing
20 residents so as to extend to them the full enjoyment of their rights.

21 (e) Communicate privately and without restrictions with any resident
22 who consents to the communication.

23 (f) Observe all common areas of the facility.

24 (18) Access by protection and advocacy system. A residential care or
25 assisted living facility shall permit advocates and representatives of
26 the protection and advocacy system, designated by the governor pursuant
27 to 42 U.S.C. ~~section~~ 15043 and 42 U.S.C. ~~section~~ 10801 et seq., access to
28 residents, facilities and records in accordance with applicable federal
29 statutes and regulations.

30 (19) Access by the long-term care ombudsman. A residential care or
31 assisted living facility shall permit advocates and representatives of the
32 long-term care ombudsman program, pursuant to 42 U.S.C. ~~section~~ 3058, sec-
33 tion 67-5009, Idaho Code, and IDAPA 15.01.03, rules of the ~~office~~ commission
34 on aging, access to residents, facilities and records in accordance with
35 applicable federal and state law, rules and regulations.

36 (20) In-person access rights pursuant to subsection (7) (a) and (b) of
37 this section may be subject to certain precautions consistent with those re-
38 quired to be taken by staff and other facility personnel in order to be in
39 similar proximity to a resident as a visitor would be, including:

40 (a) Requiring a visitor to submit to health screenings necessary to
41 prevent the spread of infectious diseases;

42 (b) Restricting a visitor who does not pass a health screening require-
43 ment or who has tested positive for an infectious disease;

44 (c) Requiring a visitor to adhere to infection control procedures, in-
45 cluding covering the cost of and wearing personal protective equipment;
46 and

47 (d) Limiting the number of persons in a room at one time pursuant to oc-
48 cupancy laws and the normal visitation policy.

1 SECTION 2. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2023.