

§1826. Nursing home admission contracts

All contracts or agreements executed at the time of admission or prior to admission by a resident or legal representative and by any nursing home licensed pursuant to this chapter shall be subject to the requirements of this section. [PL 1985, c. 291, §1 (NEW).]

1. Required contract provisions. Each contract or agreement shall contain the following provisions.

A. A resident may obtain medical care from any qualified institution, agency or person of the resident's choice, as long as that health care provider complies with any applicable laws or rules concerning the provision of care to the resident. [RR 2021, c. 2, Pt. B, §108 (COR).]

B. A resident may obtain medication from any qualified pharmacy, as long as that pharmacy complies with any applicable state rules and federal regulations and with the reasonable policies of the facility concerning procurement of medication. [PL 1985, c. 291, §1 (NEW).]
[RR 2021, c. 2, Pt. B, §108 (COR).]

2. Contract requirements. Each contract or agreement is subject to the following requirements.

A. No contract or agreement may contain a provision for the discharge of a resident or the transfer of a resident to another facility or to another room within the same facility which is inconsistent with state law or rule. [PL 1985, c. 291, §1 (NEW).]

B. Each contract or agreement must contain a complete copy of the department rules establishing residents' rights and must contain a written acknowledgement that the resident has been informed of those rights. If a resident is under full guardianship, there must be a written acknowledgement of the receipt of those rights by the guardian. If a resident is under limited guardianship, both the resident and the guardian must acknowledge receipt of the rights. All notices and information regarding rights must be written in language that is plain and understandable. No provision in the contract or agreement may negate, limit or otherwise modify any provision of the residents' rights. [PL 2011, c. 542, Pt. A, §29 (AMD).]

C. No provision of a contract or agreement may require or imply a lesser standard of care or responsibility than is required by law or rule. [PL 1985, c. 291, §1 (NEW).]

D. No provision in a contract or agreement may state or imply a lesser degree of responsibility for the personal property of a resident than is required by law or rule. [PL 1985, c. 291, §1 (NEW).]

E. No contract or agreement may require the resident to sign a waiver of liability statement as a condition of discharge, even if the discharge is against medical advice. This does not prohibit a facility from attempting to obtain a written acknowledgement that the resident has been informed of the potential risk in being discharged against medical advice. [PL 1985, c. 291, §1 (NEW).]

F. Each contract or agreement shall contain a provision which provides for at least 30 days' notice prior to any changes in rates and charges, responsibilities, services to be provided or any other items included in the contract or agreement. [PL 1985, c. 291, §1 (NEW).]

G. No contract or agreement may require the resident to authorize the facility or its staff to manage, hold or otherwise control the income or other assets of a resident. [PL 1985, c. 291, §1 (NEW).]

H. No contract or agreement may contain any provisions which restrict or limit the ability of a resident to apply for and receive Medicaid or which require a specified period of residency prior to applying for Medicaid. The resident may be required to notify the facility when an application for Medicaid has been made. No contract or agreement may require a deposit or other prepayment from Medicaid recipients. No contract or agreement may refuse to accept retroactive Medicaid benefits. [PL 1985, c. 291, §1 (NEW).]

I. No contract or agreement may contain a provision that provides for the payment of attorney's fees or any other cost of collecting payments from the resident, except that attorney's fees and costs may be collected against any agent under a power of attorney who breaches the agent's duties as set forth in Title 18-C, section 5-914 or against a conservator appointed under Title 18-C, section 5-401 for breach of the conservator's duties. [RR 2019, c. 2, Pt. A, §26 (COR).]

[RR 2019, c. 2, Pt. A, §26 (COR).]

3. Other contract provisions. The contract or agreement may contain other provisions that do not violate state law or rule or federal law or regulation and that are specifically allowed by the standardized contract under subsection 4.

[PL 1997, c. 329, §1 (AMD).]

4. Standardized contract. The commissioner shall adopt rules to standardize nursing home contracts for all nursing home residents to clarify the rights and obligations of residents. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

[PL 1997, c. 329, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 291, §1 (NEW). PL 1997, c. 329, §§1,2 (AMD). PL 2011, c. 542, Pt. A, §29 (AMD). PL 2015, c. 247, §1 (AMD). PL 2017, c. 288, Pt. A, §29 (AMD). PL 2017, c. 402, Pt. C, §46 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). RR 2019, c. 2, Pt. A, §26 (COR). RR 2021, c. 2, Pt. B, §108 (COR).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.