

YOUR RIGHTS IN RESIDENTIAL CARE FACILITIES



You have the right to receive information about your legal and human rights in a way you can understand. This includes the right to have this manual read to you if you cannot read it. It also includes the right to have it translated into a language you can read.

You have all the rights guaranteed by the Constitution of the United States and by the State of California. You do not lose your rights upon entering a Board and Care Home. When you exercise your rights, you should do so in a way that does not infringe on the rights of others.

In the ideal case, the services you receive at a Residential Care Facility (commonly called Board and Care Homes for Adults) will promote your freedom and safety, with the least disruption of your lifestyle and in the least-restrictive care alternative.

Office of Patients' Rights

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Disability Rights California

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Sacramento, CA 95825
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California Network of Mental Health Clients
Under a Contract with Disability Rights California

Under California Law, Board and Care Homes must observe, enforce and implement residents' rights. As a resident of a Board and Care Home you have the following rights:

SERVICES

You have the right to services that will enhance your ability to live independently, productively and with dignity in your community. You should receive these services in ways that least restrict your personal liberty. You have a right to have arrangements made so you can attend community programs that meet your needs which are not available at the Board and Care Home. People who provide services for you should treat you with courtesy and try to respond to your requests promptly.

You have the right to care and supervision 24 hours a day. As a resident, no one can keep you from entering your Board and Care Home.

You have the right to plan and to participate in activities at your Board and Care Home. You also have the right to be a member of a resident council. However, no one can force you to attend any meetings or activities.

MEDICAL CARE

You have the right to receive prompt and necessary first aid and other medical and dental services. This includes arranging for transportation to the nearest medical or dental service.

PHYSICAL SAFETY

You have the right to be free from harm. By law, any physical abuse you or others receive in a Board and Care Home must be reported. Other abuse may be reported. To report abuse, call the Long Term Care Ombudsman Coordinator. The name of the person reporting can remain confidential, if requested.

Physical abuse includes, among other threats to physical safety: direct physical harm, lack of food and water, lack of medical care or over-medication, sexual exploitation, and unreasonable physical restraint.

You have the right to remain free of any restraint device. You may, however, use postural supports or protective devices approved in advance by Community Care Licensing. Postural supports must not include tying or limiting the use of your hands or feet. Postural supports and protective devices should improve your mobility and independent functioning or protect you from self-injurious behavior. They should never serve as punishment.

PRIVACY

You have the right to privacy in every part of your daily life, including:

- The right to send and receive mail promptly C uncensored and unopened.
- The right to make and receive phone calls. You should have the use of a private line with no extensions. However, the Board and Care Home can require that you pay for your long distance calls.
- The right to visit with friends, family and others. These visits can take place in private, in your room or other private places. Except in an emergency, staff must get your permission before entering your room C during visiting times as well as other times
- The right to take care of personal affairs.
- The right to visual privacy in tub, shower and toilet rooms.
- The right to privacy during any medical examination or health-related consultation.

MONEY AND PERSONAL PROPERTY

You have the right to control your own money and personal property. If you want the Board and Care Home staff to safeguard or manage your money, you or your authorized representative must agree to that arrangement in writing. The Board and Care Home staff must give you a receipt each time

you receive money or have money taken from your account. Staff must give you a statement of your account at least quarterly. No one can steal from you, misuse your funds or property, extort, coerce or commit fraud to take your property or your money from you.

You have the right to a secure, individual storage space for your personal property.

FREEDOM OF SELF EXPRESSION AND ASSOCIATION

You have the right to wear your own clothes in your own style. You have the right to choose your own hair style and personal accessories according to your own individual preference.

You have the right to associate freely with people in the community, and with people who live and work in the Board and Care Home.

You have the right to receive help in exercising your right to vote.

DIGNITY AND RESPECT

You have the right to be treated with respect. You have the right to be free from corporal or unusual punishment. No one has the right to abuse you psychologically — by using verbal assaults; speaking or yelling in rude, hostile, aggressive or provocative manner; making threats; intimidating you; harassing you; isolating you; instilling fear in you; punishing you by withholding food, clothing or medication; or withholding emotional support from you.

NEEDS AND SERVICES PLAN

You have the right to a written Needs and Services Plan. You or your authorized representative, together with a Board and Care Home admission person, a person from a referral agency or hospital case worker, and any

relative(s) who participate in your placement must agree to develop this plan.

The plan will include: your date of admission to the Board and Care Home, your specific service needs, your mental and physical health history, any functional limitations you have, your Individual Program Plan (Needs Appraisal) and the Board and Care Home's plan to provide for those needs.

You or your authorized representative and the other parties named above can change your Needs and Services Plan whenever circumstances change. Ask to see a copy to make sure you agree to the changes.

ADMISSIONS AGREEMENT

Your admissions agreement includes a statement of the Board and Care Home's basic and optional services, the rates, frequency and due date of payment, who will pay, and refund conditions. It also should explain how and when rates can change. You have a right to a copy of this agreement.

FREEDOM OF RELIGION

You have the right to practice the religion of your choice, to attend religious services or activities. You have the right to have visits from the spiritual advisor of your choice. You also have the right not to practice any religion. No one else has the right to impose religious practices or beliefs on you. Freedom of religion includes your right to have a food plan that excludes or includes certain foods or food combinations according to your religious traditions.

FREEDOM FROM DISCRIMINATION

You have the right to be free from discrimination by staff or others. No one may consider race, color, religion, national origin, sex, sexual preference, disability or age as factors preventing you from receiving placement or services, or exercising your rights.

EMPLOYMENT

You have the right to refuse to perform services at the Board and Care Home, except those you contract for with the operator as part of your Needs and Services Plan. If you choose to work, you have the right to receive compensation at the usual rate for the type of work you do.

ACCESS BY ADVOCATES AND COMMUNITY ORGANIZATIONS

You have a right to talk with and have the services of a Patients' Rights Advocate or Long Term Care Ombudsman and members of community groups who provide legal services free of charge. These people can advise you of your rights, help you with claims for benefits and help you file complaints about violations of your rights. You have the right to meet with them privately during reasonable hours without prior notice or permission. The Board and Care Home operator must post phone numbers of advocates and legal service groups so you can call them. The operator also must provide instructions for filing a complaint.

EVICITION

Your Board and Care Home cannot evict you from the home without documented evidence of "good cause."

3-DAY EVICTION NOTICE

Only in an emergency and with advance approval of Community Care Licensing can the Board and Care Home evict you on three days' notice. The Home must provide this notice to you in writing. The notice must include the reason(s) for eviction, and the circumstances, dates, places and witnesses to the events leading to the eviction notice. An emergency is defined as behavior by you which threatens your own mental or physical health and safety, or

the mental or physical health and safety of others in the Board and Care Home.

30-DAY EVICTION NOTICE

A 30-day eviction notice must also be in writing. The notice also must include the reason(s) for eviction, as well as the circumstances, dates, places and witnesses to the events leading to the eviction notice. The reasons for serving a 30-day notice include:

Failure to pay rent within 10 days of the due date. However, if you do not receive your benefits, or you have appealed a ruling about your benefits, the Board and Care Home cannot evict you for not paying your rent.

Failure to obey the law after receiving written notification of a violation. Examples of violations include: alcohol or drug abuse, sexual harassment or abusive behavior, verbal or physical violence, threatening violence to oneself or others, using or taking other people's possessions without permission, and destruction of personal property.

Failure to follow the policies you agreed to when you moved into the Board and Care Home. However, Board and Care Home policies cannot forgo any of your individual rights. Your repeated actions must endanger the well being, safety and care of yourself or other residents. For example, smoking in bed would endanger others.

Changes in your Needs and Services Plan. If changes in your plan make it impossible for the Board and Care Home to meet your needs (and you agree with these changes), the Home must give you a chance to find another home.

Change or revocation of the Board and Care Home's license. If the Board and Care Home closes or changes the people it serves (for example, from adults to elderly or adolescents), then the Home can serve you with a 30-day eviction notice.

LANDLORD/TENANT LAW APPLIES

Basic principles of landlord/tenant law apply to Board and Care Homes in California. Therefore, the only way your Board and Care Home can lawfully evict you is through an unlawful detainer court proceeding.

IF YOU FEEL YOUR BOARD AND CARE HOME HAS WRONGLY SERVED YOU WITH AN EVICTION NOTICE

You have the right to defend your eviction in court if you think there was something procedurally wrong with your eviction, there was no “good cause” for your eviction, or your eviction was in retaliation for something you did. No one can remove you from the Board and Care Home, or change the locks or remove your personal possessions, while you complete these legal proceedings. If you lose this hearing, then the court can legally order you out of the Board and Care Home.

AS A BOARD AND CARE HOME RESIDENT *NOT* ON CONSERVATORSHIP YOU HAVE THESE ADDITIONAL RIGHTS

You have the right to information about your medication. You have the right to make choices about your own medication. However, you should consult with your doctor before you change any medications you are taking. You also should consult a knowledgeable health care worker before taking non-prescription medications. Nonprescription medications can have adverse side effects when taken with some psychoactive medications.

You have the right to come and go freely without restriction. No one has the right to lock you into any building, room or closed area by day or night. The Board and Care Home operator may ask you to tell staff if you plan to stay out overnight. You should follow the normal curfew policy for the residents’ protection at the Board and Care Home.

You have the right to move out of the Board and Care Home. You should give written notice to the Board and Care Home operator two weeks before you plan to leave.

COMPLAINT PROCEDURE

If you feel any of your rights have been violated, you can call your local Patients' Rights Advocate or your Long Term Care Ombudsman. You also may write to Community Care Licensing directly. You must give the name of the Board and Care Home, the address and the zip code. You should give as complete a description as possible of what rights were violated, when, how, by whom and if anyone else witnessed the violation(s). Community Care Licensing must make an on-site inspection within 10 days after receiving the complaint.

The federal Protection and Advocacy for Mentally Ill Individuals Act of 1986 requires that each state provide an independent advocacy system for persons labeled "mentally ill." Disability Rights California is that system in California, and provides information, referrals, and legal assistance to people who have psychiatric disabilities in complaints about abuse, neglect, and rights violations.

SOURCES:

State of California Welfare and Institutions Code (Sections 5000 *et seq.*, and 15630 *et seq.*) Elder Abuse Guidelines

California Code of Regulations (Title 22, Division 6, Section 80000 *et seq.*)

NUMBERS TO CALL FOR HELP

The phone number of the Office of Patients' Rights is:

Your county Patients' Rights Advocate's phone number is:

Your Community Care Licensing office phone number is:

Your Ombudsman's office phone number is:

Your local Legal Aid phone number is:

The phone number for Disability Rights California is:

Toll free: 1-800-776-5746