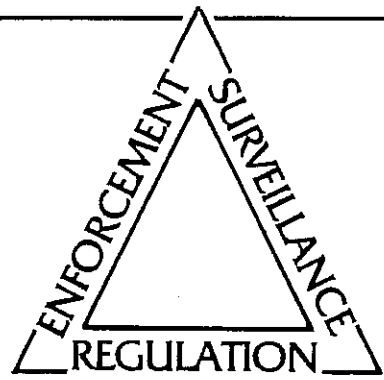
Nursing Home Community Coalition of New York State
(NHCC)



NHCC

An Easy-To-Read Guide for Residents, Families and Staff:

Rules and Regulations Governing New York State Nursing Homes

Written by
Cynthia Rudder, Ph.D.
Director

Funding for this project provided by:

Altman Foundation
Jean and Louis Dreyfus Foundation

Nursing Home Community Coalition of New York State (NHCC)

Cynthia Rudder, Ph.D
Director

Barbara Lynch, Administrative Assistant

LTCCC LONG TERM CARE COMMUNITY COALITION
Working to improve long term care through research, education & advocacy

Errata Sheet for "An Easy-To-Read Guide for Residents, Families and Staff: Rules and Regulations Governing New York State Nursing Homes" Written by: Cynthia Rudder, Ph.D.

(1) Page 33
Please change "fresh bed linen, changed at least weekly..." to "fresh linen, changed twice a week."

(2) Items marked with an asterisk (*) have been changed to:
a. p. 10 #4
You will be provided with this only if you request it.
b. p. 31 #10 (bottom of the page)
This is no longer mandated.

(3) Page 5 Animals. A new law has changed this regulation. However, to date no regulation has been written implementing this law.
Nursing homes are allowed to have other types of animals in addition to dogs and cats and are allowed to have more than one of each type. A regulation will probably be written n the near future giving more specific details about this provision,

(4) Page 9 #1 Day-to-Day Nursing Home Life
This has been removed. In its place are guidelines requiring nursing homes to do a number of things if a resident objects to a proposed room changes.
a. determine what the resident's objections are to the move
b. conduct an evaluation to determine if the need for the room change outweighs resident objection.

If it is determined that a room change is still necessary:
a. provide information on facility grievance procedures; Health Dept. complaint contact number and State Office for Aging Ombudsman contact and number.
b. determine from the resident/family what they want or need to agree to the room change and meet these wants and needs to the extent possible.
c. determine what accommodations can be made to help the resident adjust to the change. Incorporate these accommodations into the resident care plan

(5) Page 36 #3. At his time, there is no time limit on the number of days for leave. In addition, hospital bed hold is now 20 days. You do not need to request the additional 5 days.

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Acknowledgments

Many residents and family members read copies of this book before final printing.

Special thanks go to the residents, family members, friends and staff of the following nursing homes:

Amsterdam House
Bialystoker Home and Infirmary for the Aged
Cortland Care Center
Eden Park Nursing Home (Catskill)
Florence Nightingale Nursing Home
Hallmark Nursing Centre (Schenectady)
Heritage House Nursing Center
Isabella Geriatric Center
Long Island State Veterans' Home (Stony Brook)
The Osborn (special thanks to Ella Lynch, resident)

Thanks to resident and former resident, Lydia Borkin and Tom Doherty.

Thanks to Judith Kahn of Friends and Relatives of Institutionalized Aged (FRIA) for her desktop publishing.

A very special person in all this is Kathleen Kelly, resident of Amsterdam House. Without her help this project would not have been completed. Her skills as an editor were invaluable. Any mistakes still remaining are not her fault.

Thanks also go to Department of Health staff who reviewed the final draft.

INTRODUCTION

The minimum standards of care that nursing homes in New York State must follow are found in Part 415 of Title 10 of the New York State Rules and Regulations.

This set of requirements is intended to assure the highest possible quality of care and most meaningful quality of life for all residents. It emphasizes individuality and self-determination and reflects the precepts that nursing homes should be viewed as homes as much as medical institutions. Your psychosocial needs are as important as your medical condition and your care is part of a comprehensive approach planned and provided by a care team with your participation, rather than physician-directed.

This book takes these rules and puts them into language that we hope will be more easily understood.

As you and your family become more knowledgeable about state and federal nursing home requirements, we hope that you will be able to take a greater role in your care and treatment.

As you read this book you will notice that in some places numbers are in parentheses. These numbers refer to the sections in Part 415 of Title 10 where the original requirements can be found.

Please be aware that although this book is accurate as of this date, Governor Pataki has begun a major initiative to review all regulations. Some regulations in the book have an asterisk (*) attached. This means that the Department of Health is presently considering eliminating or changing them. Please contact the Nursing Home Community Coalition of New York State for updates as time passes.

Cynthia Rudder, Ph.D.
Director
July, 1995

ADMISSION (415.26,i)

Eligibility

1. You may be admitted to a nursing home only on physician orders.

2. Prior to admission, you must be assessed to determine your eligibility and level of care needs. This prior assessment is called the Patient Review Instrument (PRI) and the Screen.

NOTE: It is expected that in late 1995 or in 1996, the PRI will be replaced by the comprehensive assessment now used for care planning called the Minimum Data Set Plus (MDS+). See Care Planning, page 12.

If you are in the hospital, your prior assessment will be arranged by the hospital. If you are in your own home, you must call a certified home health agency or other qualified assessor to assess you.

3. The home may accept and keep only those residents for whom it can provide adequate care.

4. The home can admit you only after a pre-admission personal interview with your physician, you, and/or your next of kin or designated representative. If a personal interview is not feasible, a telephone interview may be substituted.

5. Residents under age 16 may be admitted only to an area separate from the adult residents and approved by the Department of Health. Maternity patients may not be admitted.

Non-Discrimination

1. The home may not discriminate because of race, color, blindness or sexual preference.

2. Residents who are in alcohol or substance abuse treatment programs may not be barred from admission or retention solely because they are in these programs, if they otherwise need nursing home care.

3. A resident suffering from a communicable disease shall not be admitted or retained unless a physician certifies in writing that no danger is posed to other residents.

4. The home must establish and implement written admission policies that ensure compliance with state and federal anti-discrimination laws. At admission you must be told about your right to nondiscriminatory treatment.

Selection for Admission

1. The home's written admission policies must specify the criteria used in making admission decisions.

2. If a waiting list is used, the list must be maintained in writing, showing the date of each application.

3. The home must maintain a centralized log showing persons who asked for admission, or must keep copies of all assessments of applicants for admission.

Admission Rights (415.3,b)

1. Your home may not require a third person to guarantee payment for you as a condition of admission. It may not charge, solicit, accept or receive any gift, money or donation as a precondition of your admission.

2. Your home may ask for a prepayment of 3 months for basic services.

3. Your home may not require you to agree not to apply for Medicaid or not to use your Medicare or Medicaid benefits.

4. Your home may require an individual who has legal access to your income, or to resources available to pay for care, to sign a contract to provide payment from your income or resources. However, the home may not require this individual to incur personal financial liability for your care.

5. A home may solicit, accept or receive a charitable, religious or philanthropic contribution from an organization, or from a person unrelated to you, only if the contribution is not a condition of admission.

RESIDENT RIGHTS (415.3)

As a nursing home resident, you have the right to be treated with dignity and respect and have the right to confidentiality and privacy. In addition, you have the right to self-determination and autonomy.

Some specific rights related to privacy, dignity and respect:

1. Send and receive unopened mail

2. Use a telephone that is private, wheelchair accessible and usable by hearing and visually impaired residents.

3. As space permits, keep, store and use your personal possessions such as furnishings and clothing, unless you are violating the rights or health and safety of yourself or other residents. In that case, the home shall explore alternatives with you and staff and provide or assist in storing your possessions.

4. If all agree to the arrangement, share a room with your spouse, relative or partner if these residents live in your nursing home.

5. If your spouse, relative or partner lives outside the home, assured privacy for visits.

6. Vote, with help from home staff if you need transportation to voting places.

Some specific rights related to the right to self-determination and autonomy (415.5):

1. Reside and receive services in your home with a reasonable accommodation of your individual needs and preferences, unless your health and safety or that of other residents would be endangered.

2. Make choices about aspects of your home life that are important to you. Your home must, for example, offer you choices about things like: when you want to get up or go to bed; who you want to eat with; when you want to eat; when you want to shower or bathe.

3. Participate in social, religious and community activities that do not interfere with the rights of other residents.

4. Refuse treatment and services. Your home must discuss with you the possible consequences of your refusal and your refusal must be documented in the care plan (415.11,c,ii).

5. Refuse to perform services for the home. If you want to perform services and are asked to do so, you must be able to do this work safely. Your desire to work must be documented in your care plan, which must specify the nature of the services and whether they are voluntary or paid. If paid, you must be paid at or above the prevailing rates. You have the right to agree or disagree to the work arrangement (415.3,f,1).

PHYSICAL ENVIRONMENT (415.29)

Resident Rooms

1. Your room must be designed and equipped for adequate nursing care, comfort and privacy.

2. You must be given your own bed with a clean, comfortable mattress and bedding appropriate to the climate and the weather.

3. Furniture must meet your needs, with individual closet space fitted with clothes racks and shelves that you can reach.

4. Insofar as space permits, the home must allow you to use your personal belongings (415.5).

5. If you request it, you have the right to a locked space within your room (415.3).

Dining and Resident Activities

1. Your home must provide one or more rooms for dining and activities. These rooms must be well lighted and ventilated, (admitting fresh air to replace stale air), be adequately furnished, and have sufficient space for all activities.

2. If your home permits smoking, smoking areas must be identified.

Life and Safety Requirements

1. Your home must have comfortable and safe temperature and sound levels (415.5,h).

2. Your home must provide a safe, clean, comfortable and homelike environment.

3. Grounds, buildings and equipment must be kept clean and operated so as to prevent fires, accidents and other hazards. They must be free from excessive noise, odors, pollens, dusts or other pollutants.

4. All mechanical, electrical, and resident care equipment must be maintained in safe operating condition.

5. Your home must properly maintain ventilating, heating and air conditioning systems, plumbing and plumbing fixtures.

6. The hot water you use must be between 90 and 120 degrees. If there is a loss of normal water supply, your home must ensure that water is available for drinking and bathing.

7. Your home must have a procedure to investigate fires, with written reports, and a comparable system of accident reports.

Housekeeping

1. The entire home must be clean, kept in good condition, and must maintain an effective pest control program so it is free from insects and rodents.

2. Your home must provide and maintain enough clean linen(sheets and towels) in good condition for at least 3 times the number of residents, so that one-third will be in use, one- third will be in the laundry and one-third will be in reserve. The home is

responsible for satisfactory laundering of sheets, towels and pillowcases and other washable fabrics. All linen including blankets must be washed if to be used by another resident. Clean and soiled laundry must be kept separate.

Animals

A home may have one dog or one cat. Animals are not allowed in the laundry or food areas. Any pets visiting must follow the same rules and must be accompanied by a person familiar with and capable of controlling the animal's behavior.

VISITORS (415.3)

1. Your home must allow to see you immediately, unless you object, your family, any Federal or State representative of the Department of Health, your physician or any certified ombudsmen. Others are allowed to visit with reasonable restrictions.

2. You have the right to decide which family members and others you want to see.

3. You must be informed of the home's visiting policies.

4. Except in extraordinary circumstances such as health emergencies, your home must have at least 10 hours of daily visiting time. The visiting hours must encompass at least 2 meal times (415.26,a,4,vi).

5. Your home must be able to provide you with a private area for visits or for solitude.

RESIDENT COUNCILS/FAMILY COUNCILS (415.26 a,b)

You and your family have the right to organize and participate in resident/family groups for which your home must provide private meeting space (415.5,c). Staff or any other visitors may attend these meetings only by the group's invitation. The Resident Council is to be run by residents and chaired by a resident or another person elected by the residents (415.26 a,4,iii,b).

1. Every nursing home must have a Resident Council.

2. The home must provide a staff person to assist at meetings (but only if residents want the staff member to be there) and to respond to written requests from the Council (415.5 c, 5).

3. The home must assure that the Resident Council meets as often as the members wish.

4. If given reasonable notice, the home must make sure that the Resident Council meets with any member of the staff it wishes to.

5. The home must involve the Resident Council in addressing conflicts between resident and staff interests and needs.

6. Members of the governing body (Board of Directors or Owners)must be available to meet Resident Council representatives at least 3 times a year to discuss issues raised by the residents and/or the governing body.

7. Before renewing the right of any physician, dentist or podiatrist to practice in the home, the administrators of the home must ask for and consider information from the Resident Council about each practitioner (415.15 a,2,iv).

8. The home's committee on quality assessment and assurance (which meets to discuss positive and negative quality care issues) must consult with the Resident Council at least on a quarterly basis to seek recommendations on improvements (415.27 c,iii).

RIGHT TO INFORMATION (415.3)

Nursing Home Policies

You must be told, both orally and in writing that you can understand, about your rights and the home's responsibilities to you. Upon request, you or your designated representative must be given a copy of the home's policies and procedures.

Medical Issues

Your Right to Medical Records

You have the right to read your medical records. Your designated representative does not have the right to read your records unless you give permission or, if you are unable to give permission, your designated representative is your health care agent (i.e., proxy) your guardian, or has your power of attorney which clearly states this right. Your records will contain a record of your comprehensive assessments and your care plan, and the services you receive (415.22,f).

1. Your nursing home must allow you to see your records within 24 hours of an oral or written request from you.

2. You may also purchase copies of your records at a charge of up to $.75 per page. The home must give you the copies within 2 working days (this usually does not mean weekends) following your request.

3. If you wish, you may give your designated representative permission to see and purchase copies of your record.

4. If your designated representative is your legal representative, (e.g., health care agent or proxy) s/he has the right to see and purchase copies of your record.

5. You have the right to approve or refuse the release of your records to anyone outside the home unless you are being transferred to another home or the release is required by law.

Your Right to Medical Information

1. You should be fully informed in advance about your care and treatment, and of any changes that may affect you, in a language you can understand. This may require using an interpreter. Your home must assure that your right to ask questions and have your physician answer them is maintained.

2. Your home must give you the name, office address, telephone number and specialty of the physician responsible for your care and your physician must respond to your calls to discuss your care (415.15,b,2,vi).

3. Except in an emergency, your home must consult with you immediately (or, if unable to do so, must notify your physician and your representative within 24 hours) if you: have an accident and an injury needing care; significantly improve or decline; need to have your treatment altered significantly; or are about to be transferred or discharged.

4. Your home must inform you and your representative about a "Do Not Resuscitate" order. After you have been fully informed, you **may** request a "DNR" order. If you do

so, you will not be resuscitated if you go into cardiac or respiratory arrest. You will continue to receive all other types of care.

Inspection Reports

You have the right to see your home's state or federal inspection reports. Your home must make them available in places where you can see them without having to ask staff to help you.

Access to Advocates

1. You have the right to receive information from advocacy groups and, if you wish, must be given the opportunity to contact these agencies.

2. Your home must post the names, addresses and telephone numbers of state advocacy groups and, unless you object, allow to visit you any individual who provides nursing home resident services.

State Medicaid Reimbursement Issues

1. Your home is reimbursed for the care it gives to Medicaid residents (this may soon apply to residents using Medicare for their nursing home stay as well) under a complex system that classifies each Medicaid resident, after assessment, into a specific group based on the resident's care needs. Your home is reimbursed in varying amounts, each based upon the group that you are in. You may ask to know to which group you are assigned. Each time you are reassessed, you may be reclassified into a new group, with higher or lower reimbursement to your home. If you or your representative requests it, you must be given information about your classification.

2. All residents are assessed, whether Medicare, Medicaid or private pay. Your home must post in a public place a notice that lets you know: when the residents will be assessed to determine your classification; when the department of health will be in to review these assessments; a statement that you have the right to know your classification; and whom you may ask for this information (415.26,b,10).

3. You must be notified of the process that assigns you to different categories or classifications for reimbursement purposes, and informed that you may get further information if you or your representative wishes. In addition, at least annually, this topic should be on the agenda of the resident council meeting (415.26,b,10,ii).

Day-To-Day Nursing Home Life

1. If the home is thinking of changing your room, you and your representative must be given 30 days' prior notice, unless you have requested the change, or your medical condition requires an immediate change or an emergency situation develops.

2. If your roommate is to be changed, you and your representative must be notified in advance. If possible, any roommate change must be acceptable to all affected residents. Your home must try to work the problem through with both residents and/or family members.

3. You and your representative must be promptly notified of any change in your rights under federal or state law or regulations.

4. The home must provide to you a copy of the weekly and/or monthly activities schedule (415.5,f,3,ix)*.

Medicaid/Medicare Issues

The home must give you oral information about how to apply for and use Medicare and Medicaid benefits and must help you understand how to qualify for Medicare and Medicaid.

GRIEVANCES, COMPLAINTS AND/OR SUGGESTIONS (415.26,b,6,7)

You Have a Voice!

The nursing home is required to ask your and your family's advice as the home develops and implements policies regarding residents' rights and responsibilities. You and your designated representative have the right to recommend policy changes and to make complaints without fear of reprisal or retaliation (415.3).

1. You must be allowed to make complaints and recommendations orally or in writing.

2. The home must bring your complaints and recommendations promptly to administrative attention for review and resolution. You must be told how to make your complaints and recommendations, and to whom to send them.

3. The administrators must respond within 21 days (unless under extraordinary circumstances such as health or administrative emergencies) to let you know what action is being taken or why none is being taken. If a complaint relates to your immediate health and/or safety, your home must act as quickly as possible.

4. You may file with the State Health Department a complaint concerning abuse, neglect, or mistreatment, or if you suspect that your property has been stolen. The home must give you the name, address and telephone number of the Health Department office that receives such complaints and, for additional help, the address and telephone number of the State Office for the Aging Ombudsman (415.3, c, 2,1,b).

5. In addition to general rules on complaints, grievances and suggestions, there are specific rules for resident and family councils. The home staff must listen to the councils' views and act upon any grievances or recommendations made. If requested by the resident council, a written report must be issued (415.5,c,6 and 415.26 a,4,v).

6. You also have the right to sue for damages or other relief if you believe that you have not received adequate and proper treatment and care.

CARE PLANNING (415.11)

Assessing Your Needs

1. Upon admission and periodically thereafter, your home will conduct a comprehensive assessment of your abilities, strengths, weaknesses and care needs. In New York State this assessment is called the Minimum Data Set Plus (MDS+) and includes the following information:

a) your medical condition and prior medical history

b) your medical, physical and mental status

c) your sensory and physical impairments

d) your nutritional status and requirements and food preferences

e) any special treatments or procedures

f) your potential for discharge

g) your dental condition

h) your ability to join in activities and leisure time preferences

i) your rehabilitation potential

j) your ability to remember things and make decisions

k) any drugs you are taking

2. These assessments must be conducted no later than 14 days after you are admitted, any time your condition significantly improves or declines, and at least every 12 months.

3. To ensure that it is up-to-date your assessment must be reviewed every 3 months.

4. At least annually, your home must also review any residents with known or suspected mental impairment or retardation, and those found to be impaired or retarded must be referred for evaluation in order to assure proper nursing home placement and that necessary services are provided.

Your Care Plan

1. You have the right to participate in the planning of your care and treatment (415.3,e,iii), and you and your designated representative should be invited to participate in care plan meetings. Your home must make sure that you and your designated representative are given the opportunity to be full participants in your care planning. Many fulfill this requirement by notifying and inviting residents and designated representatives to every care planning meeting.

2. Within 7 working days after completion of your first assessment (no later than 21 days after admission), the results will be used by an interdisciplinary care team (i.e,staff from the many different disciplines: physician, a registered nurse who cares for you, and other staff such as your social worker and dietitian) to devise a care plan with specific goals and timetables to meet each of your identified needs.

3. As your comprehensive assessment is reviewed and updated, your staff care team must note any changes and meet regularly (preferably with you and your representative) to review and revise your care plan. If your or your designated representative do not attend these meetings, your home has an obligation to inform you and your representative of what happened.

QUALITY OF CARE (415.12)

Your home must give you the necessary care and services to attain or maintain your highest possible physical, mental and psychological well-being and you are not expected to decline unless it was unavoidable.

Activities of Daily Living

1. Your home must ensure that your abilities to eat, bathe, dress, groom, transfer and ambulate, and use speech do not decrease unless your condition clearly shows that decline was unavoidable.

2. You must receive the appropriate treatment and services to maintain or improve your abilities.

3. If you are unable to carry out activities of daily living, you must receive the help needed to maintain good nutrition, grooming, and personal and oral hygiene.

Vision and Hearing

1. Your home must ensure that you receive proper treatment and assistive devices (eyeglasses, hearing aids, etc.) to maintain vision and hearing.

2. Your home must help you keep assistive devices safe and maintained.

3. If essential services are not on-site, your home must help you make appointments and travel to outside medical offices. If you are not on Medicaid, you may have to pay for the transportation.

Pressure Sores

1. Your home must ensure that you do not develop pressure sores(redness of skin, breakdown in skin tissue) unless your condition shows that they were unavoidable despite every reasonable preventive effort.

2. If you have pressure sores, you must receive the necessary treatment and services to promote healing and prevent infection.

Urinary Incontinence

1. If you are incontinent (unable to control urine), you must receive treatment and services to prevent urinary tract infection.

2. You should be helped to restore as much normal bladder function as possible.

3. If your home wants to use a catheter (a tube inserted to collect urine), it must show why this is necessary.

Range of Motion

1. If you can move your limbs around easily, your home must ensure that you experience no reduction in range of motion unless your condition shows that reduction was unavoidable.

2. If you do have limited range of motion, you must receive appropriate treatment and services to increase your ability to move around easily, or to prevent further decrease.

Mental and Psychosocial Functioning

1. If you have any difficulty adjusting to the home, you must receive appropriate treatment and services to help.

2. If you have had no previous adjustment difficulties, your home must ensure that you not display any pattern of decreased social interaction and/or increased withdrawn, angry, or depressive behaviors, unless your condition shows that these behaviors were unavoidable.

Feeding Tubes

1. If you are able to eat by yourself or with help, you should not be fed by a tube unless your condition shows that tube use was unavoidable.

2. If you are fed by tube, you must be given treatment to prevent possible problems.

3. Your home must try to restore, if possible, your normal eating.

4. Tubes may be used only after other possible alternatives have been considered. A health care professional with training in diagnosis and management of swallowing disorders must take part in this evaluation.

5. Tubes are used to maintain adequate nutrition and hydration.

6. If you have a food tube, at least every 6 weeks you must be reassessed for ability to return to normal eating. The reasons for deciding to continue tube feeding must be in your medical record. If a tube through the nose is being used for longer than 95 days, the alternative of a permanent tube through the stomach (which is more comfortable) must be considered.

7. If a tube through the nose is used, it should be the smallest size appropriate and of soft, flexible material.

8. Your home must have policies for how you are to be placed when being fed, and how often you need to be observed and monitored.

Accidents

1. Your home's environment must be as free as possible from accident hazards.

2. Any assistive devices you use such as wheelchairs or walkers must be supervised to prevent accidents.

3. Your home must keep a record that includes a clear description of every accident or incident, involving behavior of any resident or staff member, that poses a threat to a resident or staff member. This record must include the resident's version of the accident or incident unless the resident does not want to or cannot give a report due to her/his medical condition. Other parts of this record include individuals involved and a description of services provided, by whom, and the steps taken to prevent a recurrence. Your home must give you and your designated representative a copy of your version, if any, of the accident or incident (415.30 f).

Nutrition and Hydration

1. Your home must try to help you maintain ideal body weight and protein levels unless

your condition shows that this is not possible.

2. When you have a nutritional problem, you must be offered a therapeutic diet.

3. You must be provided with sufficient fluid to maintain your health.

Drug Therapy

1. Your medications should include only those prescribed to treat a specific illness or condition, and must be monitored for any problems and to see if the drugs are working. If a medication is found to be harmful or ineffective, or the condition for which it was prescribed changes, the drug must be changed or discontinued.

2. Your home should not make any significant medication errors. Significance depends on how serious the error is in terms of its effect on you.

3. The pharmacist in your home must review your medications at least once a month and report any irregularities to your physician and director of nursing. These reports must be acted on promptly. The quality assessment and assurance committee must regularly review them (415.18 c).

4. All your medications should be prescribed in writing by a physician, physician assistant, nurse practitioner or dentist unless unusual circumstances justify an oral order. Any oral order must be given to a licensed nurse or a licensed pharmacist, be immediately put into writing, proved accurate by the nurse or pharmacist and be countersigned by the prescriber within 48 hours. If this is not done, the order must be stopped, and your medical director or another physician must promptly evaluate your medication needs (415.18 i).

Other Care Needs

1. If you have special needs such as injections, prostheses, respiratory care, foot care, and others, your home must provide special treatment.

2. If you need services such as laboratory, blood bank, radiology and other diagnostic services that your home does not have, your home must help you arrange transportation (415.20 b and 415.21 b,2). If you are not on Medicaid, you may have to pay for this transportation.

QUALITY ASSURANCE AND ASSESSMENT (415.27)

1. In order to review all resident care and to enhance the residents' quality of life and care, the home must establish and maintain a quality assurance and assessment program.

2. The home must have a committee that includes the administrator or her/his representative, the director of nursing, a physician, at least 1 member of the governing body who is not affiliated with the home and at least 3 other staff members.

3. This committee must meet at least quarterly to identify quality care problems to review.

4. The committee must consult with the Resident Council 4 times a year to seek recommendations for quality home improvements.

STAFF TRAINING (415.26)

1. Within one week of employment, each staff member must be given a planned orientation to the home operation and resident care, and such on-the-job training as is necessary. The orientation must cover the following: relevant personnel policies; the home's organization; its long-term care philosophy; the physical plant; infection control; quality assessment and assurance; environmental aspects of the home; safety program; residents' rights; and resident abuse and neglect reporting requirements.

2. In order to obtain nurse aide certification and be listed in the New York State RHCF Nurse Aide Registry, an individual must successfully complete a State approved nursing home nurse aide training program and pass the State clinical skills competency examination and written or oral competency examination.

3. Your nurse aide must be trained within 120 days of being hired. S/he may be a trainee (still in training). However, if s/he is a trainee, s/he can do for you only tasks s/he has been trained for and successfully completed, and cannot care for you at all until s/he has completed at least 16 hours of classroom training.

4. All nurse aide trainees must be under the direct supervision of a nurse (415.13 c,2).

SOCIAL SERVICE (415.5g)

The social services program in your nursing home must meet your social and psychological needs.

1. Your social worker must conduct the initial assessment of your psychological needs.

2. S/he should help interpret your rights to your family and to other staff.

3. S/he should advocate for you, especially helping you with any problems resulting from your being in the home.

4. S/he should develop with you services that will assure your highest level of emotional, physical and psychological well-being and independence.

5. S/he must involve you in any decisions relating to bed-hold (see Bed-Holds and Therapeutic Leaves, page 36), room change and transfer and discharge.

6. S/he is responsible for interpreting your needs and behaviors to all levels of staff. S/he should suggest positive approaches to your needs, such as alternatives to the use of restraints and psychotropic drugs (medication that affects your behavior or mind).

7. S/he should arrange small group meetings of residents, family members and staff to discuss what it means to be a resident and to help improve your emotional and physical well-being.

8. S/he should participate in every one of your interdisciplinary care plan meetings.

9. S/he should provide assistance and support to your family and friends.

10. If you wish, s/he should arrange for you and your family to meet with the New York State Health Department's staff. (You may want to talk to the people who inspect the home's care and quality of life.)

11. S/he must be available at different times, including weekends and evenings.

12. S/he should help you with services you need to get outside the home.

13. S/he should give bereavement counseling to you and other family and persons affected by any death.

14. If your home has more than 120 residents, a qualified social worker must be employed on a full-time basis.

15. If your home has less than 120 residents, a qualified social worker may be employed part time.

ACTIVITIES (415.5,f)

1. Your home's activity program must be designed to meet your interests, and you have the right to choose activities you desire or prefer.

2. Participation in activities is your choice, but the program should encourage you to be involved by promoting your sense of usefulness and by helping to make your life more meaningful. It should stimulate and support your desire to use your physical and mental capabilities.

3. Individual, group and independent programs must be offered for all residents who so desire at various times of the day and evenings, 7 days a week.

4. Your home must develop programs to encourage you to establish and maintain community contacts, as well as to help you to maintain contacts you already have.

5. The program must be directed by a qualified therapeutic recreation specialist or a professional who has had within the last 5 years 2 years' experience in a social or recreational program (one of these in a health care setting) or a qualified occupational therapist or occupational therapy assistant.

6. The staff must develop with you and your representative a written activities plan that should include individual, group and independent activities in accordance with your needs, interests, capabilities, education and experience. If you do not want any formal activities but prefer to pursue activities on your own, this plan will be a statement of that wish.

7. At least quarterly, your plan must be reviewed with you, your representative and other staff to see if revisions are needed.

8. A monthly activities schedule must be developed based upon individual and group needs, interests and capabilities, considering the special needs of the residents, including dementia, physical handicaps, visual, hearing and speech deficiencies and wheelchair or bed restrictions.

MEDICAL SERVICES (415.15)

Your Rights

1. You have the right to choose your personal attending physician from those who are permitted to practice in your home (415.3e, iii) and you have the right to know the name, office address and telephone number of your physician and have your calls responded to, if you wish to discuss your care.

2. If you have a physician or a dentist who is not practicing in your home but is willing to ask permission to do so in order to care for you, your home must promptly evaluate any such request. Your physician or dentist must agree to follow the policies and procedures required of other physicians in your home. If s/he is granted the right to practice, s/he will be your physician or dentist (415.26 i,2).

3. If you disagree with the diagnosis or treatment being provided, you have the right to seek a second opinion and to ask the second physician to come to your home. However, if you are not on Medicaid, you will have to pay her/his fee yourself.

4. You have the right to refuse any medication and treatment after you have been fully informed and you understand the consequences of refusing.

5. You have the right to administer drugs to yourself if your interdisciplinary care team has determined that it is safe for you to do so (415.3 e,1,vi).

Nursing Home Responsibilities

1. Your home must have a full- or part-time Medical Director who is responsible for putting all medical care policies into practice and for coordinating physician services and medical care.

2. Your home must ensure that, if you need transfer to a hospital, you are admitted on a timely basis and that all of your needed information is provided to the hospital (415.26 g,2,3).

3. The Medical Director must assure that your physician attends to your needs, participates in your care planning, follows the required schedule of visits and follows the home's policies.

4. S/he is responsible for renewing rights of physicians, dentist, and podiatrists to practice.

5. S/he must provide for the collection of information relating to care problems and incidents harmful to residents, resident complaints and safety improvement activities.

Physician Responsibilities

1. As a member of your interdisciplinary care team, your physician must participate in your care planning. Although s/he does not have to attend care meetings, s/he must at least have a person-to-person meeting with the nurse responsible for your care plan.

2. Your physician must visit you as often as your condition warrants, but may visit you no less often than once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. These visits may alternate between personal visits by

your physician and visits by a registered physician's assistant or certified nurse practitioner who is under your physician's supervision.

3. At each regularly scheduled visit, your physician must review your total program of care, including medications and treatments.

4. If your physician is unavailable, your home must make sure that another physician takes over.

NURSING SERVICES (415.13)

1. Your home must have sufficient staff to provide services that allow you to attain or maintain your highest possible physical, mental and psychological well-being. There must be enough registered nurses or licensed practical nurses, nurse aides and other nursing personnel to serve all residents in accordance with their care plans.

Although this regulation requires no specific number of staff, it means that your home may not tell you that it does not have enough staff to care for you. "Sufficient" staff depends upon the number of residents and the complexity of their needs. If the state finds care problems at your home, it may determine that the staff is not sufficient.

2. A registered nurse or a licensed practical nurse must serve as the nurse in charge for every 8-hour staffing shift. Most nursing homes have 3 shifts a day. Each staff person works for 8 hours. Most large nursing homes have one charge nurse for each unit.

3. A registered nurse must be in your home for at least 8 consecutive hours a day, 7 days a week.

4. The Director of Nursing must be a registered nurse and work full time. S/he may also serve as a charge nurse only when the home has an average occupancy of 60 or fewer residents. If more than 60 residents, another nurse must be the charge nurse.

Dietary Services (415.14)

1. Your home must employ a dietitian who is responsible for nutrition services and sufficient competent staff to carry out dietary services. "Sufficient" staff depends upon the number of residents, the complexity of their needs and the amount and type of dietary supervision they require.

2. The menus must take into account the residents' cultural backgrounds and food habits.

3. Food preparation must conserve nutritional value, flavor and appearance. The food must be appetizing, attractive, at the right temperature and be prepared in a form to meet your individual needs. If you refuse the food served, substitutes of similar nutritional value must be offered.

4. You must receive at least 3 substantial meals daily, at regular times comparable to normal mealtimes in the community. There can be no more than 14 hours between the evening meal and breakfast the next day. However, if a nourishing snack, as determined by the dietitian, is given at bedtime, up to 16 hours may elapse between the evening meal and breakfast the next day, provided that resident groups agree.

5. Your home must offer daily snacks at bedtime.

6. If you need assistance with eating your home must provide it, as well as any special eating equipment and utensils that you need.

7. If you wish to observe Jewish dietary laws, your home must provide kosher food and ensure that staff handling the food are trained in the procedures that satisfy the dietary requirements.

REHABILITATIVE SERVICES (415.16)

1. Your home must provide or obtain audiology (hearing) services; speech therapy; speech-language pathology services; physical and occupational therapy; all with qualified personnel.

2. Restorative (therapy that helps restore your abilities) and maintenance (therapy that helps maintain your abilities) rehabilitation must be part of the home's interdisciplinary care planning and treatment.

3. You and your care planning team must set rehabilitative goals based upon your needs and preferences.

4. These goals can range from specialized restorative rehabilitation to routine maintenance rehabilitation such as walking, moving your limbs, etc.

5. If you leave a formal rehabilitative program (because the staff feels that you have benefited as much as possible), the home must have a system for assuring maintenance of your best functioning levels by putting you on a maintenance program provided by nursing staff on your floor or unit.

DENTAL SERVICES (415.17)

1. Your home must provide you with oral hygiene care, and routine and 24-hour emergency dental care.

2. Within 48 hours of admission you must be screened for oral health problems to determine need for emergency care to relieve pain, infection, or swelling. If you have false teeth, with your permission the home will mark them for identification.

3. Within 7 days after your admission assessment, and annually thereafter, you must have a complete oral examination by a dentist or dental hygienist.

4. If you lose or damage your dentures, you must be promptly referred to a dentist.

5. If you need dental treatment, it must begin 30 days after you are examined. If you go outside for treatment, the home must provide transportation.

INFECTION CONTROL (415.19)

1. To help prevent development and transmission of disease and infection, your home must: investigate and take action to prevent infections; have procedures for isolation as necessary; maintain a record of incidence and corrective actions taken; and ensure that all equipment and supplies are cleaned and properly sterilized.

2. Physicians and staff must wash their hands after each direct contact with you, and linens must be handled, stored and transported in a manner that will prevent infection.

3. Your home must report to the Department of Health any increased incidence of infections and report immediately to the city, county or district health officer any presence of communicable disease.

ABUSE, MISTREATMENT, NEGLECT (415.4b)

1. The nursing home must assure that all staff members conduct themselves professionally with all residents, other employees and guests.

2. Staff must not be abusive in language or behavior.

3. Staff must demonstrate respect for each resident (415.26 c,1,iii,d).

4. Staff must inform the home's administrator about any incidents related to abuse, neglect or mistreatment, and your home must report these issues to the State Health Department.

5. Your home may not employ individuals who, by a court of law, have been found guilty of abusing, neglecting or mistreating individuals; or who have had placed in the New York State Nurse Aide Registry (see below) a guilty finding concerning abuse, neglect or mistreatment of residents, or stealing residents' property.

6. You may not be isolated against your will.

7. Your home must have and make use of written policies that prohibit mistreatment, neglect or abuse of residents as well as policies to address stolen and lost property.

8. Your home may not use or permit verbal, mental, sexual or physical abuse.

9. Your home must report to the New York State Nurse Aide Registry or to appropriate licensing authorities, any knowledge it has about any court actions against any employee that would indicate unfitness for service as a nurse aide.

10. Your home must investigate all possible violations and must prevent further abuse while the investigation is in progress.

11. The results of each investigation must be reported to the home's administrator and other responsible officials.

12. If the violation is verified, your home must take effective corrective action (415.4 b).

The New York State Nurse Aide Registry (415.31)

1. The New York State Nurse Aide Registry lists for each nurse aide in New York State: name; address; date of birth; social security number; certification number; and name and date of the state approved training program successfully completed.

2. The registry also lists the final findings against an aide of any instances of resident abuse, mistreatment, neglect or theft of property. It also includes the name of the aide's employer at the time of certification, any record of criminal conviction for abuse, mistreatment, neglect or stealing of property and the date of conviction and any statement made by the aide disputing the findings or convictions.

3. If your home believes that a nurse aide has worked in a state other than New York State, it must request, before hiring, information about that aide from the registry of that state (415.13 c,2,vii).

4. Nursing homes, nurse aide agencies and nurse aide registries in other states can obtain the following information from the Registry by telephone: the fact that the

individual is a certified aide; and an indication of the findings or criminal convictions of abuse, mistreatment or neglect or theft of property by the nurse aide.

5. Upon written request for information, anyone else may receive verification that the individual is a certified nurse aide with the certification number and date of certification. Also available are copies of final findings or reports of criminal convictions for abuse, mistreatment, neglect or stealing of property with the date of conviction and, if any, a statement from the aide disputing the findings.

RESTRAINTS (415.4a)

You have the right to be free from physical and chemical restraints except those authorized under rules given below.

PHYSICAL RESTRAINTS

A physical restraint is any method, device, material or equipment attached or next to your body that you cannot remove easily and that restricts your freedom to move. Examples are vest restraints, bedrails, chairs you cannot get out of and wrist restraints. All staff must be trained in the policies about the use of physical restraints. Written policies must list and define each type of restraint available in the home and the purposes for which each may be used.

When Physical Restraints May Be Used

1. Physical restraints may be used only to protect your health and safety and to help you reach your highest levels of functioning.

2. The care plan must specify the type of restraint, the times it must be released, and the types of exercise, skin care and walking to be provided.

3. A physical restraint may be used only in unusual circumstances and after all reasonable less restrictive alternatives have been considered and rejected.

4. Social workers and physical therapists must be involved in seeking alternatives that clearly will not harm you and must be tried before they are rejected.

5. A physical restraint may not be used for staff convenience, for purposes of discipline or to substitute for direct care, activities and other services.

6. Except in an emergency, a physical restraint may be used only with your consent or (if you are unable) your legal health care proxy agrees.

7. A physical restraint will be removed if you and/or your legal health care proxy ask for removal.

How Physical Restraints May Be Used

1. Physical restraints may be used only for a limited period of time.

2. They must allow for some body movement and must not damage circulation.

3. Staff must closely monitor restraints.

4. Staff must review the use of restraints if a resident or designated representative requests it, and if the resident's condition indicates need for review.

5. Restraints must be removed at least every two hours except when you are asleep in bed. During the removal, you must be provided with changes of position, walked around or exercised.

6. When you are in a restraint, your skin must be checked at least as often as when you are dressing and undressing, or if skin abrasions and/or circulatory problems are found.

7. Restraints that can be locked may not be used.

Emergency Use of Physical Restraints

1. In an emergency, a restraint may be used if approved by your home's Medical Director, a physician or nursing director or, in their absence, a registered nurse.

2. The restraint may be used only for that specific emergency and for a limited period of time.

3. A physician must be consulted within 24 hours.

4. The restraint must be applied under the direction of a licensed nurse.

5. The reason for the restraint and your response to it must be written into your medical record.

6. Until you are seen by a physician, you must be monitored frequently by a licensed nurse.

Chemical Restraints

Chemical restraints (psychotropic drugs) are medications that control mood and behavior. They may sedate residents; help or put residents to sleep; lower or block anxiety; stop residents from disturbing others or lessen agitation; stop residents from wandering: help to lessen psychotic symptoms such as hallucinations and feelings of paranoia.

1. Psychotropic drugs may not be used as discipline or for staff convenience.

2. They must be used to treat your medical condition and only if staff believes that the drugs will not be harmful.

3. A physician must specify the problem for which s/he prescribes a psychotropic drug and write the order.

4. Unless used for an emergency, the medication must be part of your care plan.

5. Nursing staff must monitor your use of the drug, to detect any problems or harmful effects.

6. Changes in dosage and/or discontinuance of the drug must be made if the drug is ineffective and/or is causing harmful side effects and/or if the problem for which it was prescribed has been resolved.

7. The drug may be used only after alternative methods have been tried and failed.

8. The drug must be discontinued if its harmful effects outweigh the beneficial effects.

9. The home must try to gradually reduce the dose in an effort to discontinue the drug (415.12 (l)).

10. At least annually, an independent external consultant (someone not related to the nursing home) must review your psychotropic drug plan and advise the home as to whether the plan is appropriate (415.18,c,3)*.

FINANCES (415.26,h)

Personal Funds

1. Your nursing home must furnish a description of how it will protect your personal funds (415.3,c,2,i,a).

2. You have the right to manage your personal finances, or you may authorize the home to do so. The home may not require you to deposit your personal funds (415.3,g,1).

3. If you authorize the home in writing to manage your personal finances, the home must hold, safeguard, manage and account for your funds.

4. If your funds are more than $50, the home will deposit them in an interest-bearing account that is separate from any of the home's operating accounts and will credit to your account all interest earned.

5. If your funds are less than $50, the home will maintain them in a non-interest-bearing account or petty cash fund.

6. The home will establish and maintain a system that assures complete separate accounting of your personal funds.

7. Your financial record must document each deposit or withdrawal of funds and be available to you within 1 day of a request from you or your representative.

8. If you are on Medicaid, and if your funds reach $200 less than the allowable limits, the home must notify you that you are in danger of losing your eligibility for Medicaid.

9. Upon your death, within 30 days, the home must give a final accounting of your funds to the person legally responsible for your estate.

Refund Policies

1. The home must specify in writing its refund policies to you or your representative. It must refund promptly any amount in excess of funds already used for care, if you leave the home for reasons beyond your control or the control of your representative.

2. If you decide to leave and/or your representative decides to transfer you, the home may keep one (1) day's basic rate in addition to any amount for services already furnished.

Tips

The home's staff may not request or accept any tip or gratuity from you or your representative.

CHARGES (415.26,h)

Services Available to All Residents

1. Items for which you may not be charged if (a) you pay privately and they are included in your basic rate, or (b) if your care is paid for by Medicaid or Medicare (415.3,b,7).

a) Food, including therapeutic or modified diets if prescribed by a physician.

b) A clean, healthful sheltered environment.

c) Twenty-four hours-per-day nursing care.

d) The use of all equipment and medical supplies.

e) Fresh bed linen, changed at least weekly, including enough fresh linen for incontinent residents (residents who cannot control urine and/or their bowels).

f) Hospital gowns or pajamas, and laundry services for these and other personal clothing.

g) General household medicine cabinet supplies.

h) Assistance and/or supervision with activities of daily living such as toileting, bathing, eating and walking.

i) Daily nursing staff services.

j) Use of equipment such as crutches, walkers, and wheelchairs, and training in their use (unless such equipment is prescribed by a physician for your own specific use, in which case the home would help you apply directly to Medicaid for coverage. If you pay privately, you would have to meet any additional costs, unless Medicare may cover.

k) An activities program.

l) Social services.

m) Physical therapy, if needed.

n) Occupational therapy, if needed.

o. Speech services, if needed.

p) Audiology services, if needed.

q) Dental services.

2. Items for which you may be charged additionally

a) A telephone, a television/radio for your personal use.

b) Smoking materials.

c) Special cosmetic or grooming items.

d) Personal clothing.

e) Personal reading matter.

f) Flowers or plants.

g) Social events and entertainment offered off the premises and outside of the scope of the activities program.

h) Specially prepared or alternative food requested instead of generally prepared food, but only if it is documented that the requested food costs more than the food provided to other residents. (This may not include Kosher food) (415.26 c).

3. Rules Related to Extra Charges

a) You can be charged only for what you request and receive.

b) You must be told in advance what the charge will be for items you request.

c) You must be informed orally and in writing of costs of available services not covered by insurance or by the basic daily rate.

d) You must be notified of any changes in costs (415.3g,2,iii).

e) Your home may not charge you for anything extra unless you or your designated representative give written approval, or upon written orders of your physician, or in the event of a health emergency needing special services or supplies.

f) Your home must give you 30-day notice of any need to raise basic charges (for private pay residents) or any other charges.

g) If you request it, the home must give you or your representative financial and supportive evidence to explain why a change is needed.

4. If you are on Medicaid

a) If your home provides supplies, equipment and transportation for activities, these are already paid for by Medicaid or Medicare and you may not be charged.

b) The home may not require you to request special items for which you could be charged as a condition for admission or continued stay (415.3,b,7).

c) You must be told what items and services are included in the home services under Medicaid for which you may not be charged and the cost of those services for which you could be charged (415.3,g,2,1,a and b).

STOLEN OR DESTROYED PROPERTY OR MONEY (415.26,j)

1. Your home must have procedures for the receipt, review and investigation of complaints of property or money stolen or destroyed by staff.

2. All allegations must be investigated within 48 hours.

3. A log must be kept of each complaint, review and investigation.

4. You must be notified in writing as to the findings.

5. If your property is valued at more than $250, your home must notify and follow up with the police. If an individual is convicted, your home must notify the Department of Health within 72 hours.

BED-HOLDS AND THERAPEUTIC LEAVES (415.3h)

1. For all residents your home must have a bed-hold and readmission policy that describes how the home will hold your bed if you have to go to the hospital, or if you leave the home for other purposes such as leaves defined as therapeutic. The policy must include the number of days you may be away, and how you may be readmitted if you are gone longer than the allowable time.

2. You and your representative must be informed about this policy both orally and in writing, on admission and again at the time you leave the home overnight for any reason.

3. While you are in the hospital, if you are on Medicaid, have been in the home for 30 days or more, and the home does not have many vacancies, Medicaid will pay for your bed for up to 15 days, extendable upon request to 20 days. Your home must hold your bed for you. Medicaid will also pay for up to 18 days of therapeutic leave, if this is part of your care plan. If you lose your bed-hold because you had to remain in the hospital over 20 days or you went beyond 18 days of therapeutic leave, and you still need nursing home services you must be readmitted when the first bed in a semi-private room is available.

4. If you pay privately or Medicare pays, your home may have a policy that requires you to pay to have your bed held. You should have been told about this at admission.

5. If you take your medication without staff, when you go on therapeutic leave your pharmacy or nursing staff may give you any needed medication (415.18,h).

TRANSFER AND DISCHARGE (415.3,h)

Transfer and discharge refer to your being moved to a bed outside your nursing home; this term does not apply to moving to another bed within the home.

All of the following rules apply even if you have been in the home less than 30 days and/or have been transferred to a hospital, lost or never had a bed-hold. If your home refuses to readmit you after you have been sent to a hospital, your transfer has become a discharge and all of the following rules apply.

Reasons for Transfer and Discharge

You may be transferred or discharged only when your care team in consultation with you and/or your designated representative, determines that one of the following is true:

1. The transfer or discharge is necessary for your welfare because the home cannot meet your needs, after making all reasonable attempts to meet your needs.

2. The transfer or discharge is appropriate because your health has improved to the point where you no longer need nursing home care.

3. The health or safety of others in the home would be endangered if you were not transferred or discharged. However, this risk to others must be more than theoretical, and the home must have tried all reasonable alternatives to transfer and discharge.

You may also be transferred or discharged if, after reasonable and appropriate notice, you have failed to pay for (or to have Medicare, Medicaid or insurance pay for) your stay. In this situation, **you may not** be transferred or discharged: (a) if a charge is in dispute, (b) if an appeal of a denial of benefits is pending, or (c) if funds are not actually available or, if they are, you are cooperating with the home in getting the funds.

You may also be transferred or discharged if the home has received approval of its plan of closure and closes.

Notice of Transfer or Discharge

1. Before you are transferred or discharged, you and your designated representative must be notified in writing of the reasons for the move, in a language and manner you can understand.

2. You must be given this notice 30 days before the move unless:

(a) the safety or health of others would be endangered by delay; or (b) your health has improved enough to allow a more immediate move; or (c) your medical needs require a more immediate move; or (d) you would like to move.

3. The notice must include:

a) A statement that you have the right to appeal to the Department of Health with a phone number to call;

b) The number and address of the State long-term care ombudsman; and

c) A statement that, if you appeal within 15 days of the notice, you may remain in the home until the appeal decision is made.

d) If you are mentally ill or have developmental disabilities, the address and number of the Commission Quality of Care for the Mentally Disabled.

Transfer and Discharge Policies

1. Your home must maintain identical policies for all residents, whether you are private pay or on Medicaid or Medicare.

2. Except in an emergency situation, you and your representative must participate in the decision for transfer or discharge. In emergency, your physician and your representative must be notified immediately (415.26,b,14).

Discharge Plan

If your home believes that you should be discharged, it must prepare a discharge summary that includes:

1. A summary of your stay;

2. A summary of your status;

3. A post-discharge plan of care, developed with you and your representative, that will help you adjust to a new living environment;

4. Medical and supportive services (e.g., home aides, therapists) that have been arranged and are available to meet your identified needs (415.11,d).

Appeals

1. You have a right to appeal the transfer or discharge decision. Your home has the burden of proof that the move is necessary.

2. You have a right to an on-site appeal determination by the Department of Health.

3. Except in cases involving imminent danger to others, if you have appealed within 15 days of your notice, you may remain in the home until the decision is reached.

4. If you appeal within 30 days of actual transfer or discharge, you have a right to a post-transfer appeal. If you win this appeal, you have a right to return to the home's next available bed.

5. In cases involving imminent danger to others, where the home has transferred you without your or your designated representative's consent, the home must hold your bed until the hearing decision. If the transfer was found to be appropriate, and if you pay privately, the home may charge you for each day your bed was held.

ORGANIZATION AND ADMINISTRATION OF YOUR NURSING HOME (415.26)

Administrator Responsibilities

1. Your home must have an administrator who supervises all staff with the understanding that your home exists to serve the interests and the needs of the residents. S/he must emphasize the importance of your right to independence regarding all aspects of institutional life.

2. S/he must be readily available to you and to staff.

3. S/he should encourage staff to act respectfully and professionally toward you.

Administrator Coverage

1. If your nursing home has 41 or more beds, it must have a full- time administrator.

2. If your home is smaller, your administrator must work not less than 12 hours a week. These hours must be during normal business hours.

3. The Department of Health may require more than 12 hours depending upon the history and nature of any operating problems.

4. To ensure 24-hour a day coverage a staff member may be designated as an alternative administrator for any hours that the administrator is absent from duty.

Governing Body

Your home must have a governing body (Board of Directors or Owners) that is legally responsible for establishing and implementing policies regarding the management and operation of your home.

OPTIONAL SERVICES YOUR NURSING HOME MAY HAVE CHOSEN TO OFFER

SERVICES FOR RESIDENTS WITH ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) (415.37)

This section applies to homes approved by the Commissioner of Health to be an AIDS nursing home. It does not apply to homes that have a few beds scattered throughout the home.

General Requirements

1. The home must have a written agreement with a designated AIDS center that will help you select and get all services you need as the disease progresses. If the Commissioner of Health approves, the home itself may offer these case management services.

2. If you need hospital care, the home must have a written transfer agreement with a designated AIDS center or other hospital.

3. The home must provide or arrange for you the following services if needed: substance abuse services, mental health services and pastoral counseling.

4. The home must develop and implement infection control policies and procedures specific to AIDS.

Care Planning

1. An interdisciplinary care team must include all health care professionals needed, but as a minimum must include the attending physician, a registered professional nurse and a social worker.

2. At least monthly the plan must be reviewed and modified if necessary.

Staffing Requirements

Physician

1. A physician who has experience in the care of persons with AIDS oversees the program.

2. Your attending physician must visit you as often as necessary.

3. If you need skilled nursing care, your physician must visit you at least once a week.

4. If you need intermediate nursing care (i.e., you are able to walk and negotiate stairs and ramps without staff help), your physician must visit you at least once a month.

5. A physician must be on-site 7 days a week.

Nurse

Nursing services must be supervised by a registered nurse with experience in the care of persons with AIDS.

Rehabilitation Therapy Staff

1. Rehabilitation therapy staff must include, as a minimum, physical and occupational staff.

2. A rehabilitation therapy staff member must evaluate you. Based upon this evaluation, your care plan is developed with restoration or maintenance rehabilitation goals.

SERVICES FOR RESIDENTS WHO ARE VENTILATOR DEPENDENT (415.38)

General Requirements

1. All residents who are ventilator dependent must be on the same unit.

2. Services must be directed at restoring your best functioning level and, if possible, helping you become independent from the ventilator.

3. Your home must have a transfer agreement with a general hospital located within 20 minutes' travel time, equipped and staffed for any needs you may have.

4. Your home must provide or arrange for any laboratory, mental health and diagnostic radiology services you may need.

5. Your home must have an effective program of preventive and periodic maintenance of ventilator equipment and prevent the spread of infections and communicable disease.

Staff

1. Your care must be directed by a physician who is a qualified pulmonology specialist.

2. This physician and others qualified by training and experience in the care and treatment of persons needing ventilators must be available 7 days a week, 24 hours a day.

3. Your physician must see and evaluate you as often as necessary, but at least every other week.

4 One or more registered nurses must be available on each shift (there are usually 3 shifts a day).

5. Respiratory therapists and rehabilitation therapists must be available to meet your needs.

Weaning

1. You must be assessed to see if you can be weaned from the ventilator.

2. If you are able to be weaned or to become less dependent on the ventilator, you must receive an active program of therapy and other supportive services designed to reduce or eliminate your need for the ventilator.

Discharge

1. You must be assessed to see if you can be discharged to your own home or a home-like setting with or without supportive services.

2. If you are able to leave, your home must initiate an active program of therapy and other supportive services to help in your move and adjustment. Your home must arrange for any needed home modifications, equipment or assistance.

PROGRAM FOR HEAD-INJURED RESIDENTS (415.36)

General Requirements

1. All head-injury programs must be approved by the Commissioner of Health.

2. Each program must be on a designated unit of at least 20 beds.

3. Each program is designed to serve you if you are medically stable, are traumatically brain-injured, and are expected to stay from 3 to 12 months.

4. The program is directed at restoring you to the highest possible level of physical, cognitive and behavioral functioning.

5. The program may not admit or retain you if you are determined to be dangerous to yourself or others.

Specific Requirements

1. Your home must have a method for evaluating your care. This method must include a review of your and your family's complaints and suggestions, incident reports and your response to discharge plans.

2. There must be sufficient space, equipment and facilities to support the unit's function.

3. The home must be able to transfer you to other facilities if you need other services.

Eligibility Requirements

1. You must have suffered a traumatic brain injury with structural non degenerative (will not deteriorate) brain damage, be medically stable, not be in a persistent vegetative state, have demonstrated potential for physical, behavioral and cognitive rehabilitation and may show moderate to severe behavior symptoms. You must be capable of exhibiting at least local responses by reacting to stimuli.

2. A person who has diffuse brain damage may be admitted if s/he is considered appropriate for coma management and long-term rehabilitation.

3. For persons denied admission, the home must keep for 2 years records that indicate the reasons for denial.

Staff

1. The program director, responsible for development and implementation of educational programs, must have had at least 2 years of clinical or administrative experience in head injury rehabilitation programs.

2. A physician with advanced training and experience in the care of the head injured shall be responsible for the medical direction and oversight.

3. A qualified specialist in physical medicine and rehabilitation or a physician who has training and experience in the care and rehabilitation of head-injured residents shall be responsible for the medical management of your care.

4. A head-injury program that admits or retains residents with psychiatric disorders shall have on staff qualified specialists in psychiatry.

5. A registered nurse with experience in the provision of rehabilitation nursing for head-injured residents will be responsible for the nursing services.

6. On each shift there must be at least one registered nurse with experience in rehabilitation.

Interdisciplinary Care Team

1. An interdisciplinary team of health care professionals with special interest, training, experience and expertise in head-injury rehabilitation will be responsible for your care. At a minimum, the team must consist of a physician, a registered nurse, a physical therapist, an occupational therapist, a speech-language pathologist, a social worker, a dietitian, a therapeutic recreation specialist and a clinical psychologist with at least one year's training in neuropsychology.

2. One member of the interdisciplinary team must be a liaison between you, your family and staff and educational, social and vocational resources in the community.

Care Planning

1. Your written care plan, developed upon admission in consultation with you, your family and outside agencies, as necessary, must include rehabilitation goals for you. It must be reviewed every 14 days and modified if necessary.

2. The care plan must address medical and neurological status, emotional and psychiatric status, nutritional status, the developmental needs of children and adolescents, sensorimotor capacity, cognitive, perceptual and communicative capacity, affect and mood, activities of daily living skills, educational or vocational capacities, sexuality issues and concerns, family counseling and community reintegration needs and recreation and leisure time interests.

Discharge

1. Your written discharge plan must be developed within 30 days of your admission.

2. You and your family must receive preparation for discharge.

3. After discharge, the home must follow up with you to assess your response to the discharge.

4. Depending upon your needs, vocational rehabilitation and special education services must be provided or arranged.

EXTENDED CARE OF RESIDENTS WITH TRAUMATIC BRAIN INJURY (415.40)

Eligibility Requirements

1. You must have been injured at least 3 months before admission, and have been diagnosed as having a traumatically acquired cognitive and/or physical condition.

2. You must have participated in an intensive rehabilitation program for a person with traumatic brain injury (TBI), in a hospital or nursing home, and have been assessed by a neurologist or physiatrist who determined that you would no longer benefit from an intensive rehabilitation program.

Care Planning

1. If you have been assessed as potentially able to benefit from restorative rehabilitation therapy, the home must arrange for those services or transfer you.

2 A professionally recognized classification system for measuring each individual's physical, affective, behavioral and cognitive level must be consistently used as a basis for care planning.

3. A physician with training and experience in caring for persons with TBI must participate in the care planning.

Discharge

When potential for discharging you to home or a home-like setting is identified, the home must initiate an active program of therapy and other supportive services designed to help you and your family in the transition to the new setting.

PROGRAMS FOR RESIDENTS NEEDING BEHAVIORAL INTERVENTIONS (415.39)

General Requirements

1. All residents who need behavioral interventions must be on the same unit.

2. The program serves residents who are a danger to themselves or others and who display aggressive behaviors such as clear threats of violence. This behavior may be unpredictable, recurrent for no apparent reason, and typically exhibited as assaultive, combative, disruptive or socially inappropriate, such as sexual molestation or fire setting.

3. The home must have a written agreement with an inpatient psychiatric facility to provide for admissions and consultation.

4. The home must participate with the Commissioner of Health in a review of the program.

Eligibility and Admission

1. The home must develop written admission criteria.

2. Before admitting you to this program, your medical record must show that: you are dangerous to yourself or to others; your behavior has been assessed to be severe; you have displayed within the last 30 days behavior listed above in general requirements; various alternative interventions have been tried without success; you cannot be maintained in a less restrictive setting; and you have the potential to benefit from such a program.

3. Before admission, you and your designated representative must be informed orally and in writing about the program and the policies and procedures governing resident care in the unit. At a minimum, you and your representative must be told that you have the same rights as others to leave or be discharged from the program.

Assessment and Care Planning

1. The interdisciplinary team must determine preliminary approaches and interventions.

2. Each plan must include care and services that are therapeutically beneficial and selected by you when appropriate and you are able.

3. Depending on your needs, the team must include a psychiatrist, psychologist, or social worker.

4. The plan must be reviewed at least once a month for any needed modifications.

Discharge

1. A proposed discharge plan must be developed within 30 days, with the participation of you and your representative, as well as any outside agency or resource that will be involved with you following discharge.

2. The plan must be designed to assist and support you, your family and caregiver in the transition to the new setting. After discharge, program staff must be available to act

as a continuing resource to you, your family or caregiver.

3. When you no longer meet the admission criteria, you must be discharged to a less restrictive setting.

4. If you are discharged to a hospital or psychiatric facility, a member of the home's program staff must accompany you during the transfer. If your condition warrants it, you must be given priority to return to the program.

5. If you have been admitted to the program from a nursing home, you must be given priority for readmission to that home whenever able to be discharged.

Resident Services

The program must consist of medical, behavioral, counseling, recreational, exercise and other services to help the resident control or redirect her/his behavior through interventions carried out in a therapeutic environment.

Staffing

1. Staff must be sufficient to allow for direct services on the unit, for small group activities and for one-on-one care.

2. The unit must be managed by a program coordinator who is a licensed or certified health care professional with previous formal education, training and experience in the care of individuals with severe behavioral problems.

3. A physician who has specialized training and experience in this care or neuropsychiatric conditions shall be responsible for the medical direction and oversight of the program.

4. A qualified specialist in psychiatry who has clinical experience in behavioral medicine, and experience working with individuals who are neurologically impaired, must be available.

5. A clinical psychologist with at least one year of training in neuropsychology must be available.

6. A social worker with experience associated with severe behavioral conditions must be available to work with you, staff and family.

7. There must be at least one registered nurse, other than the coordinator, on each shift (there are usually 3 shifts a day) who has training and experience in caring for your needs.

8. A full-time therapeutic recreation specialist must be responsible for the therapeutic recreation program.

Training

1. All care staff must have pertinent experience or have received training in caring for your needs.

2. To familiarize non-care staff (such as housekeeping and dietary aides who come in contact with these residents) with the program and the residents, educational programs must be conducted.

REQUIRED POSTINGS

Following is a list of information that must be posted in your home:

- Summary of your rights (must be displayed in a public place where residents and visitors gather, and it must be at wheelchair level)
- Information about how to apply for and use Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits
- Information about advance directives or written instructions concerning important health care decisions, health care proxy and designation of a health care agent
- A schedule of the home's current monthly activities
- The home's visiting hours
- The date and time your home will assess you to determine your group for Medicaid reimbursement to the home
- The date and time the New York State Department of Health auditors will visit your home to review resident information
- A statement that you have the right to know which reimbursement group you have been assigned
- The person in your home to contact for more information about assessment groups and reimbursement
- A New York State Division of Human Rights nondiscrimination poster (must be displayed in the Admissions Office)

** Although not required to be posted, the results of the most recent survey with any plan of correction must be available in a place readily available to you without the need of staff assistance.

GLOSSARY

Advance Directives - A verbal or written instruction plan in advance of incapacitating illness or injury which ensures that your wishes about treatment will be followed. This includes but is not limited to a health care proxy, an order not to resuscitate (DNR) and a living will.

Designated Representative - The individual or individuals designated to receive information and to help or act on your behalf to the extent permitted by New York State law. This is not the same as a health care agent or proxy. The designation occurs by a court of law if sought; by you if you have the capacity to make such a designation; or by your family and others most personally involved in your care.

The designated representative: (1) receives any written and verbal information required to be provided to you if you lack the capacity to understand or make use of the information, and any information required to be provided to you and your designated representative; (2) participates (to the extent allowed by law) in decisions and choices regarding your care, treatment and well-being if you lack the capacity to make decisions and choices. The designated representative does not have the right to see your medical records or make medical decisions unless you give the right or your representative is a health care agent or proxy and you lack the capacity to give your permission.

DNR Order - The Do Not Resuscitate Order is an advance directive that you or your Health Care Proxy or Agent (if you have chosen one; if you have become incapacitated; and if you have not specified that you do not want a DNR) may request and sign that directs the home not to resuscitate you if you go into cardiac or respiratory arrest.

Health Care Agent - Someone appointed by you that you trust todecide about treatment if you become unable to decide for yourself. You can appoint someone by filling out a form called a Health Care Proxy. These forms are available at your home. People often use proxy and agent interchangeably although the proxy is actually the form (see below).

Health Care Proxy - A document that delegates the authority to another individual known as a Health Care Agent to make health care decisions on your behalf if you are incapacitated.

Living Will - An advance directive that directs the home to follow your wishes and allow you to die without any excessive or burdensome treatment.

Minimum Data Set Plus (MDS+) - The comprehensive assessment used by your home to assess your strengths and weaknesses and to develop your care plan.

Ombudsman - An individual, working under the supervision of the New York State Office for the Aging, who will help you with any problems you have in your home.

Patient Review Instrument (PRI) - The assessment used to assess your medical and dependency needs for nursing home eligibility and for Medicaid reimbursement.

Special thanks to DC 37 Publications and Printing departments
for preparing this booklet.