

Enrolled
Senate Bill 307

Sponsored by Senator JOHNSON (Pre-session filed.)

CHAPTER

AN ACT

Relating to rights of residents in residential facilities; amending ORS 101.115, 101.150 and 441.100.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 101.115 is amended to read:

101.115. (1) A provider must assist a resident, upon request, in the exercise of the resident's rights as a citizen of the United States and as a resident of this state. A resident has the right to exercise all rights that do not infringe upon the rights or safety of other residents.

(2) A resident has the right to review a provider's disclosure statements.

(3) A provider may not discriminate or impose any requirement or restriction based on sex, marital status, race, color, sexual orientation or national origin of a resident, a prospective resident or a resident's visitor.

(4) A provider shall make reasonable accommodations to ensure that services are accessible to residents who have disabilities.

(5) A provider shall treat each resident with respect and dignity at all times, and ensure privacy for each resident during rehabilitation or treatment and when receiving personal care services.

(6) A resident has the right to associate and communicate privately with persons of the resident's choice and to send and receive mail that is not opened by the provider.

(7) A resident has the right to be free from abuse as defined in ORS 124.005.

(8) The residents' council has the right to meet with the provider no less than twice each year and must be allowed free discussion at the meetings of subjects that may include, but need not be limited to, facility income, expenditures, financial trends, resident concerns, proposed changes in policy, programs and services, and any other issue identified by the council or a resident under ORS 101.112 (1).

(9) A resident has the right to participate in social, religious and community activities at the discretion of the resident.

(10) A resident has the right to be fully informed, prior to or at the time of admission and during the resident's period of residency, of services available in the continuing care retirement community, whether the provider participates in the Medicare or Medicaid programs and the consequences of the participation or lack of participation by the provider in the Medicare or Medicaid programs.

(11) A resident has the right to refuse medication, treatment, care or participation in clinical trials or other research.

(12) A resident has the right to obtain treatment, care and services, including but not limited to home health and hospice care, from persons providing health care who have not entered into a contract with or are not affiliated with the provider, subject to policies of the CCRC regarding the provision of services by persons that are not under contract.

(13) A resident has the right to submit grievances and to suggest changes in policies and services either orally or in writing to staff or other individuals without fear of restraint, interference, coercion, discrimination or reprisal by the provider. A provider must *[listen to and respond promptly to a grievance or suggestion from a resident]* **adopt written policies and procedures for the timely resolution of a resident's grievance.**

(14) A resident has the right to be free from harassment by other residents and to peaceful enjoyment of the CCRC without interference from other residents.

(15) A provider shall keep clinical and personal records of residents confidential. A resident or an authorized representative of the resident has the right to a prompt inspection of the records pertaining to the resident's care. The provider shall provide photocopies or electronic copies of a resident's records to the resident or the authorized representative at a reasonable charge.

(16) A resident has the right to receive *[30 days' prior]* notice of proposed changes in fees or services **in accordance with ORS 101.112.** The provider must allow residents a reasonable opportunity to comment on the proposed changes before the changes become effective.

(17) A provider shall have a procedure in place for a resident to request that a staff person of a particular sex be assigned to assist the resident with activities of daily living. The provider shall accommodate the request unless the provider is unable to do so. If the provider is unable to accommodate the request, the provider shall notify the resident, in writing, of the reasons why the provider is unable to accommodate the request and shall maintain documentation showing why the provider cannot accommodate the request.

SECTION 2. ORS 101.150 is amended to read:

101.150. (1) The Department of Human Services shall implement the provisions of this chapter.

(2) The department shall adopt such rules as are reasonably necessary for the enforcement of this chapter. The department shall submit any proposed rules to the advisory council prior to proceeding with the notice procedures provided for in ORS 183.335. The department shall consider the comments of the advisory council which pertain to a proposed rule before the department adopts the rule.

(3) The department shall adopt a procedure for a resident to file a complaint with the department concerning a continuing care retirement community's failure to comply with a requirement of this chapter. The department shall:

(a) Provide a response to the complainant no later than 14 days after the date the complaint is filed; and

(b) Complete an investigation of the complaint no later than 90 days after the date the complaint is filed; and

(c) Provide a written report of the results of the investigation to the provider and to the complainant.

SECTION 3. ORS 441.100 is amended to read:

441.100. As used in ORS 441.100 to 441.153:

(1) "Designee" means an individual appointed by the Long Term Care Ombudsman to serve as a representative in order to carry out the purpose of ORS 441.100 to 441.153.

(2) "Residential facility" includes a:

(a) Long term care facility;

(b) Residential facility as defined in ORS 443.400, excluding a:

(A) Facility housing persons committed under ORS 161.327; and

(B) Facility licensed by the Oregon Health Authority to provide alcohol and drug treatment;

(c) Licensed adult foster home as defined in ORS 443.705; *[and]*

(d) Developmental disability child foster home, as defined in ORS 443.830, that is certified by the Department of Human Services; **and**

(e) Continuing care retirement community as defined in ORS 101.020.

Passed by Senate June 24, 2015

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House July 1, 2015

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State