

RCH RESIDENTS RIGHTS, TRANSFERS & DISCHARGES

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WHAT IS THE LONG-TERM CARE OMBUDSMAN PROGRAM?

- The Long-Term Care Ombudsman Program (LTCOP) works to improve the quality of life and quality of care of Connecticut citizens residing in nursing homes, residential care homes and assisted living communities. All Ombudsman activity is performed on behalf of, and at the direction of residents. All communication with the residents, their family members or legal guardians, as applicable, is held in strict confidentiality.

RESIDENTS RIGHTS

CONNECTICUT GENERAL STATUTES 19A-550 – PATIENTS' BILL OF RIGHTS

There is an established a residents' bill of rights for any person admitted to residential care home.

- When you live in a residential care home (RCH), you have many important rights. The most important of these, the foundation of all the other rights you have, are the rights to be treated with **dignity, respect and with consideration of your personal preferences.**

WHAT DOES THE HCBS SETTINGS RULE REQUIRE OF A “PROVIDER-OWNED OR CONTROLLED RESIDENTIAL SETTING”?

- A “provider-owned or controlled residential setting” is one in which the service provider also owns or controls the real estate where the individual lives,
 - Different than a setting owned or controlled by the person or their family, where the provider arrives to deliver support services.

In a provider-owned or controlled Residential setting has some additional requirements, because research shows that these settings are more likely to limit residents’ rights

- in part because residents can't fire their service provider without having to move to a new home.

WHAT DOES THE HCBS SETTINGS RULE MEAN

- Individuals in these settings must:
 - have a lease or other legally enforceable agreement providing similar protections
 - have privacy in their unit, including lockable doors, choice of roommates and freedom to
 - furnish or decorate the unit
 - have the right to control his/her own schedule including access to food at any time;
 - have the right to visitors at any time; and
 - have a setting that is physically accessible.

THE RESIDENTS' BILL OF RIGHTS SHALL PROVIDE THAT EACH SUCH RESIDENT:

Current Resident Rights

- entitled to treat his or her living quarters as his or her home

Home and Community Based Settings Rule

- control over their personal space
- privacy in their unit, including lockable doors
- choice of roommates and freedom to furnish or decorate the unit

THE RESIDENTS' BILL OF RIGHTS SHALL PROVIDE THAT EACH SUCH RESIDENT:

Current Resident Rights

- has no fewer rights than any other resident of the state, associating and communicating privately with persons of their choosing, and purchasing and using technology

Home and Community Based Settings Rule

- Have the right to visitors at any time

THE RESIDENTS' BILL OF RIGHTS SHALL PROVIDE THAT EACH SUCH RESIDENT:

Current Resident Rights

- to exercise the resident's rights as a resident and as a citizen
- to be fully informed about residents' rights
- present grievances
- recommend changes in policies, procedures and services without fear of reprisal from the RCH
- access to the Department of Public Health or the Long-Term Care Ombudsman

Home and Community Based Settings Rule

- Has the right to control over their environment at anytime

THE RESIDENTS' BILL OF RIGHTS SHALL PROVIDE THAT EACH SUCH RESIDENT:

Current Resident Rights

- must be fully informed of their rights and of all rules regarding resident conduct and responsibilities
- be fully informed of services available in the RCH
- The RCH cannot charge for an additional fee for things that are paid for by the state or are inclusive in the daily rate.

Home and Community Based Settings Rule

- Has the Right to Visitors at anytime

THE RESIDENTS' BILL OF RIGHTS SHALL PROVIDE THAT EACH SUCH RESIDENT:

Current Resident Rights

- can only be transferred from one room to another for limited reasons:
 - medical reasons
 - for the resident's welfare or that of other residents
 - An Individual who goes from private pay to state assistance may be transferred from a private room to a nonprivate room

Home and Community Based Settings Rule

- Have choice of roommates
- Have privacy in their unit, including lockable doors, choice of roommates and freedom to furnish or decorate the unit;

ROOM CHANGES

- For an involuntary transfer from one room to another must be given not less than 30 days' and not more than 60 days' written notice.
 - Exceptions for health, safety or welfare where immediate transfer from one room to another is necessitated by urgent medical need of the resident
 - or a resident who has resided in the RCH for less than thirty days, in which case notice shall be given as many days before the transfer as practicable

THE RESIDENTS' BILL OF RIGHTS SHALL PROVIDE THAT EACH SUCH RESIDENT:

Current Resident Rights

- manage their personal financial affairs, and if the RCH manages any component of the resident's funds, they must give the resident a **quarterly** accounting of financial transactions made on their behalf
- be free from mental and physical abuse, corporal, not be disciplined

Home and Community Based Settings Rule

- Have the right to control his/her own schedule including access to food at any time
- Control over their individual plan and environment

THE RESIDENTS' BILL OF RIGHTS SHALL PROVIDE THAT EACH SUCH RESIDENT:

Current Resident Rights

- receive confidential treatment of the resident's personal and medical records
- receive quality care and services with reasonable accommodation of individual needs and preferences
- be treated with consideration, respect, and dignity and individuality
- privacy for treatment and for care

Home and Community Based Settings Rule

- have privacy in their unit
- lockable doors
- choice of roommates
- freedom to furnish or decorate the unit

THE RESIDENTS' BILL OF RIGHTS SHALL PROVIDE THAT EACH SUCH RESIDENT:

Current Resident Rights

- send and receive the personal mail unopened, make calls privately
- receive notice before the resident's room or roommate is changed
- organize and participate in resident groups social, religious and community activities
- retain and use the personal clothing and possessions

Home and Community Based Settings Rule

- have privacy in their unit, including lockable doors, choice of roommates and freedom to
- furnish or decorate the unit
- have the right to control his/her own schedule including access to food at any time
- have the right to visitors at any time

SEARCHES

Current Resident Rights

RCH's can not just do

- searches of person
- searches of property or food
- searching or opening of packages that come to the facility
- staff should not be working in a capacity of a legal authority

Home and Community Based Settings Rule

- have privacy in their unit, including lockable doors, choice of roommates and freedom to
- furnish or decorate the unit
- have the right to control his/her own schedule including access to food at any time

INVOLUNTARY TRANSFER /DISCHARGE NOTICES

- The RCH shall not transfer or discharge a resident unless:
 - the transfer or discharge is necessary to meet the resident's welfare and it can't be met in the RCH
 - the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the RCH
 - the health or safety of individuals others is endangered
 - the resident has failed, after reasonable and appropriate notice, to pay for a stay (Not AI)
 - the RCH ceases to operate.

HCBS - Have a lease or other legally enforceable agreement providing similar protections

INVOLUNTARY TRANSFER /DISCHARGE NOTICES

- Involuntary transfer or discharge
- RCH shall provide written notice to the resident not less than **thirty days prior** to the proposed transfer or discharge date
 - except In the case of an emergency or need for immediate transfer or discharge
- Such notice shall include the reason for the transfer or discharge, the effective date of the transfer or discharge, the right of the resident to appeal a transfer or discharge, the resident's right to represent themselves or be represented by legal counsel.
- Such notice shall be in a form and manner prescribed by the commissioner
 - shall include the name, mailing address and telephone number of the State Long-Term Care Ombudsman and be sent through the LTCOP **electronic portal**.

INVOLUNTARY TRANSFER /DISCHARGE NOTICES

As of 1/1/23

- **Residential Care Home Notice of Transfer / Discharge Requirements outlined by Public Act 22-58**
 - Public Act No. 22-58
 - <https://portal.ct.gov/-/media/LTCOP/PDF/WEBPORTAL/LTCOP-INV-Transfer-Website-Help-Manual-For-Facility-Staff-Dec-2022.pdf>
 - LTCOP Involuntary Discharge Portal User Manual
 - LTCOP Involuntary Discharge Portal Link

INVOLUNTARY TRANSFER /DISCHARGE NOTICES

The RCH is responsible for assisting the resident in finding an alternative residence.

A discharge plan, prepared by the facility, in a form and manner prescribed by the commissioner shall include the resident's individual needs and shall be submitted to the resident **not later than seven days after the notice** of transfer or discharge is issued to the resident.

INVOLUNTARY TRANSFER /DISCHARGE NOTICES

- A resident or resident's representative may appeal the transfer or discharge by filing a request for a hearing with the commissioner not later than ten days after the receipt of such notice.
- Upon receipt of any such request, the commissioner shall hold a hearing.

INVOLUNTARY TRANSFER /DISCHARGE NOTICES

- A hearing is held within 7 business days after the receipt of the request.
- The commissioner issues a decision within twenty days after the closing of the hearing.
- Any involuntary transfer or discharge that is appealed under this subsection shall be stayed pending a final determination by the commissioner.
- The commissioner sends a copy of the decision to the RCH, the resident /Representative/ legal guardian/conservator or other authorized representative, or the resident's legally liable relative and the State Long-Term Care Ombudsman.

EMERGENCY INVOLUNTARY TRANSFER /DISCHARGE NOTICES

- In the case of an emergency, a RCH may request the need for an immediate transfer or discharge of a resident by submitting a sworn affidavit attesting to the basis for the emergency transfer/ discharge.
- The RCH shall provide a copy of the request for an immediate transfer or discharge and the notice to the resident.
- After receipt of the request, the commissioner may issue an order for the immediate temporary transfer or discharge of the resident. The temporary order shall remain in place until a final decision is issued by the commissioner, unless rescinded.

EMERGENCY INVOLUNTARY TRANSFER /DISCHARGE NOTICES

- The commissioner shall issue the determination as to the need for an immediate transfer or discharge of a resident not later than 7 days after receipt of the request.
- A hearing shall be held not later than 7 business days after the date on which a determination is issued.
- The commissioner shall issue a decision not later than 20 days after the date on which the hearing record is closed.

EMERGENCY INVOLUNTARY TRANSFER /DISCHARGE NOTICES

- The commissioner sends a copy of the decision regarding an emergency transfer or discharge to the RCH, the resident and the resident's legal or other authorized representative, and the State Long-Term Care Ombudsman.

EMERGENCY INVOLUNTARY TRANSFER /DISCHARGE NOTICES

If the commissioner determines that an emergency does not exist, the commissioner shall proceed with a hearing in accordance with the provisions of subsection of this section. (f) A RCH or resident who is aggrieved by a final decision of the commissioner may appeal to the Superior Court in accordance with the provisions of chapter 54.

Pursuant to subsection (f) of section 4-183, the filing of an appeal to the Superior Court shall not, of itself, stay enforcement of an agency decision. The Superior Court shall consider an appeal from a decision of the commissioner pursuant to this section as a privileged case in order to dispose of the case with the least possible delay.



To Contact the Long-Term Care Ombudsman Program

TOLL FREE

1-866-388-1888

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