

§ 2803-c. Rights of patients in certain medical facilities. 1. The principles enunciated in subdivision three hereof are declared to be the public policy of the state and a copy of such statement of rights and responsibilities shall be posted conspicuously in a public place in each facility covered hereunder.

2. The commissioner shall require that every nursing home and facility providing health related service, as defined in subdivision two and paragraph (b) of subdivision four of section twenty-eight hundred one of this article, shall adopt and make public a statement of the rights and responsibilities of the patients who are receiving care in such facilities, and shall treat such patients in accordance with the provisions of such statement.

3. Said statement of rights and responsibilities shall include, but not be limited to the following:

a. Every patient's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and the facility shall encourage and assist in the fullest possible exercise of these rights.

b. Every patient shall have the right to have private communications and consultations with his or her physician, attorney, and any other person.

c. Every patient shall have the right to present grievances on behalf of himself or herself or others, to the facility's staff or administrator, to governmental officials, or to any other person without fear of reprisal, and to join with other patients or individuals within or outside of the facility to work for improvements in patient care.

d. Every patient shall have the right to manage his or her own financial affairs, or to have at least a quarterly accounting of any personal financial transactions undertaken in his or her behalf by the facility during any period of time the patient has delegated such responsibilities to the facility.

e. Every patient shall have the right to receive adequate and appropriate medical care, to be fully informed of his or her medical condition and proposed treatment unless medically contraindicated, and to refuse medication and treatment after being fully informed of and understanding the consequences of such actions.

f. Every patient shall have the right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records, and security in storing personal possessions.

g. Every patient shall have the right to receive courteous, fair, and respectful care and treatment and a written statement of the services provided by the facility, including those required to be offered on an as-needed basis.

h. Every patient shall be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized in writing by a physician for a specified and limited period of time or as are necessitated by an emergency in which case the restraint may only be applied by a qualified licensed nurse who shall set forth in writing the circumstances requiring the use of restraint and in the case of use of a chemical restraint a physician shall be consulted within twenty-four hours.

i. A statement of the facility's regulations and an explanation of the patient's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other patients.

j. A statement that should the patient be adjudicated incompetent and not be restored to legal capacity, or if a conservator should be appointed for the patient, the above rights and responsibilities shall be exercised by the appointed committee or conservator in a representative capacity.

k. Every patient shall have the right to receive upon request kosher food or food products prepared in accordance with sections two hundred one-a, two hundred one-b and two hundred one-c of the agriculture and markets law.

k-1. Every patient shall have the right to receive upon request halal food or food products prepared in accordance with sections two hundred one-e, two hundred one-f and two hundred one-g of the agriculture and markets law.

l. Pursuant to regulations promulgated by the commissioner, no facility or individual and no general hospital providing medical care to persons having been admitted from such facilities or from adult care facilities covered by the provisions of section four hundred sixty-one-b of the social services law, or to applicants for readmission to such facilities or to adult care facilities covered by the provisions of section four hundred sixty-one-b of the social services law, shall restrict or prohibit the access to the facility or general hospital nor interfere with the performance of the official duties, including confidential visits with residents, of duly designated persons participating in the long term care ombudsman program as provided for in section two hundred eighteen of the elder law.

m. Pursuant to regulations promulgated by the commissioner in consultation with the director of the office for the aging, no facility shall restrict or prohibit access by records access ombudsmen specially designated under section five hundred forty-four of the executive law to the medical or personal records of any patient or resident if such patient or resident, or, where appropriate, committee for an incompetent, has given express written consent to such disclosure; provided, however, that (i) in the case of medical records, disclosure may be exclusive of the personal notes of the physician as defined in such regulations and (ii) access may be limited to such times as may be specified in such regulations. Such records shall be made available by a member or members of the facility's staff who shall be designated by the facility to provide access to and, where necessary, interpretation of such records to such records access ombudsman, who shall have the right

to photocopy such records. The facility may charge a reasonable fee for photocopying pursuant to such regulations. Disclosure to a records access ombudsman of records of any patient or resident pursuant to the written consent of such patient or resident shall not give rise to any claim against the facility, its staff, or the patient's or resident's physician based solely on the fact of such disclosure pursuant to such written consent. Nothing in this paragraph shall be construed to limit or abridge any right of access to records, including financial records, otherwise available to ombudsmen, patients or residents, or any other person.

n. Pursuant to regulations promulgated by the commissioner in consultation with the director of the office for the aging, no facility or individual shall retaliate or take reprisals against any resident, employee, or other person for having filed a complaint with, or having provided information to, any long term care patient ombudsman functioning in accordance with section five hundred forty-four or five hundred forty-five of the executive law, nor shall any facility or individual interfere with the official duties of any such ombudsman. Such regulations shall provide for appropriate sanctions with respect to such retaliation, reprisals, or interference.

(o) Every patient shall have the right to authorize those family members and other adults who will be given priority to visit consistent with the patient's or resident's ability to receive visitors.

p. A statement informing the patient of his or her right to make organ, tissue or whole body donations, and the means by which the patient may make such a donation. The commissioner shall promulgate any rules and regulations necessary to implement the provisions of this paragraph.

q. A statement indicating the policy of the facility regarding the granting of physician privileges to residents.

r. Every patient shall have the right to remain in care unless the patient is appropriately discharged or transferred in accordance with section two thousand eight hundred three-z of this article and a

residential health care facility shall not attempt to compel or retaliate against an individual that chooses to remain in care.

4. Each facility shall give a copy of the statement to each patient at or prior to the time of admission to the facility, or to the appointed personal representative at the time of appointment and to each member of the facility's staff.

5. Each facility shall prepare a written plan and provide appropriate staff training to implement each patient's right included in the statement.

6. The department shall translate and make available to all facilities the statement in the ten most common non-English languages spoken by individuals with limited-English proficiency in New York state as based on the most recent United States census. Each facility shall post and make available copies of said statement for residents under subdivisions one, two, and four of this section.