

## Special *FREE* Report

### Nursing Homes in Kentucky:

*What you have to know if a loved one is going to a nursing home*

Keep reading to learn:

#### **Before a loved one goes to a nursing home:**

- Why choosing the correct nursing home is so important,
- Who you must contact in order to minimize the financial impact to your family,
- How to select a nursing home,
- The seven most common problems in nursing homes.

#### **If the unthinkable happens:**

- What to do if you suspect abuse or neglect,
- How to select a lawyer for nursing home abuse or neglect,

**Who is Behind This Report  
-and-  
“Why Should I Listen to You?”**



First, thank you for requesting this special free report on Nursing Homes. I am confident that after reading it you will be in a much better position to choose the best nursing home for your loved one.

I know personally how difficult the decision is to place a loved one in a nursing home. You are entrusting someone you care deeply about to a bunch of strangers in a strange place. Often, this decision is made knowing this will be the last place your loved one will ever live. You are, in affect, saying, “I love this person. I know I can no longer provide good, safe care for them. You are a professional caretaker that promises to care for my loved one better than I can. Please help me.”

How can you tell a good nursing home from a poor nursing home? How do you know whether the residents receive good care? In short, how do you know if this home is worthy of caring for your loved one?

My name is Hans Poppe and I represent victims of nursing home neglect. I have seen too many individuals injured by poor nursing home care and I have seen too many families blame themselves for choosing the wrong home. I would much prefer for your loved one to have a good nursing home experience than a good lawsuit because of the care they received in a bad nursing home. You can trust that the advice I give you here

will make you a much better consumer of nursing home care and, hopefully, will make you willing to be a strong advocate for your loved one.

Our firm only does a few things, so if you want a divorce, will, or help with a traffic ticket, we can't help you (but if you call us, we can probably tell you someone who can). But, if you want to learn more about how to protect your loved one from getting poor nursing home care, keep reading. You can also find out more about me and my law firm by going to [www.PoppeLawFirm.com](http://www.PoppeLawFirm.com).

## **Why Choosing the Correct Nursing Home is so Important:**

### *The tug of war for good care.*

Make no mistake about it, the nursing home industry is BIG BUSINESS---and it's getting bigger. Last year, the United States spent \$90 Billion to pay for nursing home care. Medicare and Medicaid pay approximately 60% of this amount, making the U.S. Government the largest consumer of nursing home care.

There is a continual tug-of-war between the competing interests of the nursing home owners and the government. The owners, like all businesses, are primarily concerned with maximizing profits; however, the government is primarily concerned with minimizing costs.

Faced with shrinking taxes and increased costs, states reduce the Medicaid budget and become lax in enforcing regulations. The decreased revenue from the states provides an excuse for the nursing homes to make cuts to save money. These cuts then lead to staff and supply shortages, the major contributing factor to substandard care. It's a vicious cycle, and it's unacceptable.

There is no reason why a multi-million dollar healthcare facility should ever be out of linens or fresh food. Such conditions exist because of poor leadership and the placement of profits over people. Such conditions will continue to exist as long as it remains socially acceptable for nursing homes to operate the way they do. In order to make good nursing home care the standard, individuals must express their voice.

Consumers must expect and demand good care. Doing so requires a voice at the nursing home, the state level, and even the national level. Only then will the standards improve.

### *Quality care is less expensive:*

While nursing home care is certainly expensive, poor care is even more expensive. If residents are able to walk, over medicating them so they can't walk will lead to increased costs in the need for wheelchairs and seat cushions. How long will it be before these residents are no longer self-toileting, self-feeding, self-dressing, or self-bathing? Forcing residents to spend hours at a time seated, or in bed, leads to pressure sores and wounds that must be cared for. If residents are unable to care for themselves, the home is forced to make a decision. Either hire more staff to do these things for the residents, or force the current staff to take on these additional time consuming tasks. Which one do you think most nursing homes choose?

### **Employee turnover:**

Nursing homes have significant trouble attracting and keeping good staff because of the low pay, poor benefits, difficult working conditions and poor management. According to the Hospital & Healthcare Compensation Service, Certified Nursing Assistants (CNAs) in hospitals average \$11.49 an hour; however, nursing home CNAs only average \$10.33 an hour—NURSE ASSISTANTS IN NURSING HOMES MAKE A FULL 11% LESS THAN THE HOSPITAL NURSE ASSISTANTS.<sup>1</sup> Compared to hospital work, nursing home work is far more demanding and likely less rewarding since most residents never leave the nursing home. Where do you think the best nurses end up working?? It's not surprising that the same survey found that the turnover rate of CNAs in nursing homes is 42.75% compared to about 25% for CNAs in hospitals and home healthcare.

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<sup>1</sup> [http://hhcsinc.com/News\\_2006\\_ND.pdf](http://hhcsinc.com/News_2006_ND.pdf) last visited December 30, 2006. Press Release by the Hospital & Healthcare Compensation Service.

### **The Government Demands Changes:**

In 1987, grassroots efforts driven by consumers and healthcare professionals helped turn around the laws surrounding nursing homes. The Nursing Home Reform Law, also known as OBRA 87 (Omnibus Budget Reconciliation Act of 1987), forced nursing homes to refine how it provides care. Prior to the Act, nursing homes focused on getting residents to “adjust” to their new lives in the nursing home. The new law required nursing home staff to “adjust” to resident’s daily routines. As importantly, the new law caused a philosophy change in two very important areas: Quality of Care and Quality of Life. In response, many states enacted their own statutes and administrative regulations concerning these areas.

### **Quality of Care and Quality of Life:**

Think for a moment what it would take for you to be comfortable in a nursing home. Your first thought is probably, “I could never be comfortable in a nursing home.” The principle reason for this thought is likely because you are focusing on what you will be given up. Independence, dignity and free-will may be some of the things that you are concerned about losing. Make no mistake about it, making the transition to a nursing home can be traumatic for both the resident, and the family. As a result, a good facility will focus on improving and maintaining the highest practicable level of Quality of Care and Quality of Life.

Quality of care means that, when possible, a resident should get better, should maintain the highest possible level of physical, mental, and psychosocial functioning. At the very least, a resident should not get worse because of the care the home provides. The quality of care focuses on activities of daily living (ADLs) such as eating, bathing,

dressing and walking. It also focuses on wound care, bowel and bladder control, and emotional well-being. In all of these areas, a resident should not get worse unless the decline is unavoidable.

Too often, families believe, or are told, that decline is the inevitable result of old age. Sometimes this is true, other times it is the result of improper or inadequate care. When residents don't get enough exercise, or don't get food they like, or are receiving the wrong medication or the wrong doses, they decline. Decline for these reasons is preventable and, more importantly, unacceptable. You, as a loved one, have an obligation to know the difference.

Similar to providing quality care, nursing homes must also ensure a quality of life for its residents. Many residents respond to being placed in a nursing home with depression, withdrawal and confusion. Ensuring a high quality of life by allowing the resident to make choices about their daily schedule, health care activities and other aspects of life, promote a sense of self and well-being that makes the adjustment easier.

## **WHAT YOU MUST DO BEFORE YOUR LOVED ONE GOES INTO A NURSING HOME**

You now understand why choosing a nursing home is so important. So are very good, but others are very bad. Before we discuss how to choose a nursing home, there is something as important that must be done first. Find someone familiar with how the Medicare and Medicaid system works in order to minimize the financial impact it will have on your loved one.

### **Who you must contact in order to minimize the financial impact to your family.**

Nursing home care is very expensive. In Kentucky, nursing home care averages \$152 per day. In Indiana, the average cost per day rises to \$163.<sup>2</sup> So, your next question is probably “who pays for it.” The answer is, “it depends.” It depends first on what type, of assets your loved one has.

Individuals who receive long-term care in a nursing home must pay the entire cost themselves whether it is from their Social Security check, pension, or savings. If individuals don't have sufficient income or savings to pay for long-term nursing home costs, they “spend down” their income, savings, and other assets to help pay for their own nursing home care until they are eligible for Medicaid, a Public Aid payment source.

An experienced elder care attorney can assist you and your family in helping minimize the impact to your loved one's assets. Perhaps even save a large percentage of them. Elder care attorneys are familiar with the Medicaid qualification laws and can help your loved one qualify without giving all of their hard earned money to the nursing home first.

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<sup>2</sup> Source: Genworth Financial 2006 Cost of Care Survey, Nursing Homes, Assisted Living Facilities and Home Care Providers, March 2006.



## **How to Choose a Nursing Home.**

Fewer decisions you make for you loved one will be as important as choosing what their nursing home. There are ways to separate the good from the bad.

The first thing you should do is narrow down the potential nursing homes by visiting [www.Medicare.gov](http://www.Medicare.gov) and locating the “nursing home compare” page. This will allow you to compare nursing homes by city and zip code.

The U.S. Government inspects every nursing home that is eligible to receive payments from Medicare. On their website, you will find information such as:

- The number of beds at the facility, and how many are being used,
- The number of staff working at the facility,
- Information about the residents (a profile),
- Nursing home inspection summary results,
- Quality information about each Medicare- or Medicaid-certified nursing home.

Next, look at [www.ElderCare.gov](http://www.ElderCare.gov) on the web or, call the Eldercare Locator at 1-800-677-1116 (weekdays 9:00 a.m. to 8:00 p.m. Eastern Standard Time) for information about nursing homes in your area.

Once you have narrowed down the potential nursing homes, you need to personally visit each and every nursing home you are considering. There is no substitute for visiting the facility. Going to the nursing home is the only way to really know whether the facility is clean and safe and the staff is caring. Make an appointment with the nursing home before you visit and take a formal tour with a staff member. Look around and see how the staff treats the residents and whether the facility looks and smells

clean. If you think it is potentially a good fit for your loved one, you must visit a second time. I KNOW THIS MAY SEEM LIKE OVERKILL, BUT YOU MUST GO A SECOND TIME!!!! This time, do not make an appointment. Simply show up and ask to look around again. It is often a good idea to go during meal time or when they are putting residents to bed. These are the best times to see how the staff interacts with the residents. If things seem significantly different when you arrive unannounced, this could be an indication of a problem.

All nursing homes have resident/family councils. Ask the nursing home if you can get permission to attend. This may give you significant insight into what concerns the residents and their families have about the care and treatment given by the home.

***Ask to see the 2567 form.***

What is a 2567 form and why is it so important? The 2567 form is the state survey that each nursing home undergoes every 12-15 months. The law requires this document be “readily accessible” to residents and visitors. You can usually find it near the front desk, or in the lobby, in a binder labeled “State Surveys.” If you can’t find it, ask where it is!

Once you have the form, here are the most important things to look for:

1. Resident Assessments: the law requires a care plan be put in place within 7 days of a resident’s admission. Many nursing homes fail to do this.
2. Quality of Care: lapses in care can lead to injury or death. This section will tell you whether this home has failed to follow doctor’s orders in the past, or made medication errors or the like.

3. Dietary Services: While this may not seem important, I can tell you from experience, meal time is very important to residents and poor dietary services is an indication of a deeper problem. Nursing homes are required to develop a dietary plan for each resident that ensures they are getting the appropriate number of calories every day. The nursing home must also monitor how much the resident eats every day to ensure that they are actually consuming the number of calories they need.

For an even more in depth discussion of this topic, I recommend you go to the website for the National Citizens' Coalition for Nursing Home Reform ([www.NCCNHR.org](http://www.NCCNHR.org)) and order the book *Nursing Homes: Getting Good Care There*, 2<sup>nd</sup> ed., by Sarah Greene Burger, Virginia Fraser, Sara Hunt and Barbara Frank. This Consumer Action Manual is only \$11.95 and it is 156 pages of outstanding information that will help you choose the right nursing home and make sure your loved one gets good care while a resident. The executive director and CEO of AARP said it best, *"This new edition of this highly acclaimed book provides the information we all need to recognize problems when they occur, learn what quality care is and what's required by law, and identify people and organizations that can help us. Everyone with a family member or close friend in a nursing home should have [this book]."*

I also recommend you download the U.S. Department of Health and Human Services' 64 page publication titled *Guide to Choosing a Nursing Home* which is available on my website, [www.PoppeLawFirm.com](http://www.PoppeLawFirm.com)

### **The Seven Most Common Problems in Nursing Homes**

1. Residents not being taken to the bathroom according to individualized needs, leading to incontinence (wet and soiled),

2. Residents not getting enough fluids, leading to dehydration (thirsty and very dry skin),
3. Not getting enough to eat, leading to malnutrition (weight loss and cracks in the corner of the mouth)
4. Not being groomed properly, leading to body odors,
5. Not receiving preventative skin care, leading to pressure sores (holes in the skin and sometimes muscle),
6. Not receiving range of motion exercises or physical therapy,
7. No encouragement to retain independence, leading to a loss of ability to eat, dress, walk, bathe, and get in and out of bed.

## **What to do if you believe your loved one has received poor care.**

I know it's unthinkable, but it happens more than you think-and it's unacceptable.

The National Citizens' Coalition for Nursing Home Reform defines abuse and neglect as follows:

**Neglect:** Neglect is the failure to care for a person in a manner, which would avoid harm and pain, or the failure to react to a situation which may be harmful. Neglect may or may not be intentional. For example, a caring aide who is poorly trained may not know how to provide proper care. Examples include:

Incorrect body positioning -- which leads to limb contractures and skin breakdown;

Lack of toileting or changing of disposable briefs -- which causes incontinence and results in residents sitting in urine and feces, increased falls and agitation, indignity and skin breakdown;

Lack of assistance eating and drinking -- which leads to malnutrition and dehydration;

Lack of assistance with walking -- which leads to lack of mobility;

Lack of bathing -- which leads to indignity, and poor hygiene;

Poor handwashing techniques -- which leads to infection;

Lack of assistance with participating in activities of interest -- which leads to withdrawal and isolation;

Ignoring call bells or cries for help.

**Abuse:** Abuse means causing intentional pain or harm. This includes physical, mental, verbal, psychological, and sexual abuse, corporal punishment, unreasonable seclusion, and intimidation. Examples include:

Physical abuse from a staff member or an intruder or visitor from outside the facility -- including hitting, pinching, shoving, force-feeding, scratching, slapping, and spitting;

Psychological or emotional abuse -- including berating, ignoring, ridiculing, or cursing a resident, threats of punishment or deprivation;

Sexual abuse -- including improper touching or coercion to perform sexual acts;

Substandard care which often results in one or more of the following conditions -- immobilization, incontinence, dehydration, pressure sores, and depression;

Rough handling during care giving, medicine administration, or moving a resident.

Misappropriation of Property/Funds: This means the deliberate misplacement or misuse of a resident's belongings or money without the resident's consent. Examples include:

Not placing resident funds in separate interest-bearing accounts where required;

Stealing or embezzling a resident's money or personal property, such as jewelry or clothing.

Nursing homes are required by federal law to have intervention strategies and regular monitoring to prevent neglect and abuse. The nursing home must reevaluate these measures on a regular basis.

If your loved one has been seriously injured or died as a result of nursing home neglect or abuse, you need to retain a lawyer familiar with exactly how nursing homes operate and why they operate that way. Not every lawyer has the background necessary to figure out why your loved one received sub-standard care. Nursing home negligence cases are complicated for a number of reasons. First, nursing homes have their own language, things like case-mix reports, RUGS and HCFA forms. A lawyer who is not

intimately familiar with how nursing homes operate and how to get the information (that they won't volunteer) can make critical mistakes that will cripple your case.

You simply cannot hire the same lawyer that prepared your will or got you out of your last speeding ticket and expect that they will be able to handle a nursing home negligence case. We handle nursing home negligence cases. We have also sued lawyers who botched nursing home cases.

Trust me, just because someone advertises on television that they handle nursing home cases doesn't mean they know what they are doing. In fact, we have forced an advertising lawyer to admit in court that he was negligent in handling a nursing home case that resulted in its dismissal.

So, what should you ask a lawyer if you considering hiring them? You might start by asking them something you learned in this special free report. Make sure they know what a 2567 report is. Make sure they know about Kentucky's Resident's Bill of Rights, not every attorney does. You can find a copy of it in the Appendix of this report.

In short, ask them about anything you have learned in this report. If they don't seem familiar with the topics, you may want to think twice about hiring that attorney.

## Fewer Cases Means More Time for You

We are not one of those law firms you see advertising on television. We don't rely on a high volume of cases and we don't claim to handle every type of case. We don't want to and we don't need to.

Each year we accept only a few select cases. And, if we accept your case, you will receive my personal attention.

Our Goal as a Firm is to maximize verdict potential for every client we represent.

We believe a small group of hard-working professionals, working on a select number of cases, provides the dedication, focus, and skill necessary to accomplish this goal.



At The Poppe Law Firm, we recognize that each case starts with a personal story. We take time to build relationships with our clients and we are passionate about finding fair resolutions to their cases.

We welcome tough, complex cases and have won the respect of colleagues, judges, and industry experts for our thorough research, preparation, and exceptional results.

Some clients want us to carry their burdens for a time so that they can concentrate on getting well. Others want to be closely involved. Either way we are honored by their trust.

We welcome the chance to help you find justice.

## Hans

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## **An Open Letter from One of Our Clients.**

October 5, 2006

I address this letter to Hans Poppe and to all others who may wish to hear of my experience with him. As I could fill novels with tales of his service as my attorney and champion of my cause, I will keep it brief and strictly to the point of what he has done for me, and how he has become so much more than an attorney to me.

It is very ironic that I am writing this on my actual birthday, because I wouldn't have made it to this day, physically or emotionally, without Hans.

Most who will read this, like me, had something bad happen to them, and have sought assistance in claiming some type of compensation or retribution for injuries obtained. I wish you good luck, and can tell you that if you choose Hans, you are in the most capable and caring hands possible, and he will advise you not only on legal issues, but also ensure that he truly knows your situation, and what is best to help you with that.

I feel that Hans chose to represent me in my case, when others wouldn't, for one reason, because he truly felt I had been wronged and someone should fight for me, and my cause. It had nothing to do with knowing it would end in a fairly large settlement or judgment. This was a case that other lawyers would not proceed with, because of the difficulty of proving my claim, the time involved, and the travel it would require. Hans requested to represent me when he opened his own firm, and I agreed knowing that he was familiar with my case. The fact that he took on such a difficult case, immediately upon opening his own firm, should speak volumes of his willingness to help those who have been wronged, and not just for the money. I'd feared all along that if we were not successful with my case, he would be ruined, although he assured me I was not his only client. I never would have known that, because I sure felt like I was.

Hans is so different from all other attorneys I have met, or been exposed to. He truly cares about his clients and their families, to the point of even after his job has been very well accomplished, he's still there, guiding me, and advising me on totally unrelated issues.

I can also speak as highly of the members of his team in his firm. Barbara has become one of my best friends and confidants, and Megan and Alene were always right there when I needed them. They each love their jobs and have told me so, and this also speaks to the quality of Hans as an employer and coworker.

To end, I would just like to say that if you need someone to represent you with an issue that you believe has caused you injury, Hans will champion you as he did me, if he believes the case has merit, and no matter what the out-of-pocket expense to him. As far as what he really did for me.....he gave me my life back, and ensured my children's future, and now on my birthday I can only praise the Lord for bringing Hans to me, and thank Hans for getting me here.

Mrs. D.K. Daniels

## **“If I hire The Poppe Law Firm, what can I expect?”**

1. We will meet with you at our office, at your home, or anywhere it is convenient for you.
2. We will explain the strengths and weaknesses of your case.
3. We will discuss similar cases our office has handled.
4. We will explain our “no fee if no recovery” policy.
5. We will take the time to understand how the care of the nursing home has impacted your loved ones condition and quality of life.
6. We will take an inventory of every place you have received medical treatment and we will have you sign authorizations so we can collect all of your medical records.
7. We will get medical records from the nursing home as well as any other necessary healthcare providers and organize them in preparing for depositions and trial.
8. We will interview any witnesses.
9. We will collect evidence.
10. We will hire whatever experts are necessary, including experts in nursing home administration, nursing, and pharmacology
11. We will meet have meetings with your healthcare providers to ensure they are able to discuss their care and treatment of you for purposes of trial.
12. We will analyze your health care insurance policy to determine if you will have to re-pay them, or Medicare or Medicaid, out of any recovery.
13. We will discuss with you the likelihood of settlement without a lawsuit.

14. If suit is filed, we will prepare written questions for the nursing home to answer. We will also assist you in answering any written questions they prepare for you.
15. We will prepare you for your deposition.
16. We will take all necessary depositions, including but not limited to, the nursing home administrator, the head of nursing, dietary, your treating healthcare providers, any of the defendant's experts, and any of our experts unable to attend trial live.
17. We will utilize the latest technology in preparing your case for mediation and trial.
18. We will go to court and get a trial date.
19. We will prepare for trial and/or settlement before trial.
20. We will file motions and briefs with the court.
21. We will prepare and organize all evidence and exhibits such as medical documents and illustrations.
22. We will take the case to trial with a jury or a judge.
23. We will determine whether either side has grounds to appeal a verdict.
24. We will pay all expenses necessary to pursue your case and you will not be required to reimburse those expenses unless we are successful.

# APPENDIX

## Kentucky's Nursing Home Bill of Rights.

### **KRS 216.515 Rights of residents; duties of facilities; actions**

Every resident in a long-term-care facility shall have at least the following rights:

(1) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all services available at the long-term-care facility. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member, or his guardian, prior to or at the time of admission and quarterly during the resident's stay at the facility, of all service charges for which the resident or his responsible family member or his guardian is responsible for paying. The resident and the responsible party

or his responsible family member or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or administrative regulation. Reasonable notice of such action shall be given to the resident and the responsible party or his responsible family member or his guardian.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident or his responsible family member or his guardian shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or administrative regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's

written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and the responsible party or his responsible family member or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions, and any unused balance of moneys from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions, and funds that the facility is not liable for shall be promptly returned to the resident's responsible party or family member, or his guardian, or his executor.

(9) If a resident is married, privacy shall be assured for the spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multibed rooms and in tub, shower, and toilet rooms.

(16) The resident and the responsible party or his responsible family member or his guardian shall be permitted the choice of a physician.

(17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and the responsible party or his responsible family member or his guardian has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible party or family member or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the Cabinet for Health and Family Services.

(24) Each resident and the responsible party or his responsible family member or his guardian has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.