



Summary Language of State Regulations for *Resident Choice*

August 26, 2008

Source: University of Minnesota – Nursing Home Regulations Plus website - <http://www.hpm.umn.edu/nhregsPlus/index.htm>

This chart excerpts regulatory text from 22 states that focus on resident choice through Quality of Life, Resident Rights, or other sections of their regulations. The source is NH Regulations Plus, an easy-to-use comparison of state regulations, including comparison by topics in terms of meeting or exceeding the federal regulations in various areas (http://www.hpm.umn.edu/nhregsPlus/category_search.htm)

- The website includes all state regulations by topic areas. The full texts of all state’s Quality of Life regulations is available on that website at: http://www.hpm.umn.edu/nhregsPlus/category_attachments/category_quality_of_life.pdf
- The full texts of all state’s Resident Rights regulations is available on that website at http://www.hpm.umn.edu/nhregsPlus/category_attachments/category_resident_rights.pdf

Summary: In the chart below, **yellow** and **blue** colored text highlights language of greatest interest.

- Some states have language regarding choice under Resident Rights; others place it under Quality of Life/Resident Care categories; some have it in both areas. From the SSA’s perspective, is there an advantage to placing the language in one category or another?
- Colorado, Florida, Louisiana, Mississippi, New York all have similar language defining choice as part of civil and religious liberties under Resident Rights, i.e. right to “knowledge of available choices and the right to independent personal decisions”. (**Blue high lights**) Louisiana and Mississippi take it a step further by including a phrase specifying the facility must “encourage and assist” the resident in the exercise of such rights.
- Arkansas, Colorado, and Iowa have comprehensive and specific language regarding the kinds of choices and preferences a resident has, e.g. waking, bathing, meals. In addition Arkansas specifies the facility will “elicit and respect” such choices from the resident; Iowa says “elicit and consider.”
- Kansas and Arizona specify in different ways that the facility or administrator affords or ensures the resident the right to make choices, as opposed to the language in some states that gives the resident that right, but does not define the facility’s responsibility in relation to that right.
- Oregon includes choice in Comprehensive Care Planning and Nursing Services section: “The plan shall provide and promote personal choice...”
- Delaware specifies promoting resident choice as part of the definition of The Nurse Aide Role and Function.
- Georgia has very specified language about waking and Minnesota has specific language about meal location.
- Kansas language created a client assessment, referral and evaluation program for all long term care services that specifies an “environment of choice”.
- Many other states copy the language of the current federal regulations (F242) without expansion or specification.



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ALABAMA	<p><u>(1) Quality of Life.</u> <u>(b) Self-determination and participation. The resident has the right to:</u> 1. Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care;</p>	
ARIZONA		<p><u>R9-10-907. Resident Rights</u> <u>An administrator shall ensure that:</u> <u>g. May choose activities and schedules consistent with the resident's interests that do not interfere with other residents;</u></p>
ARKANSAS		<p><u>3000 RESIDENTS' RIGHTS</u> <u>3038 Schedules of daily activities shall provide maximum flexibility and allow residents to exercise choice in participation. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, and entertainment will be elicited and respected by the facility.</u></p>
COLORADO	<p><u>Part 5 – Resident Care 5.1.1 Quality of Life.</u> <u>Residents shall be provided: a safe, supportive, comfortable, homelike environment; freedom and encouragement to exercise choice over their surroundings, schedules, health care, and life activities; the opportunity to be involved with the members of their community inside and outside the nursing home; and treatment with dignity and respect.</u></p> <p><u>5.1.13 Personal Choice</u> <u>The facility shall:</u> <u>(1) make reasonable efforts to accommodate preferences of roommate, including the right of each resident so requesting to be assigned to a room with non-smokers;</u> <u>(2) allow residents flexibility in times to eat main meals, consistent with requirements of Section 11.2 and with its own reasonable staffing and scheduling requirements;</u> <u>(3) allow residents flexibility in times to bathe, rise and retire, consistent with its own reasonable staffing and scheduling requirements;</u> <u>(4) provide at least one alternative menu choice for each meal of similar nutritive value. The same alternative shall not be used for two consecutive meals.</u></p>	<p><u>Part 12 – Residents' Rights</u> <u>12.1.2 The right to civil and religious liberties, including:</u> <u>(1) Knowledge of available choices and the right to independent personal decisions, which will not be infringed upon;</u></p>



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DELAWARE	<p>7.7.1 The Nurse Aide Role and Function</p> <p>7.7.2.2 Promote the resident's right to make personal choices to accommodate individual needs.</p>	
FLORIDA		<p>400.022 Residents' rights.--</p> <p>(a) The right to civil and religious liberties, including knowledge of available choices and the right to independent personal decision, which will not be infringed upon, and the right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these rights.</p>
GEORGIA		<p>GEORGIA</p> <p>290-5-39-.04 Citizenship and Personal Choice.</p> <p>(d) All residents shall be permitted (subject to .10 of these rules and regulations) to rise and retire at any time of their choice, provided the resident does not interfere with the rights of others.</p>
INDIANA		<p><u>Rule 3.1. Comprehensive Care Facilities</u></p> <p>410 IAC 16.2-3.1-3 Residents' rights</p> <p>(u) The resident has the right to the following:</p> <p>(1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care.</p> <p>(3) Make choices about aspects of his or her life in the facility that are significant to the resident.</p>
IOWA	<p>481—58.16(135C) Resident care and personal services.</p> <p>58.16(3) Residents shall have clean clothing as needed to present a neat appearance, to be free of odors, and to be comfortable. Clothing shall be based on resident choice and shall be appropriate to residents' activities and to the weather. (III)</p> <p>58.16(10) Residents shall receive a bath of their choice, based on the facility's accommodations, as needed to maintain proper hygiene. (II, III)</p> <p>58.45(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)</p>	



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KANSAS	<p><u>28-39-153. Quality of life.</u> (b) Self-determination and participation. <u>The nursing facility shall afford each resident the right to:</u> (3) make choices about aspects of the resident's life that are significant to the resident.</p> <p><u>39-968. Client assessment, referral and evaluation program; definitions; implementation; data entry form; requirements; duties of secretary of aging; long term care resource information; rules and regulations; voluntary oversight council; annual report.</u> (a) To achieve a quality of life for Kansans with long-term care needs in an environment of choice that maximizes independent living capabilities and recognizes diversity, this act establishes a program which is intended to encourage a wide array of quality, cost effective and affordable long-term care choices. This program shall be known as client assessment, referral and evaluation (CARE). The purpose of CARE is for data collection and individual assessment and referral to community-based services and appropriate placement in long-term care facilities.</p>	
KENTUCKY	<p><u>Section 6. Quality of Life.</u> (2) Self-determination and participation. The resident shall have the right to: (a) Choose activities, schedules, and health care consistent with his or her interests, assessments and plans of care: (c) Make choices about aspects of his or her life in the facility that are significant to the resident.</p>	
LOUISIANA		<p><u>Subchapter C. Resident Rights</u> <u>§9733. Statement of Rights and Responsibilities</u> 1. the right to civil and religious liberties including, but not limited to, knowledge of available choices; the right to independent personal decision; and the right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these civil and religious rights;</p>
MAINE		<p><u>Chapter 10 – Residents’ Rights</u> 10.T. The resident has the right to: 10.T.3. Make choices that are significant to the resident about aspects of his/her life in the facility.</p>



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MINNESOTA	<p>4658.0620 Frequency of Meals Subp. 4. Dining room. Meals are to be served in a specified dining area consistent with the resident's choice and plan of care.</p>	
MISSISSIPPI		<p>116 Residents Rights 116.02 Residents' Rights. 16. is assured of exercising his civil and religious liberties including the right to independent personal decisions and knowledge of available choice. The facility shall encourage and assist in the fullest exercise of these rights.</p>
NEW YORK	<p>Section 415.5 - Quality of life (b) Self-determination and participation. The resident shall have the right to: (1) choose activities, schedules, and health care consistent with his or her interests, assessments and plans of care;</p>	<p>Section 415.3 - Residents' rights (c) Protection of Legal Rights. (1) Each resident shall have the right to: (viii) exercise his or her civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, which shall not be infringed;</p>
OREGON	<p>411-086-0140 Nursing Services: Problem Resolution & Preventive Care (1) Problem Resolution and Prevention. (a) Conditions to be Prevented. The licensee shall take all reasonable measures consistent with resident choice to resolve and to prevent undesirable conditions such as: (A) Decubitus ulcers and other skin breakdowns; (B) Loss of mobility, or development of contractures or foot drop; (C) Dehydration; (D) Impaction; (E) Infections; (F) Weight loss/gain; (G) Loss of range of motion; (H) Loss of bowel and bladder control; and (I) Loss of self-esteem or dignity. 411-086-0060 Comprehensive Assessment and Care Plan (c) The plan shall provide for and promote personal choice and independence of the resident. (f) The plan shall be prepared and implemented with participation of the resident and in accordance with the resident's wishes.</p>	



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TEXAS	<u>Subchapter H</u> <u>Quality of Life Rule 19.701 Quality of life</u> (2) Self-determination and participation. The resident has the right to: (A) choose activities, schedules, and health care consistent with his interests, assessments, and plans of care; (C) make choices about aspects of his life in the facility that are significant to him.	
UTAH		Utah Resident Rights: (t) choose activities, schedules, and health care consistent with individual interests, assessments and care plan; (v) make choices about all aspects of life in the facility that are significant to the resident.
VERMONT	4.3 Self-Determination and Participation The resident has the right to: (a) choose activities, schedules, and health care consistent with his or her interests, assessments and plans of care; (c) make choices about aspects of his or her life in the facility that are significant to the resident;	
WASHINGTON	WAC 388-97-08030 Self-determination and participation. (1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plan of care; (3) Make choices about aspects of his or her life in the facility that are significant to the resident;	
W. VIRGINIA	5.6. Self Determination and Participation. The resident has the right to: 5.6.a. Choose activities, schedules, and health care consistent with his or her interests, assessments and plans of care; 5.6.c. Make choices about aspects of his or her life in the nursing home that are significant to the resident;	

Note: This document was created in June 2008 by Shana Lieberman Klinger, M.A. and Priya Mahajan, M.P.P., for the Individualized Care Pilot; a project of the Rhode Island Department of Health, Office of Facilities Regulation. It is a working draft and may not be comprehensive. For further information about the Individualized Care Pilot, visit <http://www.health.ri.gov/hsr/facilities/icp.php>