

CANHR is a private, nonprofit 501(c)(3) organization dedicated to improving the quality of care and the quality of life for long term care consumers in California.

## California's Standard Admission Agreement for Nursing Home Residents

When you are admitted to a nursing home, you will be asked to sign an admission agreement that explains your rights and responsibilities and those of the nursing home. In years past, this involved signing contracts written by nursing homes that often contained deceptive or illegal terms.

California is the first state in the nation to outlaw the use of admission contracts written by nursing homes. By law (SB 1061, 1997), all California nursing homes must now use the Standard Admission Agreement developed by the California Department of Public Health. (California Health and Safety Code §1599.61) After more than a decade of delays, the Standard Admission Agreement took effect on April 6, 2012.

The Standard Admission Agreement's purpose is to give you peace of mind that you are signing a document that protects your rights and does not expose you or your family to unexpected financial liability. It is important, however, for you to read the document carefully and to make sure you fully understand its terms before you sign it.

### The Agreement

The California Department of Public Health has posted the [Standard Admission Agreement \(CDPH 327\)](#) and its attachments on its website. The Standard Admission Agreement is available in [English](#), [Chinese](#), [Korean](#), [Spanish](#), [Vietnamese](#) and [Braille](#).

The Standard Admission Agreement consists of the basic Agreement and the following attachments:

- Attachment A – Facility Owner and Licensee Identification
- Attachment B-1 – Supplies and Services Included in the Basic Daily Rate for Private Pay and Privately Insured Residents
- Attachment B-2 – Optional Supplies and Services Not Included in the Basic Daily Rate for Private Pay and Privately Insured Residents
- Attachment C-1 – Supplies and Services Included in the Basic Daily Rate for Medi-Cal Residents
- Attachment C-2 – Supplies and Services Not Included in the Medi-Cal Basic Daily Rate That Medi-Cal Will Pay the Dispensing Provider for Separately
- Attachment C-3 – Optional Supplies and Services Not Covered by Medi-Cal That May Be Purchased by Medi-Cal Residents
- Attachment D-1 – Supplies and Services Covered by the Medicare Program for Medicare Residents
- Attachment D-2 – Optional Supplies and Services Not Covered by Medicare That May Be Purchased by Medicare Residents
- Attachment E – Authorization for Disclosure of Medical Information
- Attachment F – Resident Bill of Rights

### Before Signing the Agreement

Before signing the Standard Admission Agreement:

- Read it and its attachments carefully;
- List any questions about your rights and responsibilities;
- Make sure that all your questions are answered to your satisfaction before signing;
- Use the Agreement as an opportunity to clarify expectations and to negotiate care needs and costs.
- Consult an attorney or advocate if you have concerns or questions about the Agreement.

Carefully review the actual written Agreement the nursing home is asking you to sign. Do not rely on the standard version of the Agreement on the Department of Public Health website. Although a nursing home cannot legally alter or amend the Agreement unless it receives written permission from the California Department of Health Public Health (Title 22 California Code of Regulations §73518), it is possible that a nursing home may have altered the Agreement with or without the required permission.

Please inform CANHR if a nursing home asks you to sign an Agreement that has been significantly altered from its standard terms.

## **Signing the Agreement**

The person being admitted to the nursing home is the only person required to sign the Standard Admission Agreement. (California Health & Safety Code §1599.65) Section I (Preamble) of the Agreement states:

If you are able to do so, you are required to sign this Agreement in order to be admitted to this Facility. If you are not able to sign this Agreement, your representative may sign it for you.

Make sure you obtain a copy of the signed Agreement and any other documents presented or signed at admission. Section XII of the Agreement requires the facility to give you a copy of the signed agreement, all attachments, any other documents you sign at admission, and a receipt for any payments you make at admission, upon your request.

## **Financial Responsibility of Residents' Representatives Who Sign the Agreement**

The resident is responsible for paying any nursing home bills under the Agreement, not his or her family or friends. (Title 42 United States Code §1396r(c)(5), Title 42 Code of Federal Regulations §483.12(d)(2), California Welfare & Institutions Code §14110.8)

Signing the Standard Admission Agreement as a resident's representative does not make you responsible for using your own money to pay for care provided by the nursing home. Section II (Identification of Parties to this Agreement) of the Agreement states:

**IF OUR FACILITY PARTICIPATES IN THE MEDI-CAL OR MEDICARE PROGRAM, OUR FACILITY DOES NOT REQUIRE THAT YOU HAVE ANYONE GURANTEE PAYMENT FOR YOUR CARE BY SIGNING OR COSIGNING THIS ADMISSION AGREEMENT AS A CONDITION OF ADMISSION.**

Additionally, it states:

Signing this Agreement as a Resident's Representative does not, in and of itself, make the Resident's Representative liable for the Resident's debts. However, a Resident's Representative acting as the Resident's financial conservator or otherwise responsible for distribution of the Resident's monies shall provide reimbursements from the Resident's assets to the Facility in compliance with Section V. of the agreement.

The resident's authorized financial representative is responsible to use the resident's funds to pay nursing home fees, such as a share-of-cost set by Medi-Cal for a resident on Medi-Cal. (California Welfare & Institutions Code §14110.8)

## **Signing Other Documents at Admission**

You and your representative cannot be required to sign any other document at the time of admission or as a condition of admission or continued stay in a California nursing home. (Title 22 California Code of Regulations §73518) This right is stated in Section I, the Preamble to the Agreement.

Do not sign any forms or documents that conflict with the Standard Admission Agreement or attempt to restrict your rights. Avoid signing any documents that seek waiver of liability, binding arbitration or general consent to treatment. The Agreement already includes a general consent to treatment and emergency care in Section III so additional forms are not needed for this purpose at admission.

Although you are not required to sign other documents, the nursing home may ask you to do so. It is usually best not to sign other documents at admission. Ask the nursing home to give you copies of any forms to review in advance before making decisions about signing them.

If you have any concerns or doubts about a document you are asked to sign, seek advice from a qualified attorney or advocate before doing so.

## **Binding Arbitration Agreements**

Do not sign a binding arbitration agreement at admission. Nursing homes use arbitration agreements to prevent residents from being able to sue for abuse or neglect.

By signing a binding arbitration agreement, you give up your constitutional right to go to court if a dispute arises in the facility, even if it involves abuse or neglect. There is no right to appeal a decision made through binding arbitration.

Nursing homes cannot require you to sign an arbitration agreement and cannot present an arbitration agreement as part of the Standard Admission Agreement. (California Health & Safety Code §1599.81, Title 22 California Code of Regulations §73518). Any arbitration agreement shall be separate from the Standard Admission Agreement and shall contain the following advisory in large, bold type at the top of the agreement:

**Residents shall not be required to sign this arbitration agreement as a condition of admission to this facility, and cannot waive the ability to sue for violation of the Resident Bill of Rights.**

Residents and their legal representatives can rescind an arbitration agreement by giving written notice to the facility within 30 days of their signature. (California Code of Civil Procedure §1295)

To learn more about problems with binding arbitration, read [CANHR's fact sheet](#) on this subject.

## **Advance Directives**

At admission, the nursing home should ask you for a copy of your advance directive and, if you don't have one, may suggest you establish one. Although it is a good idea to have an advance directive, nursing homes cannot require you to have or to make one as a condition of admission or continued stay. This issue is addressed in Section III, Consent to Treatment, in the Standard Admission Agreement.

Advance directive is the general term used to describe instructions you give someone about preferences for your future medical treatment. At admission, the nursing home must give you written information about advance directives explaining: (1) your right to direct your own health care decisions; (2) your right to accept or refuse medical treatment; (3) your right under California law to prepare an advance health care directive; and (4) the facility's policies that govern the use of advance directives. (Title 42 United States Code §§1395cc(f), 1396r(c)(2)(E) & 1396a(w), Title 42 Code of Federal Regulations §§489.102, 483.10(b)(8) & 431.20)

There are different types of advance directives. The following types are examples, not a complete list.

An Advance Health Care Directive (AHCD), also known as a Power of Attorney for Health Care, allows you to appoint an agent to make health care decisions for you. Your agent only makes decisions for you if you have lost capacity, unless you state otherwise in the document. You can give an agent limited or broad powers in an AHCD, from the right to access medical records to the power to make anatomical gifts. You may also specify healthcare instructions you want to be followed. All adults should have an AHCD.

A Physician Order for Life-Sustaining Treatment (POLST) is another form of advance health care planning where you or your legally authorized surrogate can express end-of-life care preferences. The form instructs providers about what to do regarding CPR, comfort care measures, artificial nutrition and hydration, and other important treatments. A POLST must be signed by a physician and is thus an actual medical order that nurses and nursing assistants must follow. The document is meant for people who are terminally ill as a way to control their end-of-life care.

In recent years, some nursing homes have told residents and their representatives that a POLST form is required at admission. This is not true. Establishing a POLST is a choice, not a requirement. To learn about the pros and cons of POLST, read [CANHR's report](#) on this subject. To learn more about advance directives, read [CANHR's fact sheet](#).

## Participation in Medi-Cal and Medicare

The admission agreement must clearly state whether the nursing home participates in the Medi-Cal and Medicare programs. (California Health & Safety Code §§1599.66 & 1439.8, California Welfare & Institutions Code §14022.3) This information is found in Section V (Financial Arrangements) of the Standard Admission Agreement.

If a nursing home is withdrawing from the Medi-Cal program, it must include this information in Section V (Financial Arrangements) of the Agreement and give the date that it notified the Department of Health Care Services of its intent to withdraw from Medi-Cal. A nursing home that is withdrawing from Medi-Cal is not required to accept Medi-Cal for residents admitted after it notified the State of its intent to withdraw. The Standard Admission Agreement explains that residents admitted on or before the date of the withdrawal notice can use Medi-Cal to pay for their care, even if they become eligible for Medi-Cal after that date. (California Welfare & Institutions Code §14022.4, Title 42 United States Code §1396r(c)(2)(F))

## Requirements to Pay Privately

It is illegal for a Medicare or Medi-Cal certified nursing home to require a resident to pay privately for any set period of time. (Title 42 United States Code §§1395i-3(c)(5)(A) & 1396r(c)(5)(A), and Title 42 Code of Federal Regulations §483.12(d)) When a resident qualifies for Medi-Cal or Medicare nursing home coverage, nursing homes certified by these programs must accept their payments. (California Health & Safety Code §1599.69 & 1599.76, California Welfare & Institutions Code §14019.3, and Title 42 Code of Federal Regulations §483.10(b)(10))

Section V of the Agreement on Financial Arrangements includes the following statement:

**You should be aware that no facility that participates in the Medi-Cal program may require any resident to remain in private pay status for any period of time before converting to Medi-Cal coverage. Nor, as a condition of admission or continued stay in such a facility, may the facility require oral or written assurance from a resident that he or she is not eligible for, or will not apply for, Medicare or Medi-Cal benefits.**

Some nursing homes require applicants to disclose financial information that is used to project how long they can pay privately before qualifying for Medi-Cal. Applicants with more money are usually given preference. Although this practice is of questionable legality, federal and California authorities are doing nothing to stop it.

## Notice About Medi-Cal Eligibility

Prior to admission, Medi-Cal certified nursing homes must notify you about Medi-Cal eligibility standards, using a [State mandated notice](#)

[http://www.dhcs.ca.gov/formsandpubs/forms/Forms/MCED/DHCS\\_Forms/DHCS\\_7077\\_ENG\\_0116.pdf](http://www.dhcs.ca.gov/formsandpubs/forms/Forms/MCED/DHCS_Forms/DHCS_7077_ENG_0116.pdf).

(California Welfare & Institutions Code §§14006.3 & 14006.4) The legislature required the notice after learning that some nursing homes misinformed applicants and residents about Medi-Cal eligibility.

The notice contains important information, including:

- You do not have to use all your resources to qualify;
- Your home is an exempt resource. Its value does not affect your eligibility, and you have the right to transfer the home;
- Medi-Cal has special rules for married couples that protect resources and income for the spouse who is not in the nursing home.

## Deposits

A nursing home cannot require or accept a deposit if Medi-Cal or Medicare is helping to pay for your stay. (California Health & Safety Code §1599.70, California Welfare & Institutions Code §14110.9, Title 42 Code of Federal Regulations §489.22 & 483.12(d)(3))

Nursing homes may require a deposit if you are paying privately for your care. Deposits paid by private paying residents must be returned when Medi-Cal or Medicare start paying for their nursing home care. (California Welfare & Institutions Code §14110.8 & Health & Safety Code §1599.70)

This issue is addressed in Section V(B) of the Agreement on Security Deposits.

## **Rate Changes**

If a nursing home plans to increase its daily rate or service fees, it must give residents 30 days written notice of the changes. (California Health & Safety Code §1288, 1599.67)

## **Refunds and Charges Following Discharges**

You cannot be charged for any days of care after discharge or death and are entitled to a refund of any advance payments made to the nursing home. (California Health & Safety Code § 1599.71) See Section V of the Agreement on Financial Arrangements. The only exception is if you leave the nursing home voluntarily within three days of admission, in which case you may be charged for up to three days at the basic daily rate if Medicare or Medi-Cal are not paying for your nursing home care.

If you are due a refund after your discharge, the nursing home must pay it to you within 14 days of your leaving the facility. See Section V(E) of the Agreement on Payment of Other Refunds to You.

If a resident dies, any advance payments must be returned to the heir, legatee or personal representative of the resident within two weeks after discharge or death. (California Health & Safety Code §1599.71(a) and Title 22 California Code of Regulations §72531)

## **Discharge Notice**

The Admission Agreement shall not require a resident to provide advance notice of when he or she is moving out of a facility. (California Health & Safety Code §1599.71.)

## **Personal Possessions**

At admission, the nursing home must establish a personal property inventory and give you or your representative a copy. (California Health & Safety Code §1289.4) Keep the inventory sheet current and save a copy.

The nursing home is also required to give you a copy of its policies and procedures regarding protection of your personal property and the state laws that require those policies. (California Health & Safety Code §§1289.3, 1289.4, 1289.5 & 1418.7) See Section VIII of the Agreement on Personal Property and Funds.

## **Confidentiality**

You have a right to confidential treatment of your medical and health information. (California Health & Safety Code §1599.73, Title 22 California Code of Regulations §72527(a)(10) & 72543(b), Title 42 United States Code §§1395i-3(c)(1)(A)(iv) & 1396r(c)(1)(A)(iv), and Title 42 Code of Federal Regulations §483.10(e)). You may authorize the nursing home to disclose medical information about you to a family member or other person by completing Attachment E to the Standard Admission Agreement, the "Authorization for Disclosure of Medical Information" form.

## **Your Rights**

The Standard Admission Agreement is intended to inform you about your rights as a nursing home resident. Certain rights are discussed within the Agreement, but Attachment F (Bill of Rights) is a more comprehensive description of your rights. It is a verbatim collection of selected federal and state laws and regulations. Attachment F, however, is 39 pages long due and not an easy way to learn about your rights.

[CANHR's fact sheet](#) on this subject provides a quicker way to learn about your rights.

## **Admission Agreement Complaints**

If your nursing home is not using the Standard Admission Agreement or violates any of your rights, you may file a formal complaint with the California Department of Public Health. For information on filing a complaint, see CANHR's fact sheet, [How to File a Nursing Home Complaint](#).

You can also contact your attorney, local ombudsman program or CANHR to discuss your concerns.

**BE SURE TO REQUEST AND KEEP A SIGNED COPY OF THE ADMISSION AGREEMENT!**