

A Guide to Your Rights as an Individual Living in a Basic Care Facility In North Dakota

Summary Prepared by:

Long-Term Care Ombudsman Program

**A free and confidential resident directed advocacy
service**

1237 W. Divide Ave. – Suite 6

Bismarck, ND 58501

**701-328-4617 or 711 (TTY) or
1-855-462-5465 option 3**

**This is a summary of your rights as an individual living in a basic care facility as
set forth by North Dakota state law. The links listed inside direct you to the
complete law.**

Updated 08/2025

ND Century Code Updated 8/1/2025

Dear Resident,

This booklet provides a summary of the rights you have in your home in the basic care facility. Basic care includes regular basic care and basic care memory care. You keep the rights you had before this move and are still in charge of your choices and lifestyle.

If you experience memory and understanding changes your power of attorney documents may be triggered or a court may determine a guardian needs to manage your health and/or financial decisions. Even if you have such a representative, you should still be informed and consulted about decisions made that involve you.

Remember and respect that the other residents in the facility have the same rights as you. Your choices and actions should not interfere with their rights.

While living in the basic care facility you may choose a family member or friend to be included/involved in the decision-making and

sharing of your information, but you must put this in writing – the facility cannot automatically share information with your family member(s) or others.

If you, or any of your family or friends, have questions about the rights and how they apply to a situation, you may ask facility staff, or please call the Long-Term Care Ombudsman Program at 701-328-4617 or 1-855-462-5465 (choose option 3).

Sincerely,

The Long-Term Care Ombudsmen

SELF- ADVOCACY OPTIONS

You have the right to speak up, voice your needs and changes you want in your care community.

- ✓ **Talk to administrative persons** who have oversight of the staff or concern area.
 - For example, social worker, director of nursing, administrator, dietary supervisor, etc.
- ✓ **Use the grievance procedure** for your care community.
 - Ask for a copy of the **grievance procedure** and follow the steps. It should give direction on how to:
 - Write the grievance,
 - Who to give it to, and
 - A time frame to expect a written response to your concern.
- ✓ **Ask for a care plan meeting** to discuss what is and isn't working to meet your needs, and to update the plan as needed.
 - Your rights in care planning are:
 - To be part of the planning process and to speak and have questions answered.
 - To participate in setting goals and outcomes of care
 - To have a copy of the care plan
 - Staff providing direct cares should be educated on your entire care plan, including changes and put the care plan into action.
- ✓ **Attend resident council meetings.**
 - Discuss concerns and choose the top ones.
 - As a group present the concerns to administration for resolution.
 - Keep minutes of your resident council meetings.
 - Remember staff should attend your resident council meeting only when invited to do so – it is your meeting.
- ✓ **Contact the ombudsman who advocates for individuals in your long-term care community.**
 - Call 1-855-462-5465 (enter option 3) to get the name and contact information for that ombudsman as needed.
 - The ombudsman can discuss self -advocacy and provide guidance for further action if self-advocacy doesn't resolve the situation to your satisfaction.

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North Dakota Century Code and Administrative Rules

- North Dakota Century Code 50-10.2 Rights of Health Care Facility Residents

Scan below with your smart phone to connect with web site



NDCC 23-09.3 ND Century Code Basic Care Facilities

NDAC 33-03-24.1 ND Administrative Code Basic Care Facilities

RESIDENT RIGHTS INFORMATION

- ✱The facility is required to provide you, a member of your immediate family, and your resident representative at the time of admission,
 - a written statement of your rights,
 - the responsibilities of both you and the facility, and
 - the facility rules governing your conduct.

- ✱Within 30 days after your admission, the statement must be verbally explained to you and if you are unable to understand, it should be explained to your immediate family member or resident representative. This should also happen every year for as long as you live in the facility.

- ✱The facility's staff shall fully encourage and assist you in exercising your rights.

ADMISSION

- ✱You cannot be discriminated against in the admission process based upon your source of payment.

- ✱If you are denied admission to a facility, you may request they provide to you, **in writing**, the reason for the denial. The facility shall note in the written denial if the denial is

based on special characteristics or service limitations of the facility.

- ✱ You cannot be required to give advance payment, gratuity, or gift to the facility to ensure admission, or to be placed on the waiting list.
- ✱ You cannot be asked to waive or give up any of your rights as a condition of admission, or to continue to live at the facility.
- ✱ You have the right to choose where you want to live – either in a long-term care setting or in your home and community. The long-term care facility location you choose may not have an immediate opening so you may have to go where there is an opening and move when you can to your choice of location. For information on home and community service support calls 1-855-462-5465 (option1).

INVOLVEMENT IN HEALTH CARE

- ✱ The facility must provide room and board and health, social and personal care to assist you in attaining and maintaining your highest level of functioning, consistent with your assessment and care plan.

- ✱ There must be staff in the facility, awake, and prepared to assist residents twenty-four hours a day.
- ✱ You should be assessed within 14 days of admission and then no less frequently than quarterly. A care plan should be developed from the assessment and updated at least quarterly.
- ✱ If you receive services from someone outside of the facility, you have the right to know who they are and what agency they work for.
- ✱ You should be informed about your total health status including your medical care, nursing care, nutritional status, activities potential, rehabilitation potential, and any physical impairments.
- ✱ You should be informed in advance of any care or treatment to be provided and be given the opportunity to participate in decisions regarding proposed care or treatment.
- ✱ You can give yourself certain medications and drugs unless professionals have determined it is not safe for you to do so.

- ✱ You have the right to choose your pharmacist regardless of the type of medication distribution system used by the facility, and to not be charged a fee or receive a financial incentive or disincentive for choosing a pharmacy other than the facility's preferred pharmacy. The resident may not be charged for repackaging if that cost can be included on the facility cost report.
- ✱ You should choose who you want to be involved in or notified about your care.
- ✱ You can refuse to take medications and participate in a treatment. Your medical provider should notify you of any medical consequences of your decisions.
- ✱ You have access to view your personal or medical records and to authorize release of those records.

COST OF CARE & FINANCIAL INFORMATION

- ✱ You have the right to see in writing, information about any services you are provided by the facility and the costs of those services.

- ✱ You have to be informed by the facility at least 30 days before any change in the costs or availability of any services.
- ✱ The facility should assist you in filing for additional sources of payment you may be eligible for.
- ✱ The facility shall pay out in full:
 - a. Refunds due as a result of an overpayment to the facility within thirty days from the date the overpayment is discovered.
 - b. Other refunds due to you upon discharge, eviction, or death within thirty days from the resident's date of discharge from the facility.
 - c. Within 30 days of discharge or your death, any remaining personal funds and give a final written accounting to you, or to the administrator of your estate.

GROUPS AND ACTIVITIES

- ✱ You can participate in social, religious, and community activities of your choice, if they do not interfere with the rights of other residents. You should be able to continue normal activities.
- ✱ There must be a planned and meaningful activity program designed to your needs and interests. These

activities may be inside the facility or in the community and should include day, evening, and weekend activities.

✱You may participate in and help organize resident and meetings. For resident councils, the facility should provide a room for the meeting and staff person to assist when requested. Staff, visitors or other guests may attend the resident council meeting only if invited by a resident.

✱The facility cannot force you to work or perform services for them. If you choose to work and perform services, it must be documented in your care plan.

FREEDOM FROM ABUSE, NEGLECT, EXPLOITATION & RESTRAINTS

✱You should not experience verbal, sexual, physical, or mental abuse, neglect or financial exploitation. This includes physical punishment or involuntary isolation.

✱You may request a copy of the facility's written policies on how they will protect you from abuse, neglect or financial exploitation.

✱Chemical and Physical Restraints may not be used for the convenience of the staff or for disciplinary reasons and may be used ONLY:

1. When ordered, in writing, by a doctor, nurse practitioner, or physician's assistant for a **limited period of time** to treat a medical symptom or to ensure your safety or that of others.
2. A chemical restraint must be administered by a licensed nurse, physician, nurse practitioner, or physician's assistant.
3. In Emergency situations during which your behavior has placed, or could place, yourself or others in danger of physical harm and the situation could not have been anticipated. Restraints can be applied in emergency situations only until a written order can be promptly obtained from your doctor.

Physical and chemical restraints are defined as follows:

Physical Restraints are “any manual or physical or mechanical device, material, or equipment attached or adjacent to your body that you cannot remove easily and which restricts freedom of movement or normal access to your body”.

Physical restraints include, but are not limited to, hand mitts, soft ties and rests, wheelchair safety bars, bed rails, or chairs that prevent rising. Also included as restraints are

facility practices such as tucking in a sheet so tightly that a bed-bound resident cannot move, or placing a wheelchair-bound resident so close to wall that the wall prevents the resident from rising.

Chemical Restraints means a “psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms”.

TRANSFER & DISCHARGE

- ✱ In cases of transfer or discharge, you must receive a **written** notice from the facility.
- ✱ The facility should assist with transfer or discharge from the facility.
- ✱ A facility cannot transfer or discharge you from the facility against your wishes, unless it is for the following reasons:
 1. Medical Needs, the safety of an individual in the facility who is endangered due to the clinical or behavioral status of the resident;
 2. Your welfare or the safety of an individual in the facility who is endangered due to the clinical or behavioral status of the resident.

3. Non-payment of your bill.
4. The facility ceases to operate.
5. A temporary transfer during times of remodeling.

✱ Written notice of Transfer or Discharge should be given **at least 30 days in advance** of the transfer or discharge. **However, the written notice may be less than 30 days if:**

1. The resident has urgent medical needs that require a more immediate transfer or discharge or,
2. A more immediate transfer or discharge is required to protect the health and safety of residents and staff within the facility.

✱ For transfer and discharge actions taken by a facility, the written transfer or discharge notice issued by the facility must include:

- a. The reason for the transfer or discharge.
- b. The effective date of transfer or discharge.
- c. The location the resident is to be transferred or discharged to.
- d. The name, mailing and electronic mail address, and telephone number of the office of the state long-term care ombudsman.

✱ You have the right to be discharged from the facility if you give written request.

PERSONAL & PRIVACY RIGHTS

- ✱The facility staff must treat you courteously, fairly and with dignity.
- ✱You should have privacy in visits with your spouse, partner, or significant other and can share a room with your spouse, partner, or significant other if you both agree, a room is available and there are no health or safety concerns with room sharing.
- ✱You should have privacy in medical treatment and personal care along with confidentiality of those records. Your personal and medicals records can only be released to persons of your choice.
- ✱You have the right to safe, clean and comfortable surroundings, allowing you to keep and securely store your personal belongings to the extent space permits or using the personal possession would infringe upon the rights, health, or safety of another resident. The facility must provide you with reasonable accommodation for your personal needs and preferences.
- ✱You can send and receive unopened personal mail.

- ✱ You can manage your own financial affairs, if not under legal guardianship, or choose someone to handle them for you.
- ✱ You have the right to visitors, to attend meetings, and to communicate with people of your choosing.
- ✱ The facility must provide a telephone in a private area for your use for communication.
- ✱ You can choose to have a family member involved in your health with besides your resident representative.
- ✱ You can make choices about how you want to live your life that are significant to you. This includes deciding how you want to spend your time, what you would like your daily schedule and routine to be and what your health care wishes are that are consistent with your personal beliefs, values, interests, as well as assessments and plans of care.
- ✱ You can have immediate access at any time without restrictions to:
 - 1) Representatives from the Ombudsman program,
 - 2) Immediate family or other relatives you want to visit

- * You have the right to civil and religious liberties, including knowledge of available choices (civil liberties include your right to vote, marry, divorce, sign papers, obtain and dispose of property, etc.)

GRIEVANCES AND COMPLAINTS

- * You can state and discuss problems, concerns, grievances, or suggestions for change with anyone you choose, this includes the long-term care ombudsman. The facility must protect you from retaliation or punishment for speaking up.
- * The facility should notify you that complaints may also be filed with the Department of Health and Human Services, Health Facilities. They are the licensing division to provide oversight for compliance with state laws and regulations.
- * You must be provided a copy of the facilities grievance procedures.
- * You must be given information about other agencies and organizations, such as the State Ombudsman Program

or Medicaid Fraud that may assist you with resolving a complaint or providing information and assistance

- ✱ You have a right to claim relief against the facility for any violation of rights guaranteed by State Law.

ACCESS TO FACILITY INFORMATION

- ✱ The facility must make available every inspection report, deficiency report and the approved plan of correction for the past three years.
- ✱ You can request a copy of the facility's grievance process.
- ✱ You can request a copy of the names of the statement of ownership, board members, and partners of the facility.
- ✱ You may ask for a statement setting forth any conflict of interest in the operation of the facility, such as, an owner's family member being employed or doing business with the facility.

Virtual Monitoring, Virtual Visitation, and Electronic Recording in your Room

✱A resident and the resident representative may treat the resident's living quarters as the resident's home and, subject to rules to protect the privacy and safety of another resident, may purchase and use a technology device of the resident's choice, including a technology device that may facilitate virtual monitoring or virtual visitation with family and other persons, provided operation and use of the technology device does not violate an individual's right to privacy under state or federal law.

✱Definitions:

- **"Authorized electronic recording"** means the placement and use of an authorized electronic recording device, by a resident or resident representative, in the resident's room.
- **"Authorized electronic recording device"** means a device that is installed in the room of a resident which is intended to record or is recording and transmitting video, communications, or other sounds occurring in the room.
- **"Technology device"** means a device capable of remote audio or video communications which is used for the purpose of the resident having contact with another person but not for the purpose of virtual monitoring or recording audio

or video of a resident and the resident's room. A technology device includes a cellular mobile telephone used primarily for telephonic communication, an electronic tablet not used for virtual monitoring or recording, and an assistive communication device.

- **"Virtual monitoring"** means remote live action monitoring conducted without recording a resident by a third party via the placement and use of a virtual monitoring device in the resident's room.
- **"Virtual monitoring device"** means a device owned and operated by the resident or resident representative placed in the resident's room which allows live action monitoring without recording of a resident by a third party.
- **"Virtual visitation"** means remote visitation between a resident and another individual using a technology device.

WHO has the right to place and use an authorized electronic recording device in your room?

- You as the resident of the facility; or

- Your resident representative (if you are not able to consent to electronic recording).
 - Must be a power of attorney agent for health care (agent must be in effect as per the terms of the POA document); or
 - Guardian of the resident

WHEN can you exercise this right to install and use an authorized electronic recording device?

- The law first went into effect on August 1, 2019, and was updated August 1, 2025.
- At any time while you live in the long-term care facility upon completion and submission of the applicable notices and authorizations.

WHAT you should know before giving consent.

***Video recording device**

All residents in the room should consider the following.

- Who, and what, may be captured on video e.g. visitors, equipment in room, personal cares provided, intimate relations, etc.
- With whom will the recording be shared? Do you want to restrict sharing of the video recording?
- Are there times you want the recording device turned off (examples: intimate interactions, private conversations, etc.)

***Audio only recording device**

All residents in the room should consider the following.

- The device will likely record conversations with staff, family and friends, etc. for both the resident wanting the recording and for any other resident sharing the room. Be aware when having private conversations about finances, family relationships, and health information. Ask for the recording device to be turned off during those times if you want it kept private.
- With whom will you share the recording? Do you want all conversations and possibly private information being on a recording? You can choose to go to a family room or conference room for private conversations.

WHAT is the process to use an authorized electronic recording device in your room at the facility?

***ALL** the following is required by law.

1. WRITTEN NOTICE GIVEN TO LONG-TERM CARE FACILITY

- a. You, the resident, or your resident representative, must complete and give a Notice to Facility of your intent to place and use an authorized electronic monitoring device.
- b. You, or your resident representative, must give the facility an **installation plan** that follows the facility's regulations and policies.

2. DOCUMENTATION OF CONSENT

- a.** You, the resident, or the resident representative, completes a document showing consent.
- b.** Each of the resident's roommates, or his/her resident representatives, must also complete a document of consent.
 - i.** The roommate may put limits on the authorized electronic recording which must be followed for the authorized electronic recording device to be used.
- c.** The documentation of consent includes:
 - i.** Written consent for the placement and use of the authorized electronic recording device and
 - ii.** written authorization for disclosure of protected health information and

3. PAYMENT

- a.** You, the resident, or your resident representative, are responsible to pay for the authorized electronic recording device, and all installation, operation, maintenance, and removal costs associated with the device except for electricity.

4. INFORMATION REQUIRED ON VIDEO RECORDINGS

- a. All recordings from a video electronic recording device must include the date and time of the recording.

5. AUTHORIZED ELECTRONIC RECORDING DEVICE

- a. The authorized electronic recording device shall be in a fixed, stationary position.
- b. The authorized electronic recording device shall be focused only on the resident who is installing and using the authorized electronic recording device.
- c. The authorized electronic recording device shall be placed for maximum protection of the privacy and dignity of the resident and the roommate.

A person may be subject to a Class B misdemeanor if he

- Intentionally hampers, obstructs, tampers with or destroys a recording or an authorized electronic monitoring device placed in a resident's room without the express written consent of the resident or resident representative.

A person may be guilty of a crime or civilly liable if he

- Unlawfully violates the privacy rights of another by placing an electronic monitoring device in the room of a resident or by using or disclosing a tape or other recording made by the device.

- You can choose at any time to revoke your consent to have an authorized electronic recording device in your room by written notice.
- The roommate must agree to the use of an authorized electronic recording device in the room or it can't be used. You can request to move to a different room with a roommate that will agree to the use of an authorized electronic recording device
- A facility cannot refuse to admit you or discharge you if you choose to have an authorized electronic recording device.
- A facility, or staff of the facility, may not access any recording from the authorized electronic recording device without written permission from you or your resident representative, or a court order.

IMPORTANT AGENCIES AND CONTACT INFORMATION

Long-Term Care Ombudsman Program

Phone: 1-855-462-5465 (toll free), option 3; 701-328-4617

Address: 1237 W Divide Ave Suite 6
Bismarck ND 58501

E-mail: dhsagingombud@nd.gov

ND Department of Health & Human Services (Health Facilities – Regulatory Agency & Licensing Agent)

Phone: 1-701-328-2352

Address: 600 East Boulevard Ave., Dept. 301
Bismarck, ND 58505- 0200

E-mail: LTCconcerns@nd.gov

Protection and Advocacy Project

Phone: 1-800-472-2670 or 1-701-328-2950

Address: 400 East Broadway Suite 409
Bismarck ND 58501

E-mail: panda_intake@nd.gov

Legal Services of North Dakota

Phone: Under age 60 call toll-free **1-800-634-5263**
(Monday, Tuesday, and Thursday between 9 a.m. - 3 p.m. CST).

Age 60+ call toll-free **1-866-621-9886** (Monday - Thursday between 8 a.m. - 5 p.m. CST. Friday between 8 a.m. - 2 p.m. CST.)

Vulnerable Adult Protective Services

Phone: Central intake line 1-855-462-5465 (choose option 2)

E-mail: SFN 1607 Report of Vulnerable Adult Abuse, Neglect, or

Exploitation <https://www.nd.gov/eforms/Doc/sfn01607.pdf> ;

Send the completed form to carechoice@nd.gov or **FAX** it to 701-328-8744

Link for online reporting:

<https://fw2.harmonyis.net/NDLiveIntake/>

The Aging and Disability Resource LINK (ADRL)

intake line is answered weekdays between 8 a.m. and 5 p.m., Central Time. If you call after hours leave a message and your contact information. 1-855-462-5465 option 1

Medicaid Fraud Control Unit

can report Fraud or abuse and neglect

By email:

agomedicaidfraud@nd.gov

By telephone:

701-328-5446 (Monday-Friday, 8AM – 5PM only)

By mail
MFCU
PO Box 2495
Bismarck ND 58502-2495

State Health Insurance Counseling Program (SHIC)

Offers free help with Medicare and other health insurance including long-term care insurance.

Phone: 1-888-575-6611 or 1-701-328-2440

Address: 600 E Boulevard Ave
Bismarck ND 58505-0320

E-mail: ndshic@nd.gov

The next three pages show a comparison of the different levels of long-term care facilities available in North Dakota.

	ASSISTED LIVING <i>(most independent)</i>	BASIC CARE <i>(needing more assistance)</i>	SKILLED NURSING HOME <i>(needing skilled nursing care)</i>
Definition	<i>An apartment setting that provides or coordinates individualized support services (see Features) to meet the resident's needs and abilities to maintain as much independence as possible.</i>	<i>A residence that provides room and board to people who because of impaired ability for independent living, require health, social, or personal care services. Basic Care residents do not require regular 24-hour medical or nursing services. Staff are available to respond at all times to meet the 24-hour per day scheduled and unscheduled needs of a</i>	<i>A facility that provides room and board AND 24-hour care/supervision to its residents. This facility is under the supervision of a licensed health care practitioner and has 24-hour nursing care.</i>

		<i>resident. <u>Some</u> Basic Care facilities are Alzheimer's, dementia, or memory care units.</i>	
Features	<i>Services (commonly referred to as Service Plan /Contract /Level/Package) are purchased at costs above rental fees according to the resident's needs. Services MAY include meals, housekeeping, laundry, activities, 24-hr supervision, personal care, medication reminders, and varying levels of health care services. This setting is NOT appropriate for memory-impaired (advanced stage) residents. Residents may choose additional in-home care agencies to supplement services.</i>	<i>Provides room and board as well as health and social services. Assistance with Activities of Daily Living (ADLs) is provided 24-hours per day. Also includes recreational and therapeutic activities, dietary consultation, and medication administration.</i>	<i>Provides room and board and ALSO nursing, medical, rehabilitative care, recreational activities, social services, assistance with Activities of Daily Living (ADLs), and protective supervision 24-hours a day.</i>
License	<i>Licensed by ND Dept. of Health & Human Services</i>	<i>Licensed by ND Dept. of Health & Human Services</i>	<i>Licensed by ND Dept. of Health & Human Services</i>
Regulation/ Oversight	<i>No state oversight - Landlord Tenant Law and ND Contract Law apply. It is up to the resident to manage their contract/lease and monitor costs and services.</i>	<i>Surveyed by ND Dept. of Health & Human Services every 3-5 yrs.</i>	<i>Surveyed annually by ND Dept. of Health & Human Services</i>

Payment	<i>Housing is a landlord/tenant rental agreement, so billed separately from Services. Usually private pay (resident's own income sources/assets) or may be covered partially through Long Term Care insurance.</i>	<i>One rate is billed for room and board. There may be a separate payment for the personal care, and ADL assistance. This may be paid through the ND Basic Care Assistance Program (BCAP) or if in memory care you may qualify for a Medicaid Waiver. Neither of these can pay for the room and board fee. Your payment source could also be private pay (resident's own income sources/assets).</i>	<i>Individual rates include room and board, personal cares, nursing and ADLs assistance. May be private pay (resident's own income sources/assets), through Long Term Care insurance, through the state Medicaid Program, or Medicare. There may be limits on the types of services paid for or the length of time benefits can be utilized.</i>
Nursing Staff Availability	<i>NO set requirement or regulation. May not have any after-hours or overnight staff on duty.</i>	<i>RESPONSE staff are always available to meet the 24-hour per day scheduled and unscheduled needs to residents.</i>	<i>Sufficient qualified nursing personnel on duty always to meet the nursing care needs of the residents. Required staff are at least 1 registered nurse on duty 8 consecutive hrs. per day, 7 days a week, AND at least 1 licensed nurse on duty and designated to work charge 24-hours a day, 7 days a week.</i>
Additional Facts	<i>Most issues with lease agreement or lease contract need to be resolved between tenant and facility due to NO oversight by a state entity. Residence in an ALF with an attached Basic Care or SNF facility does not guarantee you placement in that level of care should you require it - placement depends upon availability and facility admission protocol. There can be many additional costs associated with this level of</i>	<i>Not required to have regular 24-hour medical or nursing services; only RESPONSE staff.</i>	<i>Not staffed by a physician; a physician is available for consultation at all times. There are differences among SNFs with regard to services provided (i.e.. IV therapy, wound care, etc.) Nursing homes should disclose to residents/potential residents its special characteristics or service limitations. There is no mandated staff to resident ratio - facilities are required to be staffed to adequately meet the needs of the total number of residents.</i>

	care.		
<i>Activities of Daily Living (ADLs): Eating, Bathing, Dressing, Toileting, Transferring (walking) and Continence.</i>			