



**Rules of
Department of Health and
Senior Services**

**Division 30—Division of Health Standards and Licensure
Chapter 88—Resident’s Rights and Handling
Resident Funds and Property in Long-Term
Care Facilities**

Title	Page
19 CSR 30-88.010 Resident Rights.....	3
19 CSR 30-88.020 Resident’s Funds and Property	5



Title 13—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Health Standards and Licensure
Chapter 88—Resident's Rights and Handling Resident Funds and Property in Long-Term Care Facilities

19 CSR 30-88.010 Resident Rights

PURPOSE: This rule establishes requirements for protection of resident rights in all types of licensed long-term care facilities.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The facility shall retain and make available for public inspection at the facility to facility personnel, residents, their families or legal representatives and the general public, a list of names, addresses and occupations of all individuals who have a property interest in the facility as well as a complete copy of each official notification from the Division of Aging of violations, deficiencies, licensure approval, disapprovals, or a combination of these, and responses. This includes, as a minimum, statements of deficiencies, copies of plan(s) of correction, acceptance or rejection notice regarding the plan(s) of corrections and revisit inspection report. II/III

(2) Any notice of noncompliance shall be posted in a conspicuous location along with a copy of the most recent inspection reports, as required by section 198.026(6), RSMo. II/III

(3) A copy of the most current Division of Aging rules governing the facility shall be kept available and easily accessible in the facility for review by residents, their families, legal guardians and the public. II/III

(4) Each resident admitted to the facility, or his/her guardian or legally qualified representative, shall be fully informed of his/her

rights and responsibilities as a resident. These rights shall be reviewed annually with each resident, guardian or legally qualified representative, either in a group session or individually.

(5) All incoming and present residents in a facility shall be provided statements of resident rights along with rules governing conduct and responsibilities in a manner which effectively communicates, in terms the resident can reasonably be expected to understand, those rights and responsibilities. II/III

(6) The facility shall document the disclosure of resident's rights information to the resident or his/her legal guardian. III

(7) Information regarding resident rights and facility rules shall be posted in a conspicuous location in the facility and copies shall be provided to anyone requesting this information. Informational documents which contain, but are not limited to, updated information on selecting an Alzheimer's special care unit or program shall be given by a facility offering to provide or providing these services to any person seeking information about or placement in an Alzheimer's special care unit or program. III

(8) Prior to or at the time of admission and during his/her stay in the facility, each resident shall be fully informed, in writing, of services available in the facility and of related charges, including any charges for services not covered by the facility's basic per-diem rate or federal or state programs. Information shall include procedures to be followed by the facility in cases of medical emergency, including transfer agreements and costs. All residents who receive treatment in an Alzheimer's special care program or unit and their next of kin, designee, legally qualified representative or guardian shall be given a copy of the Alzheimer's Special Care Services Disclosure Form at the time of admission. Residents also shall be informed of services outside the facility which may reasonably be made available to the resident and of any reasonable estimate of any foreseeable costs connected with those services. II/III

(9) Prior to or upon admission, each prospective resident or each resident shall be informed of the home and community based services available in this state by providing such resident a copy of the most current Missouri's Guide to Home and Community Based Services, incorporated by reference, or any successor pamphlet as may be incorporated by reference in a subsequent amendment to this section. III

(10) Prior to or upon admission and at least annually after that, each resident or guardian shall be informed of facility policies regarding provision of emergency and life-sustaining care, of an individual's right to make treatment decisions for him/herself and of state laws related to advance directives for health-care decision making. The annual discussion may be handled either on a group or on an individual basis. Family members or other concerned individuals also shall be informed, upon request, regarding state laws related to advance directives for health-care decision making as well as the facility's policies regarding the provision of emergency or life-sustaining medical care or treatment. If a resident has a written advance health-care directive, a copy shall be placed in the resident's medical record and reviewed annually with the resident unless, in the interval, he/she has been determined incapacitated, in accordance with section 475.075 or 404.825, RSMo. Residents' guardians or health care attorneys-in-fact shall be contacted annually to assure their accessibility and understanding of the facility policies regarding emergency and life-sustaining care. II/III

(11) A physician shall fully inform each resident of his/her health and medical condition unless medically contraindicated. If the physician determines the resident's medical condition contraindicates his/her being fully informed of his/her diagnosis, treatment or any known prognosis, the medical record shall contain documentation and justification of this signed by the physician. If there is a legally authorized representative to make health-care decisions, that person shall be fully informed of the resident's medical condition and shall have free access to the resident's medical records for that purpose, subject to the limitations provided by the power of attorney or any federal law. I/II

(12) Each resident shall be afforded the opportunity to participate in the planning of his/her total care and medical treatment, to refuse treatment and to participate in experimental research only upon his/her informed written consent. If a resident refuses treatment, this refusal shall be documented in the resident's record and the resident, legal guardian, or both, shall be informed of possible consequences of not receiving treatment. II

(13) Each resident shall have the privilege of selecting his/her own physician who will be responsible for the resident's total care. II

(14) No resident shall be transferred or discharged except in the case of an emergency



discharge unless the resident, the next of kin, the legal representative, the attending physician and the responsible agency, if any, are notified at least thirty (30) days in advance of the transfer or discharge, and casework services or other means are utilized to assure that adequate arrangements exist for meeting the resident's needs. II

(15) A resident may be transferred or discharged only for medical reasons or for his/her welfare or that of other residents, or for nonpayment for his/her stay. II

(16) No resident may be discharged without full and adequate notice of his/her right to a hearing before the Department of Social Services and an opportunity to be heard on the issue of whether his/her discharge is necessary. Such notice shall be given in writing no less than thirty (30) days in advance of the discharge except in the case of an emergency discharge and must comply with the requirements set forth in 19 CSR 30-82.050. II/III

(17) In emergency discharge situations a written notice of discharge and right to a hearing shall be given as soon as practicable. II/III

(18) A room transfer of a resident within a facility, except in an emergency situation, requires consultation with the resident as far ahead of time as possible and shall not be permitted where this transfer would result in any avoidable detriment to the resident's physical, mental or emotional condition. II/III

(19) Each resident shall be encouraged and assisted, throughout his/her period of stay, to exercise his/her rights as a resident and as a citizen and to this end a resident may voice grievances and recommend changes in policies and services to facility personnel or to outside representatives of his/her choice. A staff person shall be designated to receive grievances and the residents shall be free to voice their complaints and recommendations to the staff designee, an ombudsman or to any person outside the institution. Residents shall be informed of and provided a viable format for recommending changes in policy and services. The facility shall assist residents in exercising their rights to vote. II/III

(20) The exercise of resident rights shall be free from restraint, interference, coercion, discrimination or reprisal. II/III

(21) Each resident shall be free from mental and physical abuse. I

(22) The resident has the right to be free from any physical or chemical restraint except as follows:

(A) When used to treat a specified medical symptom as a part of a total program of care to assist the resident to attain or maintain the highest practicable level of physical, mental or psychosocial well-being. The use of restraints must be authorized in writing by a physician for a specified period of time; or

(B) When necessary in an emergency to protect the resident from injury to him/herself or to others, in which case restraints may be authorized by professional personnel so designated by the facility. The action taken shall be reported immediately to the resident's physician and an order obtained which shall include the reason for the restraint, when the restraint may be removed, the type of restraint and any other actions required. When restraints are indicated, only devices that are the least restrictive for the resident and consistent with the resident's total treatment program shall be used. I/II

(23) In a residential care facility I or II, if it is ever necessary to use a restraint in case of emergency, the resident shall be reevaluated immediately for appropriateness of placement and transferred if necessary. II/III

(24) All information contained in a resident's medical, personal or financial record and information concerning source of payment shall be held confidential. Facility personnel shall not discuss aspects of the resident's record or care in front of persons not involved in the resident's care or in front of other residents. Written consent of the resident or legal guardian shall be required for the release of information to persons not otherwise authorized by law to receive it. II/III

(25) Each resident shall be treated with consideration, respect and full recognition of his/her dignity and individuality, including privacy in treatment and care of his/her personal needs. All persons, other than the attending physician, the facility personnel necessary for any treatment or personal care, or the Division of Aging or Department of Mental Health staff, as appropriate, shall be excluded from observing the resident during any time of examination, treatment or care unless consent has been given by the resident. II/III

(26) No resident shall be required to perform services for the facility. If the resident desires and it is not contraindicated by his/her physician, the resident may perform tasks or services for him/herself or others. II/III

(27) Each resident shall be permitted to communicate, associate and meet privately with persons of his/her choice whether on the resident's initiative or the other person's initiative, unless to do so would infringe upon the rights of other residents. The person(s) may visit, talk with and make personal, social or legal services available, inform residents of their rights and entitlements by means of distributing educational materials or discussions, assisting residents in asserting their legal rights regarding claims for public assistance, medical assistance and Social Security benefits and engaging in any other methods of assisting, advising and representing residents so as to extend to them the full enjoyment of their rights. The facility, however, may place reasonable limitations on solicitations. II/III

(28) The facility shall permit a resident to meet alone with persons of his/her choice and provide an area which assures privacy. II/III

(29) Telephones appropriate to the residents' needs shall be accessible at all times. Telephones available for residents' use shall enable all residents to make and receive calls privately. II/III

(30) If the resident cannot open mail, written consent by the resident or legal guardian shall be obtained to have all mail opened and read to the resident. II/III

(31) Each resident shall be permitted to participate, as well as not participate, in activities of social, religious or community groups at his/her discretion, both within the facility, as well as outside the facility, unless contraindicated for reasons documented by physician in the resident's medical record. II/III

(32) Each resident shall be permitted to retain and use personal clothing and possessions as space permits. Personal possessions may include furniture and decorations in accordance with the facility's policies and shall not create a fire hazard. The facility shall maintain a record of any personal items accompanying the resident upon admission to the facility, or which are brought to the resident during his/her stay in the facility, which are to be returned to the resident or responsible party upon discharge, transfer or death. II/III

(33) Each married resident shall be assured privacy for visits by his/her spouse. II/III

(34) If both husband and wife are residents, they shall be allowed the choice of sharing or not sharing a room. III



(35) Each resident shall be allowed the option of purchasing or renting goods or services not included in the per diem or monthly rate from a supplier of his/her own choice, provided the quality of goods or services meets the reasonable standards of the facility. Freedom of choice of pharmacy shall be permitted provided the facility's policy and procedures for packaging specifications are met. II/III

(36) Residents shall not have their personal lives regulated or controlled beyond reasonable adherence to meal schedules and other written policies which may be necessary for the orderly management of the facility and the personal safety of the residents. II

*AUTHORITY: sections 198.009, 198.076, 198.079 and 198.088, RSMo 2000 and 660.050, RSMo Supp. 2003. * This rule originally filed as 13 CSR 15-18.010. Original rule filed July 13, 1983, effective Oct. 13, 1983. Amended: Filed Sept. 12, 1984, effective Dec. 13, 1984. Amended: Filed Jan. 3, 1992, effective Aug. 6, 1992. Amended: Feb. 13, 1998, effective Sept. 30, 1998. Moved to 19 CSR 30-88.010, effective Aug. 28, 2001. Amended: Filed March 1, 2004, effective Oct. 30, 2004.*

**Original authority: 198.009, RSMo 1979, amended 1993, 1995; 198.076, RSMo 1979, amended 1984; 198.088, RSMo 1979, amended 1988, 1989, 1994; and 660.050, 1984, amended 1988, 1992, 1993, 1994, 1995, 2001.*

19 CSR 30-88.020 Resident's Funds and Property

PURPOSE: This rule establishes standards for protecting resident's personal funds and property in all types of licensed long-term care facilities.

Editor's Note: All rules relating to long-term care facilities licensed by the Division of Aging are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(1) No operator shall be required to hold any personal funds or money in trust unless some other governmental agency placing residents in the facility makes this a requirement. The record keeping and other requirements of this section apply only to those personal possessions and funds which the facility accepts to hold in trust for the resident as provided in the facility's policy and does not apply to other possessions residents have in their rooms or bring into the facility.

(2) The administrator, other designated person, or both, shall use the personal funds of the resident exclusively for the use of the resident and, only when authorized in writing by the resident, his/her designee or legal guardian. A designee shall not be the administrator or an employee of the facility. II/III

(3) When a resident is admitted, s/he and his/her designee or guardian shall be provided with a statement explaining the facility's policies and resident's rights regarding personal funds. If the facility handles resident's funds, this statement shall include an explanation of the procedure for deposit or withdrawals of funds from any source to the resident or to the resident's account. The facility shall allow the residents access to their personal possessions and funds during regular business hours, Monday through Friday. III

(4) The separate account(s) required to be maintained by section 198.090.1(3), RSMo shall be maintained in a bank or savings and loan association and interest accrued shall be credited to each resident's account at least annually. With written authorization from the resident, the operator may purchase a burial policy for the purpose of burying the resident. III

(5) A petty cash fund of up to fifty dollars (\$50) for each resident for whom the facility is holding funds may be kept in the facility and shall be maintained separately from the facility's funds. II/III

(6) A written account for each resident, showing receipts to and disbursements from the personal funds of each resident, shall be maintained. These may be kept in one (1) ledger or record or they may be kept individually. If the facility policy provides, and if appropriate or required by another governmental agency, two (2) personal funds accounts may be kept for residents—one (1) for clothing allowance and one (1) for spending money. III

(7) Receipt of a resident's funds or personal possessions held in trust shall be acknowledged by a written receipt or cancelled checks. III

(8) Receipts for any purchases made by the operator and paid for from the resident's personal funds shall be kept and be available to the resident, his/her designee or legal guardian. III

(9) All written accounts of the resident's funds shall be brought current monthly and a

written statement showing the current balance and all transactions shall be given to the resident, his/her designee or legal guardian on a quarterly basis. II/III

(10) The operator shall have a receipt for the funds and possessions returned to the resident, designee or guardian. Within five (5) days of the discharge of a resident, the resident or his/her designee or guardian shall be given an up-to-date accounting of the resident's personal funds and the balance of the funds and all personal possessions shall be returned to the resident. II/III

(11) Upon the death of a resident, the operator of the facility shall submit in writing on form MO 886-3103, a complete account of all the resident's remaining personal funds and the name and address of the resident's guardian, conservator, fiduciary of the resident's estate or the individual who was designated to receive the quarterly accounting of all financial transactions made. Personal funds for the purpose of this regulation shall include all the resident's remaining funds with the facility, in any account, with whatever title the account(s) may be known. The complete account of funds shall be submitted within sixty (60) days from the date of the resident's death to the Department of Social Services, Division of Medical Services, TPL Unit, PNA Recovery, P.O. Box 6500, Jefferson City, MO 65102-6500. II/II

(A) None of the resident's personal funds shall be paid to a fiduciary, guardian, conservator or other person until the operator has fully complied with section 198.090.1, RSMo except that funeral expenses may be paid from a resident's personal funds held by a facility if no other funds are available to cover the cost. If funds are used for this purpose, this fact and the amount used shall be noted on the account report submitted to the department and documentation of payment shall be attached.

(B) Upon receipt of the accounting of the resident's remaining personal funds on form MO 886-3103, the Department of Social Services will determine the amount of aid, care, assistance or services paid by the department. The Department of Social Services will notify the operator of the amount determined to have been paid by the department on behalf of the deceased recipient within sixty (60) days of receipt of the facility operator's accounting or within fifteen (15) working days if special request is made by the operator for expedited handling giving the reason(s) for the request, that is, need to comply with contractual or regulatory obligation of another government agency. The amount specified in the notification shall be considered as a claim upon the



funds held by the operator. The operator shall pay to the Department of Social Services any remaining personal funds, in the resident's personal fund account, up to the amount determined by the department. Payment shall be made by check payable to the Department of Social Services within sixty (60) working days of the receipt of the demand for payment. Payment shall be made as instructed on the department's claim.

(C) The Department of Social Services will notify in writing the resident's guardian, conservator, fiduciary of the resident's estate or the individual who was designated to receive the quarterly accounting of all financial transactions of the amount determined to have been paid by the department on behalf of the deceased resident.

(D) If there are any remaining personal funds after payment has been issued to the Department of Social Services, then the deceased resident's remaining funds shall be handled in accordance with section 198.090.1(8), RSMo and 13 CSR 15-18.020(12).

(E) Failure of an operator of a facility participating in the Title XIX (Medicaid) program to submit within sixty (60) days of the death of a resident a complete accounting of the remaining personal funds of any resident who has received aid, care, assistance or services from the Department of Social Services shall be a Medicaid program violation under 13 CSR 70-3.030, if the operator had knowledge of such funds, during the sixty (60)-day period. If additional funds are received by the operator after the initial report has been filed, the department shall be immediately informed by the operator.

(12) Upon the death of a resident who, to the operator's knowledge and as confirmed by the department, has not received aid or assistance from the Department of Social Services, if personal funds or possessions are not claimed by a fiduciary within one (1) year of the resident's death, the operator is required to comply, within sixty (60) days of the one (1) year anniversary of the death of the resident, with section 198.090.1(8), RSMo. II/III

(A) If, after one (1) year from the date of death, no fiduciary makes claim on funds or possessions, the operator shall notify the Division of Aging, Attention: Institutional Accounting Section, that the funds remain unclaimed. This notice shall be sent by the operator within sixty (60) days and include the resident's name, Social Security number, date of death and the amount of resident funds or possessions being held belonging to the deceased resident.

1. If unclaimed funds in the resident's fund accounts or possessions have a value of less than one hundred fifty dollars (\$150), and the operator has complied with 42 CFR 483.10(c)(6), if required, the funds or proceeds of the sale of the possessions shall be deposited after one (1) year in a fund for the benefit of all residents of the facility for social and educational activities.

2. If unclaimed funds in the resident's fund accounts or possessions have a value of more than one hundred fifty dollars (\$150) and the operator has complied with 42 CFR 483.10(c)(6), if required, for deceased residents funds, the operator shall hold the unclaimed funds for two (2) years from the date of death. These funds shall then be considered abandoned property under sections 447.500-447.585, RSMo and shall be returned to the state of Missouri within sixty (60) days after two (2) years from the date of death. If the operator is a 501(c)(3) corporation, then it shall comply with section 447.540, RSMo. The operator shall contact the Office of the Treasurer, Unclaimed Property Administrator, P.O. Box 1272, Jefferson City, MO 65102-1272 for instructions and forms to return the unclaimed funds and possessions to the state of Missouri. There shall be an accounting subject to inspection and audit by the Division of Aging or its authorized agents for these unclaimed funds and possessions returned to the state of Missouri.

(B) The operator shall keep an accounting of these funds with documentation and receipts and disbursements to these funds which will be subject to inspection and audit by the Division of Aging.

(13) Any owner, operator, manager, employee or affiliate of an owner or operator receiving personal property or anything with a value of ten dollars (\$10) or more from a resident shall make a written statement giving the date of receipt, estimated value and the name of the person making the gift. These statements shall be retained by the operator and made available to the Department of Social Services or Department of Mental Health as appropriate and to the resident, his/her designee or legal guardian. In one (1) calendar year, no owner, operator, manager, employee or affiliate of an owner or operator shall receive from resident's personal property or anything of value over one hundred dollars (\$100). II/III

(14) The bond required by section 198.096, RSMo for operators holding personal funds of residents shall be in a form approved by the Division of Aging and shall provide that residents who allege that they have been

wrongfully deprived of moneys held in trust may bring an action for recovery directly against the surety. The bond shall be in an amount equal to at least one and one-half (1 1/2) times the average monthly balance of the resident's personal funds, including petty cash, or the average total of the monthly balances. The average monthly balance(s) shall be rounded to the nearest one thousand dollars (\$1,000). One (1) bond may be used to cover the residents' funds in more than one (1) facility operated by the same operator, if the facility is a multilicensed facility on the same premises. If not on the same premises, then one (1) bond may be used if the bond specifies the amount of coverage provided for each individual facility and the coverage for each facility is a minimum of one thousand dollars (\$1,000). II/III The director may require an operator to file a bond in an amount greater than one and one-half (1 1/2) times the average total of the balances if the division determines the increase is necessary; the operator is given sixty (60)-days' notice and opportunity for hearing prior to requiring that increase; and the director determines by the evidence presented at any such hearing that the increase is necessary.

(15) All records and receipts required to be maintained under this rule and under section 198.090, RSMo shall be maintained for at least seven (7) years from the end of the fiscal year during which the records were originally made. II/III

(16) Records related to resident funds shall be maintained in the facility or shall be available for review and copying, in their entirety, within twenty-four (24) hours of a request for access by the Division of Aging or its authorized representative. Records kept for the prior seven (7) years, as required in section (15) and under section 198.090, RSMo shall be transferred to a new operator who assumes responsibility for a facility, and if not transferred in entirety, the Division of Aging shall be notified immediately by the new operator. II/III

(17) If an operator chooses to place a cash deposit in a lending institution in lieu of a bond as referenced in section 198.096.5., RSMo, the amount must be equal to the amount of the bond required and shall be deposited with an insured lending institution pursuant to a noncancellable escrow agreement. The written agreement shall be submitted to the division and shall be approved prior to license issuance. II



AUTHORITY: section 198.090, RSMo Supp. 1993. This rule originally filed as 13 CSR 15-18.020. Original rule filed July 13, 1983, effective Oct. 13, 1983. Amended: Filed Sept. 12, 1984, effective Dec. 13, 1984. Amended: Filed Aug. 1, 1988, effective Nov. 11, 1988. Amended: Filed Jan. 3, 1992, effective Aug. 6, 1992. Amended: Filed July 22, 1994, effective Feb. 26, 1995. Moved to 19 CSR 30-88.020, effective Aug. 28, 2001.*

**Original authority: 198.090, RSMo 1979, amended 1982, 1989, 1992, 1993.*