



483.10 Resident Rights



DNH Subject Matter Experts:

Michele Laughman

Synora Jones

Leslie Boyd

Welcome. This is the Resident Rights section of the training.

Resident Rights

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidelines	Significant Change or Technical Correction
F557	Respect, Dignity/Right to have Personal Property	Added language related to mental health and substance use disorders throughout guidance	Significant
F561	Self Determination	Reinsertion of "facility policy on resident smoking" language which was inadvertently removed.	Significant
F563	Right to Receive/Deny Visitors	Added language related to mental health and substance use disorders throughout guidance; Added language related to visitation during infectious outbreaks or pandemics	Significant
F578	Request/Refuse/ Discontinue Treatment; Formulate Adv Dir	Corrected tag reference under Key Elements of Noncompliance	Technical
F582	Medicare/ Medicaid Coverage/ Liability Notice	Revisions based upon new Skilled Nursing Facility Advance Beneficiary Notices (SNFABN)	Significant

We revised five tags under the Resident Rights section. F557, F561, F563 and F582 had significant revisions, which we will discuss next. Additionally, we made technical edits to F578 to correct a tag reference under the Key Elements of Noncompliance.

Some of the added language pertains to mental health and substance use disorders. After receiving stakeholder and provider feedback, we felt it was important to incorporate this in guidance, since there are a growing number of nursing home residents living with these conditions.

Key Changes to Resident Rights

- F557 Respect, Dignity/Right to have Personal Property
- Addition of guidance related to
 - Staff searches
 - Signs, symptoms, and triggers of possible substance use
 - Referral to law enforcement
 - References to F689 and F740

For F557, we added additional guidance related to the need for resident or, if applicable, the resident's representative's consent for staff searches of a resident's body or personal possessions.

We also added language pertaining to the expectation that facility staff should have knowledge of signs, symptoms, and triggers of possible substance use; such as changes in resident behavior, increased unexplained drowsiness, lack of coordination, slurred speech, mood changes, and/or loss of consciousness, etc.

Additionally, if the facility determines illegal substances have been brought into the facility by a visitor, the facility should not act as an arm of law enforcement. Rather, these cases may warrant a referral to local law enforcement.

If during the investigation, concerns arise that are related to the identification of risk and the provision of supervision to prevent accidental overdose, refer to F689 – Accidents. For concerns related to the behavioral health services that are provided, investigate potential non-compliance at F740 – Behavioral Health Services.

Key Changes for Resident Rights

- F561 Self-Determination
- Re-insertion of previous guidance inadvertently deleted
- Prohibition of smoking
 - Change of policy from smoking to non-smoking
 - Current residents affected by policy change

4

Under F561, guidance related to facility smoking policies was inadvertently deleted with the implementation of Phase 2. This language is now being added back into the guidance.

The focus of this content relates to when a facility wants to change from a smoking to a non-smoking facility. The facility should allow current residents who smoke to continue smoking in an area that maintains the quality of life for these residents and takes into account non-smoking residents. Residents admitted after the facility changes its policy must be informed of this policy at the time of admission.

Key Changes to Resident Rights

- F563 Right to Receive/Deny Visitors
- Addition of guidance related to:
 - Denying access to visitors who have a history of bringing illegal substances into the facility
 - Visitation during communicable disease outbreaks
 - Signs, symptoms, and triggers of possible substance use after interaction with visitors
 - Referral to law enforcement
 - Staff searches
 - References to F689 and F740

For F563, we added additional guidance related to denying access or providing supervised visitation to individuals who have a history of bringing illegal substances into the facility.

Information related to visitation during communicable disease outbreaks was also added to the guidance. Facilities may need to modify their visitation practices when there are infectious outbreaks or pandemics to align with current CMS guidance and CDC guidelines that enables maximum visitation.

We also added language pertaining to the expectation that facility staff should have knowledge of signs, symptoms, and triggers of possible substance use after interaction with visitors or leaves of absence; such as changes in resident behavior, increased unexplained drowsiness, lack of coordination, slurred speech, mood changes, and/or loss of consciousness, etc.

Additionally, if the facility determines illegal substances have been brought into the facility by a visitor, the facility should not act as an arm of law enforcement. Rather, these cases may warrant a referral to local law enforcement.

Next, we added language related to the need for resident or resident representative consent for staff searches of a resident's body or personal belongings.

If during the investigation, concerns arise that are related to the identification of risk and the provision of supervision to prevent accidental overdose, refer to F689 – Accidents. For concerns related to the behavioral health services that are provided, investigate potential non-compliance at F740 – Behavioral Health Services.

Key Changes for Resident Rights

- F582 Medicaid/Medicare Coverage/Liability Notice
- Revisions based on changes to Skilled Nursing Facility Advanced Beneficiary Notice of Non-coverage (Form CMS-10055)
- Clarification provided for -
 - Notice of Medicare Non-coverage (Form CMS-10123)
 - Notification that Part-A coverage is ending
 - Skilled Nursing Facility Advanced Beneficiary Notice of Non-coverage (Form CMS-10055)
 - Transfer of financial liability to the beneficiary
 - Separate and unrelated from the admission and discharge requirements

6

In 2018, the Skilled Nursing Facility Advanced Beneficiary Notice of Non-coverage (or SNFABN) form was revised. Because of this, our team worked with the Center for Medicare, within CMS, to ensure guidance under F582 remained accurate. Some of the previous guidance did not align with the Medicare Claims Processing Manual and revisions were made. Additionally, the Center for Medicare helped to simplify the content related to the Notice of Medicare Non-coverage (or NOMNC) form, as well as the SNFABN form. The level of detail in the previous version of the guidance created a lack of clarity and seemed unnecessary.

Thank You

If you have questions about this training please send them to:

DNH_TriageTeam@cms.hhs.gov



7

If you have questions about this training please send them to the DNH Triage mailbox at: DNH_TriageTeam@cms.hhs.gov.

Thank you for your continued efforts towards our shared goal in providing quality care to America's nursing home residents.