




# Exercising Your Rights

as an Assisted Living  
Facility Resident





*This book was created by the Office of the Long-Term Care Ombudsman to describe state rules in plain language.*

## **Exercising Your Rights as an Assisted Living Facility Resident**

This book explains your rights as a resident. It also explains other laws about your care and rights. **You do not give up any rights when you move into an assisted living facility.** You have the same rights as any other United States resident or citizen.

It's important to let people know what you need and how you want to be treated. If you need help, you can call an ombudsman at **800-252-2412** or email **[ltc.ombudsman@hhs.texas.gov](mailto:ltc.ombudsman@hhs.texas.gov)** Ombudsman services are confidential and free of charge.

# About Assisted Living Facilities (ALFs)

Your facility is licensed as a Type A or B facility.

- A **Type A** facility cares for residents who do not require routine care during sleeping hours, can leave the facility unassisted in an emergency, and can follow directions during an emergency.
- A **Type B** facility cares for residents who may require care from staff during sleeping hours; need help transferring to and from a wheelchair; need assistance to get out of the facility or are unable to follow directions during an emergency. A Type B facility can be **Alzheimer's certified** to provide specialized services to residents with Alzheimer's disease or a related condition.

## Facility Staff

Type A facility staff must be on the property but may sleep at night. When a Type A facility has 17 or more residents, night staff must be awake.

Type B night staff must be on the property and awake. If you live in an Alzheimer's certified facility with 17 or more residents, sometimes called a memory care facility, two staff members must be on the property when residents are present.

## **Resident Agreement**

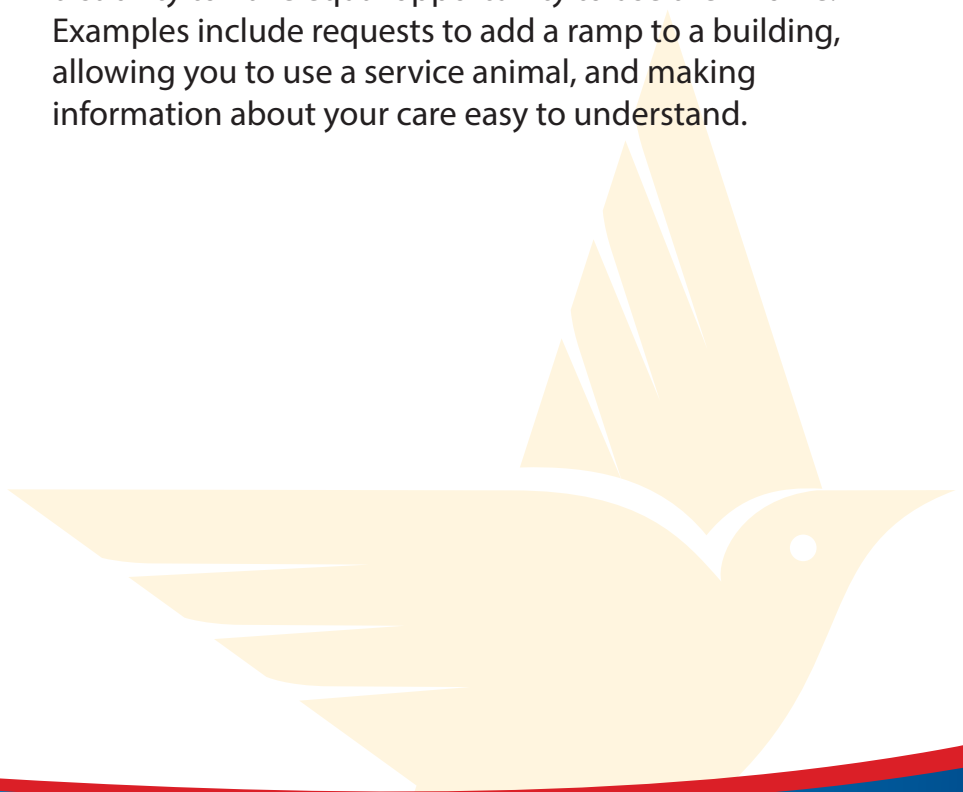
A resident agreement is a written agreement between you and the facility. You sign it when moving into an ALF. The agreement includes important information about services, charges, refunds, facility policies, and how to make a complaint. The agreement applies to your rights and facility responsibilities described in this booklet.

## **Your Right to Freedom From Discrimination**

You have the right to be treated fairly and not be discriminated against based on your age, race, gender, nation of origin, or disability. The facility must not treat you differently based on your medical condition or how you pay for your care.

## **Your Right to Accommodations**

You have a right to request a reasonable accommodation, which is a change in policy or practice, communication, or the physical space needed for a person with a disability to have equal opportunity to use their home. Examples include requests to add a ramp to a building, allowing you to use a service animal, and making information about your care easy to understand.



# Delegating Your Rights and Advance Care Planning

You have the right to delegate, or put your wishes in writing for others to follow, if you become unable to speak for yourself. You also have the right to choose someone to help you make decisions, either right away or if you become unable to speak for yourself.

## Power of Attorney

You can give a person power of attorney to help you make decisions. A power of attorney is a legal document that allows someone you choose (your agent) to make decisions or take actions for you. The document will say what your agent can do for you, such as make medical decisions or manage your money. Remember, your wishes always win over your agent's wishes. If you decide that you no longer wish to have a power of attorney, it is your right to revoke it.

## Advance Care Planning

Advance care planning means planning for how you want to be treated if you are very ill or near death. It can help family members and medical staff act for you. Advance care planning includes making decisions about the use of life-sustaining measures like CPR or using a feeding tube or ventilator.

You may use the forms found at [texasahs.org/advancecareplanning](https://www.texasahs.org/advancecareplanning):

- Directive to Physicians and Family or Surrogates
- Medical Power of Attorney
- Out-of-Hospital Do-Not-Resuscitate

## **How to Get Help**

Give your ALF a copy of any advance care planning and power of attorney documents. In most cases, the facility must not let someone make decisions against your wishes.

The Texas Legal Services Center offers free legal assistance with power of attorney and advance care planning to people who are 60 years and older or a Medicare beneficiary. You can contact the Texas Legal Services Center at **512-477-6000**.

## **Your Right to Safety and Quality Care**

### **Freedom From Abuse, Neglect, and Exploitation**

You have the right to be free of abuse, neglect, and exploitation. People inside or outside of the facility must not harm you physically or mentally or misuse your property or money. Your facility must:

- Protect you from abuse, neglect, and exploitation.
- Perform background checks on staff to make sure they have not been convicted of a crime related to injuring someone or stealing.
- Train all staff on how to prevent, identify, stop, and report abuse, neglect, and exploitation.

## **Freedom From Restraints and Involuntary Seclusion**

Facility staff can't use physical restraints to punish you or for staff convenience. A physical restraint is anything that keeps you from moving that you cannot easily remove yourself.

Facility staff can't give you medication to discipline you or for staff convenience. For example, a facility must not give you medication to make you sleepy if it is not needed to treat your medical condition.

Facility staff can't keep you separated from others, known as involuntary seclusion, unless your symptoms require isolation. An example of seclusion is being confined in your room against your will.

A facility can't keep you from leaving the facility unless you need to be in a locked area of the facility because of your medical condition.

## **Safe Surroundings**

You have the right to a safe, clean, and comfortable home environment. The facility must:

- Have enough housekeeping and maintenance staff to keep the building clean and safe.
- Follow fire protection and building safety laws.
- Have a pest control program.
- Have an emergency preparedness plan and enough staff to provide you with the care you need during an emergency.



## **Quality Care**

Facility staff must be qualified and trained to care for you. The facility must have enough staff to respond and provide services to meet your basic needs, including helping with medications and laundry, and preparing and serving meals.

## **Your Right To Be Treated With Dignity and Respect**

You have the right to be treated with dignity and respect. You have the right to courtesy and fair treatment from facility staff.

Being treated with dignity and respect also means you have the right to make decisions about your life and care. Your facility must respect your choices and preferences. For example, you have the right to choose your own clothing and hairstyle.

# Your Right to Make Choices About Your Life

You have the right to make choices about your life.

## Examples of Choices You Can Make

In most cases, choices you have the right to make include:

- Leaving the facility.
- Voting, and who or what to vote for.
- Practicing your religious or spiritual beliefs.
- When you wake up.
- When you take a shower.
- What you eat.
- Activities you choose to do.
- Who can visit you.
- Using and having personal items.
- Whether to use video and audio recording in your room.

## Choices During a Public Health Emergency or Disaster Declaration

You have a right to choose essential caregivers and a religious counselor who can visit you if there is a public health emergency or a disaster declaration where you live. Your essential caregiver and religious counselor must meet all requirements of the facility.

# Your Right to Make Choices About Your Care

You have the right to participate in your care and make choices about your care. This includes the right to:

- Choose your own health care providers, such as a physician, caregiver, hospice agency, and pharmacy.
- Be informed of your treatment or care.
- Communicate about your treatment, care, or services in a language and way you understand.
- Refuse any care or treatment.
- Take medicine without assistance if you can.
- Choose people to help you make decisions or make decisions for you when you are unable to.
- Ask for a meeting to talk about your care and choose to invite people to help you.

## Your Service Plan

The facility must develop a plan with details about how and when you get care and what your needs and preferences are. You can ask facility staff to add your choices, preferences, and routines into your service plan.

Your service plan is a description of your physical, social, and mental health needs. It includes your health conditions, routines, and activity preferences; help needed to use the bathroom; movement and exercise needs; medical treatments or procedures; what you eat and drink; how to communicate with you; and how to

help you with medications, bathing, dressing, grooming, and oral care.

The service plan must be approved and signed by you or a person responsible for your health care decisions. The facility must update your plan each year and when you have a significant change in your health.

## **Your Right to Privacy and Confidentiality**

You have the right to keep your personal, medical, and financial affairs private. The facility must ensure your privacy in the following areas:

- Your room
- Medical treatment, including confidentiality of your medical records
- Personal care
- Visitation
- Meetings with family and resident groups



## **Privacy in Communications**

A facility must not infringe on your right to communicate with people inside and outside the facility. You have the right to promptly receive and send unopened mail and packages.

A facility must respect your privacy during phone, email, text, and in-person conversations. You have the right to have reasonable access to a phone where calls can be made without being overheard.

## **Privacy With Visitors**

You have the right to private visits with any person you choose.

A facility must allow residents to speak privately with an ombudsman.

## **Your Right to Personal Property**

You have the right to keep and use your own property if the property is not harmful to others. Examples of your personal property include clothes, furniture, jewelry, radios, TVs, and medical equipment you paid for, like a walker or wheelchair.

## **Your Financial Rights**

You have the right to:

- Manage your own money.
- Choose someone to manage your money.
- Spend your money any way you want.
- Be informed about the cost of services.
- Be notified before the cost of a service is changed.

If you give the facility written permission to manage your money, the facility must protect your funds from theft and keep a record of your funds. A report of all deposits to and withdrawals from your account must be given to you at least every three months and when you ask.

### **If Medicaid Pays for Your Care**

If you get Medicaid, your monthly income is paid to the ALF for your care. You get to keep \$85 from your income each month for personal needs that are not paid for by Medicaid.

If the facility manages your money in an account and you move out, the facility must return your remaining money within five business days of your move.

## **Representative Payee for Social Security Administration Payments**

A representative payee can manage your Social Security Administration payments, such as Social Security, Supplemental Security Income (SSI), or Social Security Disability Insurance (SSDI). You can choose your representative payee, or they can apply on their own or be assigned by the Social Security Administration. If you disagree with the person chosen as your representative payee, you have the right to dispute it within 60 days.

## **Your Right to Make Complaints**

You have the right to complain about the ALF you live in. This includes the right to:

- Complain about care or treatment to facility staff and management.
- Be informed how to make complaints.
- Complain anonymously.
- Receive a prompt response from the facility to resolve complaints.
- Complain to outside agencies.
- Not be prohibited or discouraged by the facility to make a complaint.
- Not be moved out of the facility or retaliated against by the facility if you or someone else files a complaint on your behalf.

## How to Make a Complaint

When you move in, your facility must give you information on how to make a complaint with Texas Health and Human Services. The facility must also post this information and information about the State Long-Term Care Ombudsman Program.

Some ways you can make a complaint are:

- Talk to facility staff about your concern.
- Complain as part of a group or resident council.
- File a complaint with Texas Health and Human Services Complaint and Incident Intake by calling **800-458-9858, option 1.**
- Get help, find a resolution, or file a complaint with a long-term care ombudsman by calling **800-252-2412.**

## Your Right to Participate in a Resident Council

You have the right to be part of any group that brings residents' concerns to the facility. Your facility must provide private spaces for groups to gather and respond to complaints.

## Holding Your Room While You Are Temporarily Away

You have the right to leave the facility. For example, to go on an outing, run an errand, or spend a weekend with



family. Your facility may have a policy about temporarily leaving. This could include you continuing to pay your monthly rent to hold your room or notifying the facility before you leave.

## **If a State Assistance Program Pays for Your Care**

If you pay for your care with Medicaid, the facility must give you written information about how to keep your room while you are in the hospital.

If you pay for your care with Community Care Services Eligibility (CCSE) and you are transferred to a hospital, your case worker must give you information about how to keep your room while you are in the hospital.

You can be away from the facility on personal leave for up to 14 days a year. You are responsible for the room and board charge and copay while out of the facility for personal leave days.

## **Your Rights Related to Discharge**

You have the right to move out of the facility. Moving out of an ALF is called discharge. ALFs must follow rules before discharging you.

A facility can only discharge you if:

- You ask to move.
- Your health has improved.
- Your needs cannot be met by the facility.
- You have not paid after receiving notice.
- It is necessary for your or others' health or safety.
- The facility is closing.

## **Discharge Notice**

If the facility wants to discharge you, it must give you written notice. Unless it is an emergency, the notice must be sent at least 30 days in advance. The notice must include:

- The reason you are being discharged.
- The effective date of the discharge.
- The location where you will be discharged to.
- If there is an option to appeal to the facility.

## **Facts to Know if You Are Asked to Leave Your Facility**

- There is no state agency appeal process. If you want to stay, ask facility staff if there is any option to appeal to the facility.
- You may file a complaint with an ombudsman or Texas Health and Human Services Complaint and Incident Intake if you disagree with a facility's decision to discharge you.
- If you are on Medicaid or CCSE, your service coordinator or case worker can help you find another facility that meets your needs and is covered by your insurance.

## **How to Contact an Ombudsman**

**You can contact a long-term care ombudsman for help.**

A long-term care ombudsman helps residents of a nursing facility and residents of an assisted living facility resolve complaints. Help provided by an ombudsman is confidential and free of charge.

**800-252-2412**

**[ltc.ombudsman@hhs.texas.gov](mailto:ltc.ombudsman@hhs.texas.gov)**

**[texashhs.org/ltcombudsman](http://texashhs.org/ltcombudsman)**





**TEXAS**  
Health and Human  
Services

*Office of the Long-Term Care Ombudsman is independent  
within the Texas Health and Human Services system.*