

RESIDENTS' RIGHTS IN RESIDENTIAL CARE FACILITIES



PATIENTS' RIGHTS
ADVOCACY SERVICES



MENTAL
HEALTH
SYSTEMS



Your Rights.

As a resident of a licensed residential care or unlicensed room and board facility, you have all the rights guaranteed by the Constitution of the United States and by the State of California. You do not lose your rights when you enter a residential care or room and board facility.

When exercising your rights, you should do so in such a manner as not to infringe on the rights of other residents.

If you feel your rights have been violated or infringed on, you have the right to contact your care coordinator, the licensing agency or the Patients' Rights Advocacy Office with your question or complaint—free from intimidation or repercussion.

Licensed Board and Care Facilities

Licensed Board and Care Facilities

Your Rights

Under California law, licensed board and care homes must observe, enforce and implement residents' rights. As a resident of a licensed board and care home, you have the following rights:

1. You have a right to services that will enhance your ability to live independently, productively and with dignity in your community. These services should be provided in ways that least restrict your personal liberty. You have a right to have arrangements made so you can attend community programs that meet your needs that are not available at the board and care home.
2. You have a right to be free from harm, physical restraint,* isolation, medication restraint, abuse, or neglect. By law, any physical abuse to you or others received in a board and care home **MUST** be reported. To report abuse, call one of the numbers at the back of this pamphlet.

Physical abuse may include:

- Threats to physical safety
 - Direct physical harm
 - Lack of food and water
 - Lack of medical care
 - Sexual exploitation
 - The use of physical restraining devices
 - Excessive giving of prescribed medication
3. You have a right to receive prompt and necessary first aid and other medical and dental services. This includes arranging for transportation to the nearest psychological, medical or dental service.

**Except to protect yourself or others from harm.*

4. You have the right to privacy.
 - A. You have the right to send and receive mail—uncensored and unopened.
 - B. You have the right to make and receive confidential phone calls. If only one phone line exists in the facility, you can not be restricted from answering a call directed to you.
 - C. You have the right to visit friends, family, and others in privacy.
 - D. You have the right to visual privacy in the tub, shower, and restrooms.
5. You have the right to be treated with respect by staff. This includes the right to be free from physical punishment. No one—including staff members and residents—has the right to abuse you psychologically, either by speaking or yelling in a rude or hostile manner; making threats; intimidating you; isolating you; instilling fear in you; punishing you by withholding food, clothing or medication.
6. You have the right to freely communicate and associate with others within the facility and in the community.
7. You have the right to control your own money and personal property. If you want the board and care home staff to safeguard or manage your money, you or your authorized representative should agree to that arrangement in writing.
8. You have the right to a written *Needs and Services Plan* or *Treatment Plan*.
9. You have the right to practice the religion of your choice, to attend religious services or activities and the right to have visits from the spiritual advisor of

your choice. You also have the right not to practice or participate in religious activity. Freedom of religion includes your right to have a food plan that excludes or includes certain foods or food combinations according to your religious traditions. Any special dietary needs should be included in your placement agreement.

10. You have the right to be free from discrimination by staff or others. No one may consider race, color, religion, national origin, sex, sexual preference, disability or age as factors preventing you from receiving placement or services, or exercising your rights.

You also have the following rights if you are NOT on conservatorship:

1. You have the right not to be forced into treatment without your consent, unless there is an emergency where action is immediately necessary for the preservation of life or the prevention of bodily harm to another.
2. You have the right to receive oral and written information about your medication. You also have the right to make choices about your medication. You should consult your doctor if you have questions about the medication you are taking.



3. You have the right to come and go freely without restriction. You should follow the normal curfew policy of the *House Rules*. No one has the right to lock you into any building, room or closed area by day or night. The board and care home may ask you to tell staff if you plan to stay out all night.



4. You have the right to move out of the board and care home. You must give a thirty (30) day written notice to the board and care operator before you plan to leave.

All residential care or residential treatment facilities are required to have:

Admission Agreement

All homes are required to have a written *Admission Agreement* with all residents. The admission agreement includes a statement of the *Board and Care House Rules*, basic and optional services, the rates, frequency and due date of payment, who will pay, and refund conditions. You should **FULLY** understand all this **BEFORE** you sign the agreement. You are entitled to a copy of this agreement.

Rights Posted

All homes are required to post residents' rights, house rules and phone numbers of the local patients' rights advocate and community care licensing representative. The board and care operator must inform you of your rights **BEFORE** you sign the document indicating you were informed. You should receive a copy of this informed agreement. The board and care operator must also provide instructions for filing a complaint. You have the right to talk with and obtain the services of a patients' rights advocate. You have the right to meet with them privately during reasonable hours without prior notice or permission.

30-Day Eviction Notice

As a resident of a residential care or residential treatment facility, you cannot be evicted unless the facility can show and document good cause. You can be evicted only by written 30-day notice and only for the following reasons:

1. Non-payment of rent within ten (10) days of the due date. A facility cannot evict you if your benefits are delayed, or you have appealed a ruling about your benefits.
2. Failure to follow the policies you agreed to when you moved into the board and care home. Board and care home policies cannot forgo any of your individual rights.
3. Changes in your *Needs and Service Plan* or *Treatment Plan* have been made which determine that your needs cannot be met by the facility. You must be given the opportunity to relocate.

3-Day Eviction Notice

Only in an emergency and with advance approval of *Community Care Licensing* can a board and care home evict you on three (3) days notice. The home must provide this notice to you in writing. The notice must include the reason(s) for your eviction, and the circumstances, dates, places and witness to the events leading to the eviction notice.

An emergency is defined as behavior by you which threatens your own mental or physical health and safety, or the mental or physical health and safety of others.

If you feel your board and care home has wrongly served you with an eviction notice . . .

You have the right to protest your eviction. You can call Community Care Licensing or the Patients' Rights Advocacy Services for assistance.

Resident Council

(For facilities with more than 6 residents)

- If a majority of the residents request it, you have the right to form a resident-oriented facility council. The council is composed of residents of the facility and may also include family members of residents of the facility. The council may, among other things, make recommendations to the facility administrators to improve the quality of life of daily living in the facility and may negotiate to protect residents' rights with the facility administrators.
- The facility must provide space and post notices for meetings. If residents are unable to read the posted notice, the staff must notify the residents by verbal announcement and/or any other manner appropriate to assist residents in attending the meeting.
- The facility must document notice of meetings, meeting times, and recommendations provided by council meetings.
- A portion of the meeting is conducted *without* the presence of any staff from the facility to encourage a free exchange of ideas among the residents.
- Residents may be encouraged, but can not be required, to attend council meetings.
- Residents have the right to voice their opinions in order to improve their quality of life and to protect their rights at the facility they are living in. The resident council is one way to make yourself heard.

If you have questions or feel your rights have been violated and want to file a complaint, you can contact:



Your Plan Coordinator:

MHS Patients' Rights Advocacy
Services

(714) **276-8145**

(800) 668-4240

Residential Care and Housing

(714) 796-0200

Community Care Licensing

(714) 703-2840

Unlicensed Room and Board Facilities

If you live in an UNLICENSED ROOM and BOARD facility, all California landlord-tenant laws apply to your facility.

Leases and Rental Agreements

Leases state the amount of rent and the rights and duties of the landlord and resident. Leases are usually for a fixed period of time—usually a month or longer.

At the end of the lease, either the landlord or resident may choose to end the agreement. During the time of the lease, both the landlord and resident must follow the lease’s terms.

Always read the lease agreement thoroughly and make sure all the blank spaces are filled in or marked out. In most room and board facilities there are house rules and meal policies; these should be included in the lease agreement. Be sure you understand the house rules, meal policy, and lease agreement before signing it. The lease offers the resident protection because the landlord may **NOT** change the terms and conditions during the period of the lease. Be sure you receive a copy of your lease agreement.

Termination of Rental Agreement

If you have a month-to-month rental agreement and you wish to move from the facility, you are required to give the landlord a 30-day **WRITTEN** notice or you may be held liable for the balance of rent due.



The landlord may terminate or change the terms of a month-to-month lease on a 30-day written notice to the resident without giving a reason, whether or not the resident has violated any part of the agreement.

Residential Conditions

California law requires that any apartment or house that is rented to a tenant as a place to live must be fit for human habitation. It is the landlord's responsibility to provide safe, clean and livable premises to all tenants.

At a minimum, your facility must meet the following standards:

1. Your facility must be free from garbage, roaches, rats or other pests.
2. The roof must not leak when it rains.
3. The doors and windows must be secure.
4. The landlord must keep the buildings and grounds clean and provide enough trash bins with adequate covers for garbage.
5. The railings, stairs, floor and carpet must be in good condition to eliminate possible injury.
6. The heater must be in good condition and operable.
7. The lights and wiring must be safe and in good working condition.
8. The plumbing must be in good condition and with access to hot and cold water.

If your facility fails to meet these standards, the landlord may not legally collect full rent for the facility.

You as a resident have responsibilities. You may be evicted if you fail to pay the rent on time, disturb other residents, or cause significant damage to the facility. A landlord is entitled to payment from you if you cause damage to the facility beyond normal wear and tear or fail to give 30-day **WRITTEN** notice prior to moving.

Repairs

If you personally cause damage to the facility and fail to make or pay for the repairs, you may face eviction, or a possible lawsuit. If your room or the facility requires repairs *through no fault of yours* and the condition severely affects the premises, the landlord is responsible for making repairs.

In this event, you may give the landlord **WRITTEN** notice of the repairs that need to be made. The landlord needs to make the repairs in a reasonable period of time.



If the landlord fails to make repairs within a reasonable time period, you have the right to:

1. Report this problem to your care coordinator if you have one.
2. Report the landlord to housing authorities, including the health department and the local building inspector.

Room and Board—Residents' Rights

The landlord may not legally evict a resident or raise the rent because you:

1. Make a written request for repairs to your room or facility.
2. Complain to the landlord about the condition of your room or facility.
3. Report the condition of your room or facility to the proper authorities.

It is illegal for the landlord to attempt an eviction for at least

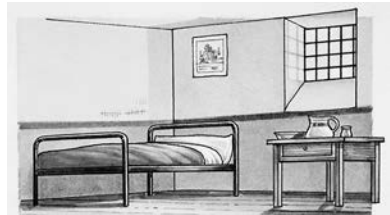
180 days after a resident does any of these things if the landlord's motive is to retaliate against the resident for taking these actions. In addition, a landlord may never evict a resident or raise a resident's rent simply because the resident has peacefully exercised a legal right.

It is illegal for a landlord to lock you out of your room or facility, to change locks on the facility, or to take any other action to deprive you of access to the facility. If this happens, you should call your care coordinator or the police.

Similarly, it is illegal for the landlord to confiscate your personal property without first going through the court system and obtaining a court order.

Privacy

You have a right to privacy in your own room. Other residents and the landlord **CANNOT** enter your room unless invited. The landlord may only enter your room for the following reasons:



1. In case of emergency;
2. To make necessary or agreed repairs;
3. To show the room to prospective tenants, buyers, or workers;
4. When the resident has abandoned the room; or
5. With a court order.

Unless it is an emergency, the landlord should give you reasonable notice before entering and should enter only during business hours. Twenty-four (24) hours is generally considered reasonable notice.

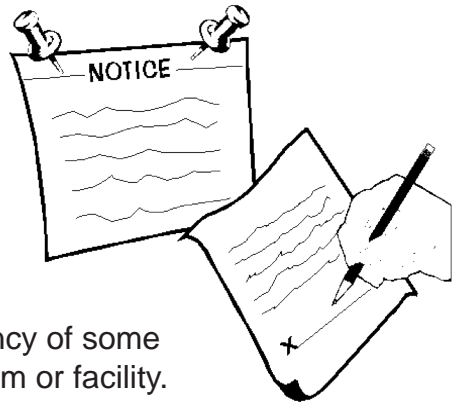
Eviction

30-Day Notice

If you have a *month-to-month* rental agreement, the landlord may give you a 30-day written notice without giving a reason whether or not you have violated any part of the rental agreement. If you have lived at the same address for over one year, you must be given a 60-day notice.

However, the landlord **CANNOT** evict you for the following retaliatory reasons:

1. You notified a building inspector or other agency of some problems with your room or facility.
2. You testified on behalf of other residents.
3. You resisted the landlord's sexual harassment.
4. You reported the landlord to law enforcement authorities.
5. You have complained to the landlord about the condition of the premises.



Discrimination

The landlord may not evict you based upon your race, age, creed, religion, color, sex, sexual orientation, disability, or upon any other arbitrary basis. Likewise, discrimination against families with children is illegal.

3-Day Notice

If you do not pay your rent, the landlord may give you a 3-day notice. You are required to pay the rent within 3 days

from receiving the notice, or leave the facility. If you pay the full amount of the rent owed, the landlord may not evict you.

The Eviction Process

The eviction begins when you are served with a summons either in person or by mail. This means that the landlord has filed a complaint against you with the court. The summons means that a court date will be set and that you must personally answer the complaint before a judge.

You **CANNOT** be evicted until you have been served with a summons and have had an opportunity to answer the summons.

Answering the Summons and Complaint

If you personally receive the summons, you have **FIVE DAYS** to serve and file a written answer with the court. The five-day period begins the day you received the summons and includes the weekend. If you receive the summons by mail, you have 15 days to file your answer.

Before you answer the summons, you may wish to seek assistance from your care coordinator (if you have one), seek legal assistance, or contact Fair Housing. (*See referrals at back of pamphlet.*)

You may obtain a form to answer the summons and complaint from the Office of the Municipal Court Clerk for the district in which you live. The clerk can answer your questions regarding filing the form, and is the person to whom you need to send copies. **REMEMBER**, the court requires the answer to be **TYPEWRITTEN**.

The form will tell you how to answer the summons and complaint. You may be required to pay a filing fee with the court when you file your answer. You may ask for a waiver of the fee if you meet the income requirements.

If you fail to answer the summons, the court may enter a default judgement against you, and gives your room and belongings to the landlord. The marshal will then serve you with a Notice to Vacate the premises. Five days after the notice is served, you will be locked out of the facility.

Trial

One or two weeks after you file, you will be sent a notice of the date of trial. This is usually about a week from the date you received the notice. At the trial, you must prove to the judge that what you stated in your written answer is true and that you have a right to continue living in the facility. If you can prove this, the court may allow you to stay in the facility.



If you lose the trial, the marshal will then serve you with a Notice to Vacate the premises. Five days after the notice is served, you will be locked out of the facility.

If you feel any of your rights have been violated or you are being falsely evicted, you can call one of the numbers listed in the Referral Section on the back of this pamphlet.

REFERRALS



State and County Offices

Most State and County offices are open from
8 a.m. to 5 p.m. – Monday through Friday.

- Orange County Fair Housing Council (800) 698-FAIR
- Orange County Community Development
Neighborhood Preservation (866) 552-8120
- State Department of
Fair Employment and Housing (800) 884-1684

Legal Assistance

- Legal Aid of Orange County (714) 571-5200
- Public Law Center. (714) 541-1010

Assistance Programs

- NAMI - National Alliance for the
Mentally Ill (714) 544-8488
- Mental Health Association of
Orange County (714) 547-7559
- OC Warmline (714) 991-6412
(877) 910-9276
- Suicide Hotline (877) 727-4747



If you have any questions or complaints regarding your rights, contact your advocate at:

**MHS Patients' Rights
Advocacy Services**

600 West Santa Ana Blvd., Suite 805
Santa Ana, CA 92701

(714) 276-8145

(800) 668-4240

Fax: (714) 242-1579

Hours of Operation

Monday through Friday
8 AM – 5 PM.

mhsinc.org/pras