

Effective 5/5/2021

Renumbered 5/3/2023

26-21-35 Resident consumer protection.

- (1) As used in this section:
 - (a) "Eligible requester" means:
 - (i) a resident;
 - (ii) a prospective resident;
 - (iii) a legal representative of a resident or prospective resident; or
 - (iv) the department.
 - (b) "Facility" means an assisted living facility or nursing care facility.
 - (c) "Facility's leadership" means a facility's:
 - (i) owner;
 - (ii) administrator;
 - (iii) director; or
 - (iv) employee that is in a position to determine which providers have access to the facility.
 - (d) "Personal care agency" means a person that provides assistance with activities of daily living.
 - (e) "Provider" means a home health agency, hospice provider, medical provider, or personal care agency.
 - (f) "Resident" means an individual who resides in a facility.
- (2) Subject to other state or federal laws, a facility may limit which providers have access to the facility if the facility complies with Subsection (3).
- (3)
 - (a) A facility that prohibits a provider from accessing the facility shall:
 - (i) before or at the time a prospective resident or prospective resident's legal representative signs an admission contract, inform the prospective resident or prospective resident's legal representative that the facility prohibits one or more providers from accessing the facility;
 - (ii) if an eligible requester requests to know which providers have access to the facility, refer the eligible requester to a member of the facility's leadership; and
 - (iii) if a provider requests to know whether the provider has access to the facility, refer the provider to a member of the facility's leadership.
 - (b) If a facility refers an eligible requester to a member of the facility's leadership under Subsection (3)(a)(ii), the member of the facility's leadership shall inform the eligible requester:
 - (i) which providers the facility:
 - (A) allows to access the facility; or
 - (B) prohibits from accessing the facility;
 - (ii) that a provider's access to the facility may change at any time; and
 - (iii) whether a person in the facility's leadership has a legal or financial interest in a provider that is allowed to access the facility.
 - (c) If a facility refers a provider to a member of the facility's leadership under Subsection (3)(a)(iii), the member of the facility's leadership:
 - (i) shall disclose whether the provider has access to the facility; and
 - (ii) may disclose any other information described in Subsection (3)(b).
 - (d) If a resident is being served by a provider that is later prohibited from accessing the facility, the facility shall:
 - (i) allow the provider access to the facility to finish the resident's current episode of care; or
 - (ii) provide to the resident a written explanation of why the provider no longer has access to the facility.
- (4) This section does not apply to a facility operated by a government unit.

- (5) The department may issue a notice of deficiency if a facility that denies a provider access under Subsection (2) does not comply with Subsection (3) at the time of the denial.