

Combined Federal and State Home Care Bill of Rights

To be used by Medicare certified providers per Minnesota Statute, Section 144A.44, Subdivision 1 except **language in bold print which represents additional consumer rights under federal law 42CFR 484.50.**

The home care provider shall provide the client or the client's representative a written notice of the rights before the date that services are first provided to that client. The provider shall make all reasonable efforts to provide notice of the rights to the client or the client's representative in a language the client or client's representative can understand.

Definitions

- Client means Patient
- Provider means Medicare Certified Home Health Agency (HHA)
- A “legal representative” is an individual who has been legally designated or appointed as the patient’s health care decision maker. When there is no evidence that a patient has a legal representative, such as a guardianship, a power of attorney for health care decision-making, or a designated health care agent, the HHA must provide the information directly to the patient.

Statement of Rights

The client and the client’s legal representative (if any), who receives home care services in the community has these rights and the provider must provide for the following rights:

- 1. Written information in plain language about rights during the initial visit, and in advance of the provider furnishing care to the client. The written notice must be understandable to persons who have limited English proficiency and accessible to individuals with disabilities, including what to do if rights are violated.**
 - a. If a patient has been adjudged to lack legal capacity to make health care decisions as established by state law by a court of proper jurisdiction, the rights of the patient may be exercised by the person appointed by the state court to act on the patient’s behalf.**
 - b. If a state court has not adjudged a patient to lack legal capacity to make health care decisions as defined by state law, the patient’s representative may exercise the patient’s rights.**
 - c. If a patient has been adjudged to lack legal capacity to make health care decisions under state law by a court of proper jurisdiction, the patient may exercise his or her rights to the extent allowed by court order.**
- 2. Contact information of the provider’s administrator, including the administrator’s name, business address, and business phone number in order to receive complaints.**

3. **Verbal notice of the client's rights and responsibilities in the individual's primary or preferred language and in a manner the individual understands, free of charge, with the use of a competent interpreter if necessary. Obtain the patient's or legal representative's signature confirming that he or she has received a copy of the notice of rights and responsibilities.**
4. Receive care and services according to a suitable and up-to-date plan, and subject to accepted health care, medical or nursing standards and person-centered care, to take an active part in developing, modifying, and evaluating the plan and services.
5. Be told before receiving services and the right to participate in, **be informed about, and consent or refuse care in advance of and during treatment, with respect to:**
 - a. Other choices that are available for addressing home care needs and the potential consequences of refusing these services.
 - b. Completion of all assessments.**
 - c. The care to be furnished, based on the comprehensive assessment.**
 - d. Establishing and revising the care plan.**
 - e. The disciplines that will furnish care.**
 - f. The frequency of visits.**
 - g. Expected outcomes of care, including client-identified goals, and anticipated risks and benefits.**
 - h. Any factors that could impact treatment effectiveness.**
 - i. Any changes in the care to be furnished.
6. Be told in advance of any recommended changes by the provider in the service plan and to take an active part in decisions about changes to service plan.
7. **Receive all services outlined in the plan of care.**
8. Refuse service or treatment.
9. Know, before receiving services or during the initial visit, any limits to the services available from a home care provider.
10. Be advised, orally and in writing, before services are initiated what the provider charges for the services; to what extent payment may be expected from health insurance, public programs or other sources including **Medicare and Medicaid, or any other Federally-funded or Federal aid program known by the provider**, if known; what charges the client may be responsible for paying, and any changes to payment **information as soon as possible, in advance of the next provider visit. The HHA must comply with the patient notice requirements at 42 CFR 411.408(d)(2) and 42 CFR 411.408(f).**
11. Know that there may be other services available in the community, including other home care services and providers, and to know where to find information about these services.

12. Choose freely among available providers and to change providers after services have begun, within the limits of health insurance, long-term care insurance, medical assistance or other health programs, or public programs.
13. Have personal, financial, and medical information kept private, and to be advised of the provider's policies and procedures regarding disclosure of such information, **including an Outcome and Assessment Information Set (OASIS) privacy notice for all clients for whom the OASIS data is collected.**
14. Access the client's own records and written information from those records in accordance with the Minnesota Health Records Act, Minnesota Statutes, Section 144.291 to 144.298.
15. Be served by people who are properly trained and competent to perform their duties.
16. Be treated with courtesy and respect, and to have the client's property treated with respect.
17. Be free from verbal, **mental, sexual** and physical abuse, **including injuries of unknown source**, neglect, financial exploitation/**misappropriation of property**, and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment of Minors Act.
18. **Receive proper written notice, in advance of a specific service being furnished, if the provider believes that the service may be non-covered care, or in advance of the provider reducing or terminating on-going care. The HHA must also comply with the requirements of 42 CFR 405.1200 through 405.1204.**
19. Know the provider's reason for termination of services.
20. **Be informed of the provider's policies and procedures for transfer and discharge, in a language that the client can understand, and is accessible to individuals with disabilities, within 4 business days of the initial evaluation visit. The provider may only transfer or discharge the client if:**
 - a. **The transfer or discharge is necessary for the client's welfare because the provider and the physician or allowed practitioner who is responsible for the plan of care agree that the provider can no longer meet the client's needs, based on the client's acuity. The provider must arrange a safe and appropriate transfer to other care entities when the needs of the client exceed the providers' capabilities.**
 - b. **The client or payer will no longer pay for the services provided.**
 - c. **The transfer or discharge is appropriate because the physician who is responsible for the plan of care and the provider, or allowed practitioner, who is responsible, agree that the measurable outcomes and goals set forth in the plan of care in accordance with §484.60(a)(2)(xiv) (per G458), have been achieved, and the provider, and the physician or allowed practitioner who is responsible for the plan of care agree that the client no longer needs the services.**
 - d. **The client refuses services or elects to be transferred or discharged.**
 - e. **The provider determines, under a policy set by the provider for the purpose of addressing discharge for cause that meets the requirements of this section, that the client (or other persons in the client's home) behavior is disruptive, abusive, or uncooperative to the extent that delivery of care to the client or the ability of the provider to operate effectively is seriously impaired. The provider must do the following before it discharges a client for cause:**

- i. **Advise the client, representative (if any), the physician(s), or allowed practitioners(s) issuing orders for the plan of care, and the client's primary care practitioner or other health care professional who will be responsible for providing care and services to the client after discharge from the provider (if any) that a discharge for cause is being considered.**
 - ii. **Make efforts to resolve the problem(s) presented by the client's behavior, the behavior of other persons in the client's home, or situation.**
 - iii. **Provide the client and representative (if any), with contact information for other agencies or providers who may be able to provide care.**
 - iv. **Document the problem(s) and efforts made to resolve the problem(s) and enter this documentation into its clinical records.**
- f. **The client dies; or**
- g. **The provider agency ceases to operate.**
21. At least ten calendar days' advance notice of the termination of a service by a home care provider. This clause does not apply in cases where:
- a. The client engages in conduct that significantly alters the terms of the service plan with the home care provider.
 - b. The client, person who lives with the client, or others create an abusive or unsafe work environment for the person providing home care services.
 - c. An emergency or a significant change in the client's condition has resulted in service needs that exceed the current service plan and that cannot be safely met by the home care provider.
22. A coordinated transfer when there will be a change in the provider of services.
- 23. Complain to staff and others of the client's choice about services, treatment or care provided, or fail to be provided, and the lack of courtesy or respect to the client or the client's property and the right to recommend changes in policies and services, free from retaliation, including the threat of termination of services. The right to be advised of the MN Adult Abuse Reporting Center (MAARC), that its purpose is to receive complaints and the state toll free home health telephone hot line, its contact information, hours of operation for questions about local providers.**
24. Know how to contact an individual associated with the home care provider who is responsible for handling problems and to have the home care provider investigate and attempt to resolve the grievance.
- 25. Know the name and address and telephone numbers of the state or county agency to contact for additional information or assistance and, if applicable, federally funded entities that serve the area where the client resides.**
26. Assert these rights personally or have them asserted by the client's representative or by anyone on behalf of the client, without retaliation, **and be free from any discrimination or reprisal for exercising his or her rights for voicing grievances to the provider or other outside entity.**
- 27. Be informed of the right to access auxiliary aids and language services and how to access these services.**

Information must be provided to patients in plain language and in a manner that is accessible and timely to—

- a. Persons with disabilities, including accessible web sites and the provision of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.**
- b. Persons with limited English proficiency through the provision of language services at no cost to the individual, including oral interpretation and written translations.**

28. Place an electronic monitoring device in the client's or resident's space in compliance with state requirements.

Provider Responsibility

You may choose to discuss any concerns with your provider. As a reminder, providers are required to work to assure your rights and other requirements are followed. When providers violate the rights in this section, they are subject to the fines and license actions.

Providers must do the following:

- Encourage and assist in the fullest possible exercise of these rights.
- Provide the names and telephone numbers of individuals and organizations that provide advocacy and legal services for clients and residents seeking to assert their rights.
- Make every effort to assist clients or residents in obtaining information regarding whether Medicare, medical assistance, other health programs, or public programs will pay for services.
- Make reasonable accommodations for people who have communication disabilities, or those who speak a language other than English.
- Provide all information and notices in plain language and in terms the client or resident can understand.

No provider may require or request a client or resident to waive any of the rights listed in this section at any time or for any reasons, including as a condition of initiating services or entering into an assisted living contract.

Interpretation and Enforcement of Rights

These rights are established for the benefit of clients who receive home care services. All home care providers must comply with these rights. The commissioner shall enforce this. A home care provider may not request or require a client to surrender any of these rights as a condition of receiving services. This statement of rights does not replace or diminish other rights and liberties that may exist relative to clients receiving home care services, persons providing home care services, or licensed home care providers.

Resources

You may contact your licensed provider as indicated below: _____

Licensee Name: _____

Phone: _____

Email: _____

Address: _____

Name and title of person to whom problems or complaints may be directed: _____

Report suspected abuse, neglect, or financial exploitation of a vulnerable adult:

Minnesota Adult Abuse Reporting Center (MAARC)

1844-880-1574

[Minnesota's Adult Protective Services \(https://mn.gov/dhs/people-we-serve/seniors/services/adult-protection/maarc.jsp\)](https://mn.gov/dhs/people-we-serve/seniors/services/adult-protection/maarc.jsp)

For all other complaints that are not suspected abuse, neglect or financial exploitation of a vulnerable adult, please contact the Office of Health Facility Complaints at the Minnesota Department of Health:

Office of Health Facility Complaints

(651) 201-4200/1-800-369-7994

health.ohfc-complaints@state.mn.us

Mailing Address:

Minnesota Department of Health

Office of Health Facility Complaints

P.O. Box 64970

St. Paul, MN 55164-0970

For complaints and questions about local HHAs:

State Toll-Free Medicare Certified Home Health Agency Telephone Hotline

Business Hours: Monday-Friday, 8:00 am – 4:30 pm

Message can be left 24/7

(651) 201-4200/1-800-369-7994

To request advocacy services, please contact the Office of Ombudsman for Long-Term Care, the Office of Ombudsman for Mental Health and Developmental Disabilities, or Mid-Minnesota Legal Aid:

Office of Ombudsman for Long-term Care

PO Box 64971

St. Paul, MN 55164-0971

1-800-657-3591 or 651-431-2555 (metro)

[Office of Ombudsman for Long-Term Care \(https://mn.gov/ooltc/\)](https://mn.gov/ooltc/)

MBA.OOLTTC@state.mn.us

Office of Ombudsman for Mental Health and Developmental Disabilities

332 Minnesota St.

Suite W1410, First National Bank Building

St. Paul, MN 55101-2117

1-800-657-3506 or 651-757-1800 (metro)

[Office of Ombudsman for Mental Health and Developmental Disabilities \(https://mn.gov/omhdd/\)](https://mn.gov/omhdd/)

ombudsman.mhdd.@state.mn.us

Mid-Minnesota Legal Aid/Minnesota Disability Law Center

111 N. Fifth St.

Suite 100

Minneapolis, MN 55403

Intake Line: 1-877-696-6529

MN Disability Law Center: 1-800-292-4150

Information: info@mylegalaid.org

Additional Resources, see below:

Minnesota Department of Human Services (Medicaid Fraud and Abuse-payment issues)

Surveillance and Integrity Review Services

PO Box 64982

St Paul, MN 55164-0982

1-800-657-3750 or 651-431-2650 (metro)

DHS.SIRS@state.mn.us

Minnesota Aging Pathways/Minnesota Board on Aging (MBA) (formerly Senior Linkage Line)

540 Cedar St.

St. Paul, MN 55155

1-800-333-2433

aging.pathways@state.mn.us

Centers for Independent Living

See website for names, addresses, and telephone numbers:

[Living Independently | MN Dept. Of Employment and Economic Development \(https://mn.gov/deed/job-seekers/disabilities/independent/\)](https://mn.gov/deed/job-seekers/disabilities/independent/)

Medicare Beneficiary and Family Centered Care Quality Improvement Organization

Commence Health (formerly LIVANTA LLC)

BFCC-QIO Program

Commence Health

PO Box 2687

Virginia Beach, VA 23450

1-888-524-9900, TTY 7-1-1

Superior Health Quality Alliance Quality Improvement Organization (QIO)

Stratis Health

2901 Metro Drive, Suite 400

Bloomington, MN 55425-1525

[Stratis Health \(https://stratishealth.org/\)](https://stratishealth.org/)

952-854-3306/1-877-STRATIS (787-2847)

info@stratishealth.org

Minnesota Department of Health

Health Regulation Division

PO Box 64900

St. Paul, MN 55164-0900

651-201-4200

health.fpc-licensing@state.mn.us

www.health.state.mn.us

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To obtain this information in a different format, call: 651-201-4200.