

# Rights of Residents in Community Care Retirement Communities (CCRCs)

CANHR is a private, nonprofit 501(c)(3) organization dedicated to improving the quality of care and the quality of life for long term care consumers in California.

Residents in California Continuing Care Retirement Communities (CCRCs) have a wide range of rights. The CCRC “Bill of Rights” applies to residents in Independent Living Units and in some aspects to all residents regardless of their living status. Residents in Independent Living Units and Assisted Living also have rights governing Residential Care Facilities for the Elderly, and residents in Skilled Nursing have special rights established by both federal and state law. CCRC contracts also spell out resident rights and responsibilities. Outlined below are some of the most important rights. (Also refer to the Fact Sheet – Exercising Your Rights and Resolving Problems in CCRCs.)

**Key:**

|          |                                   |
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| H&S Code | California Health and Safety Code |
| CCR      | California Code of Regulations    |

## I. Rights for All Residents

| <b>(A) General Rights</b>                    |   |   |
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| 1  | Residents have all federal and state rights as a citizen of the U.S. and a resident of California.  | H&S Code §1771.7(a)                         |
| 2  | Facility must post in a prominent place a notice that a copy of rights is available upon request from the provider including information on how and where to file complaints.   | H&S Code §1771(f)                           |
| 3  | Right to receive a copy of bill of rights (H&S 1771.7) at time of contract signing and at any time when there is a proposed move to a different level of care.  | H&S Code §1771.7(e)                         |
| 4  | Right to environment that enhances the resident’s self-determination and independence.  | H&S Code §1771.7(d)                         |
| 5  | Right to cancel contract within 90 days from occupancy of living unit without cause or penalty.   | H&S Code §1788(a)(B)(27), (h) and 1788.2(a) |
| <b>(B) Right to Organize and Participate</b> |   |   |
| 1  | Right to form a resident association and elect a governing body to make recommendations and share concerns with administration. Make written requests for information or to address issues of concern that must be responded to by administration within 20 working days. | H&S Code §1771.7(d)(1)                      |

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| 2  | Right to meet with the provider board or its representative(s) at least semi-annually for a free discussion of income, expenditures and financial trends, proposed changes in policies, programs, and services, and other matters of concern. Notice and agenda must be posted in a conspicuous place at least 14 days prior to the meeting.   | H&S Code §1771.8(c)(e) |
| 3  | Right to meet at least 30 days prior to rate increases with provider representative to discuss basis for rate increases and receive, at least 14 days prior to the meeting, budgets and actual and projected expenses that form the basis for the rate increases. This information shall be posted in a conspicuous place.   | H&S Code §1771.8(d)    |
| 4  | Right to participate in a biennial resident satisfaction survey.   | H&S Code §1771.7(d)(2) |
| <b>(C) Right to Resident Representation on Provider Boards</b> |  |                        |
| 1  | Right to at least 1 voting resident member on the board or 2 if board has 21 or more members.  | (H&S 1771.8 (i)(1)(2)) |
| 2  | For multi-facility CCRCs, right to have at least 1 voting resident member on the board or 2 if the board has 21 or more members.   | (H&S 1771.8 (j)(2)(A)) |
| 3  | Out of state providers with no board in California may elect a resident voting member to the board <u>or</u> may appoint a select committee of the board to meet periodically with the resident association or resident appointed committee to address resident concerns and to ensure that resident concerns are relayed to the full board.   | (H&S 1771.8 (s)(1))    |
| 4  | Providers that are sole proprietorships, general or limited partnerships, limited liability companies, or closely held corporations may elect a resident voting member to the governing body <u>or</u> appoint a select committee of its members to meet semi-annually with the resident association or resident elected committee to discuss the providers financial condition, budgets, changes in management and fee increases. | (H&S 1771.8 (s)(2)(A)) |
| 5  | Right to at least 1 non-voting resident representative on the board.   | (H&S 1771.8 (i)(1))    |
| 6  | For multi-facility CCRCs, right to have at least 1 non voting resident representative on the board for each California CCRC <u>or</u> at least 1 non voting resident representative for every three California CCRCs.  | (H&S 1771.8 (j)(1)(2)) |
| 7  | If any member of a limited liability company is a corporation, a non voting resident representative shall be invited to meetings of the governing board to address issues such as fee increases, indebtedness, expansion and contraction of the facility, etc.   | (H&S 1771.8 (s)(2)(B)) |
| <b>(D) Right to Exercise Rights</b>                            |  |                        |
| 1  | Right to file complaints with the Continuing Care Contracts Branch, the regulatory agency, for any violations of these rights. The “Bill of Rights – H&S 1771.7” and the right to file complaints and how and where to do so must be prominently posted.   | H&S Code §1771.7(f)    |

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| 2  | Right to make complaints or contacts with outside agencies and elected officials without retaliation.  | H&S Code §1788(a)(30)(B)                  |
| 3  | Right to join resident associations or independent resident organizations without retaliation.   | H&S Code §1788(a)(30)(B)                  |
| 4  | Right to exercise these rights – Resident Bill of Rights - freely without retaliation by provider.   | H&S Code §1771.7(g)                       |
| <b>(E) Right to Protection in Temporary and Permanent Closures</b> |  |   |
| 1  | Right to obtain advance notice of a temporary closure (i.e., relocation lasting 9 to 18 months) and receive comparable levels of care, services and living accommodations during the relocation.   | H&S Code §1793.90                         |
| 2  | Right to receive a notice at least 60 days prior to a temporary closure (H&S 1790(b)), and a notice at least 7 days in advance of a meeting with the provider containing information on the date of transfer, replacement units, monthly fees, time for inspection of replacement unit, and estimated time for return. This meeting must be held at least 30 in advance of the transfer to discuss all aspects of the relocation.          | H&S Code §1790(b)(c)                      |
| 3  | Initial notice must be at least 60 days prior to return to unit originally vacated during a temporary closure and subsequent notices must be sent at 30 and 7 days. The notice must present a relocation plan to the unit originally vacated or selection of another unit comparable in services, size, features and amenities without further admission fees and timeframes for making choices.   | H&S Code §1793.91                         |
| 4  | Right to receive a notice at least 120 days prior to permanent closure of a CCRC.  | H&S Code §1793.80                         |
| 5  | Right to receive a written notice of closure and relocation plan no less than 90 days prior to a permanent closure.  | H&S Code §1793.81                         |
| 6  | The plan must present one of four options for relocation: 1) Relocation to a CCRC owned or operated by provider; 2) relocation to a CCRC not owned or operated by provider; 3) monetary compensation equal to the value of the remaining contract; or 4) a mutually agreed upon alternative.   | H&S Code §1793.82                         |
| <b>(F) Right to Notification</b>                                   |  |   |
| 1  | Right to 30 day advance notice of any change in monthly care fees or scope of any component of care or other services.   | H&S Code §1788(a)(23)                     |
| 2  | Right to receive notice within 10 days of submitting an application to the regulatory agency to obtain a certification of authority to start construction of new CCRC, expansion of an existing CCRC either through renovation or new construction; to inactivate, revoke, surrender or forfeit a certificate of authority to operate a CCRC; and to sale or transfer of a CCRC or to assume responsibility for continuing care contracts. | H&S Code §1779(e) and 1779(a)(3)(4)(7)(8) |
| 3  | Resident associations must be notified by the provider within 10 calendar days of submitting to the regulatory agency (i.e., requires at least 90 days prior notice) any transaction that results in an encumbrance or lien on a continuing care community care provider's property or its revenues.   | H&S Code §1789.2                          |

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| 4 | Resident associations must be notified by the provider within 10 days of any filing with the department to obtain new financing, additional financing, the sale or transfer of a CCRC, any change in structure, and any applications for any expansion of the CCRC.            | H&S Code §1779(e)   |
| 5 | Resident associations must be notified by the provider within 10 calendar days of submitting to the regulatory agency at least 60 days before making proposed changes to its name, business structure or form of doing business, the overall management or terms of financing. | H&S Code §1789      |
| 6 | Right to written notice 120 days prior to the sale or transfer of a CCRC with specifics of the sale or transfer, options available and acknowledgment of receipt of notice by resident.  | H&S Code §1789.4(d) |

### **(G) Right to Financial Information**

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| 1 | Right to review provider's annual report, audited financial statement, and accompanying documentation (e.g. Financial Disclosure Statements – H&S 1789.1) within 10 days after being submitted to the regulatory agency. Reports must be posted in a conspicuous place and on their website.   | H&S Code §1771.8(g)     |
| 2 | Right to a quarterly written financial statement provided to resident association or governing body that compares actual costs to budgeted costs broken down by expense category, with an explanation of all significant budget variances.   | (H&S Section 1771.8(f)) |
| 3 | Right to receive 14 days in advance of a meeting to discuss annual rate increases the basis for determining the amount of the increase, the data used for making the calculations, and comparative data showing the budget for the upcoming year, the current year's budget, and actual and projected expenses for the current year. A copy must be posted in a conspicuous location at each facility. | (H&S Section 1771.8(d)) |
| 4 | Right of resident association or governing body to be consulted during the annual budget planning process.   | (H&S Section 1771.8(f)) |
| 5 | Right to receive a copy of the biennial evaluation conducted by administration of the effectiveness of the budget consultation process and policies that relate to cooperation with residents. A copy of the evaluation shall be made available at least 14 days prior to the semi-annual meeting on the budget and posted in a conspicuous place.   | (H&S Section 1771.8(f)) |
| 6 | Right to request public information (e.g., audits, financial statements, reserve declarations, citations, etc.) regarding any CCRC from the regulatory agency.   | H&S Code §1776.6(a)     |

### **(H) Right to Other Information**

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| 1 | Right to request minutes from board of directors meetings.  | H&S Code §1771.8(h)    |
| 2 | Right to view disaster preparedness plan.   | H&S Code §1776.3(c)    |
| 3 | Right to view any citations against the provider issued by the regulatory agency - a notice of the citation must be posted by the provider. | H&S Code §1776.3(d)(2) |

## **II. Rights for Residents in Independent Living Units**

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| 1 | Right to receive a clear and complete written contract that establishes the mutual rights and obligations of the resident and CCRC provider. | H&S Code §1771.7(c)(5) |
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| 2 | Right to live in an attractive, safe and well maintained environment that enhances personal dignity, maintains independence, and encourages self-determination.   | H&S Code §1771.7(c)(1)(2)         |
| 3 | Right to participate in activities that meet individual physical, intellectual, social and spiritual needs.   | H&S Code §1771.7(c)(3)            |
| 4 | Right to have effective channels of communication with staff, administration and provider's governing board.  | H&S Code §1771.7(c)(4)            |
| 5 | Right to maintain and establish ties to the local community.  | H&S Code §1771.7(c)(8)            |
| 6 | Right to organize and participate freely in the operation of independent resident organizations and associations.   | H&S Code §1771.7(c)(9)            |
| 7 | Right to exercise level of care transfer rights and protections including, but not limited to, involvement in the process of family, resident's physician, health professionals and others of the resident's/responsible person's choosing; access to assessment tool and process; participation in a care conference prior to formal notice; requirement of written formal notice with reasons for the transfer; and for disagreements a request a subsequent care conference with the provider and a review of the transfer process by the regulatory agency. | H&S Code §1788(a)(10)(B)(C)(D)    |
| 8 | Covered by many of the rights of residents in Assisted Living because Independent Living Units are also licensed as Residential Care Facilities for the Elderly (RCFEs).  | H&S Code §1771.7(a)<br>CCR §72527 |

### **III. Rights of Residents in Assisted Living**

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| 1 | Assisted Living is licensed as a Residential Care Facility for the Elderly (RCFE) so residents also have, with some exceptions, the rights associated with this care level in a CCRC. RCFEs are regulated by the California Department of Social Services, Community Care Licensing. (Refer to CANHR's website on RCFEs/Assisted Living and to the Fact Sheet on Rights of Residents in RCFEs) | CCR §72527                       |
| 2 | Right to form Resident Councils and Family Councils (Refer to CANHR's website, <a href="http://www.canhr.org">www.canhr.org</a> , and materials on Organizing Family Councils.)  | H&S Code §1569.157 and §1569.158 |

### **IV. Rights of Residents in Skilled Nursing**

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| 1 | Skilled Nursing residents have substantial rights established by both federal and state law. CCRC's Skilled Nursing is regulated by the California Department of Public Health, Licensing and Certification. (Refer to CANHR's website on Skilled Nursing and to the Fact Sheets on Rights of Residents in Nursing Homes.) | CCR § 87572 |
| 2 | Right to form Resident Councils and Family Councils (Refer to CANHR's website, <a href="http://www.canhr.org">www.canhr.org</a> , and materials on Organizing Family Councils.)  |             |

## V. Special Rights for Some Residents

| <b>(A) Residents with Life-Care Contracts</b>  |  |                               |
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| 1  | Right to provisions of care at all levels for life, i.e., assisted living, skilled nursing and routine services, including acute care and the services of physicians and surgeons, if not covered by other public or private insurance | H&S Code §1771(l) and 1788(b) |
| 2  | Right to receive the comprehensive continuum of care, e.g. assisted living and skilled nursing, in a facility under the ownership and supervision of the provider on, or adjacent to, the CCRC premises                                | H&S Code §1771(l) and 1788(b) |
| 3  | Right to pay the same monthly care fee regardless of care level  | H&S Code §1771(l) and 1788(b) |
| 4  | Right to receive a subsidy if unable to pay monthly care fees  | H&S Code §1771(l) and 1788(b) |
| <b>(B) Residents with Refundable Contracts</b> |  |                               |
| 1  | Right to have a preferred claim status to liquid assets held in the refund reserve in the event of receivership or liquidation of a CCRC.  | H&S Code §1793.9(b)           |