

**PROPOSED REGULATION OF THE  
AGING AND DISABILITY SERVICES DIVISION OF THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**LCB FILE NO. R111-19I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 12/10/2019**

## ADVOCATES FOR RESIDENTS OF FACILITIES FOR LONG-TERM CARE

**NAC 427A.010 Definitions.** ([NRS 427A.070](#), [427A.135](#), [427A.138](#)) As used in [NAC 427A.010](#) to [427A.310](#), inclusive, unless the context otherwise requires:

1. ~~1.~~ “Administrator” means the Administrator of the Aging and Disability Services Division of the Department. ~~“Administrator”~~
2. “Advocate” includes a volunteer advocate appointed by the Administrator pursuant to [NRS 427A.127](#).
3. “Attorney for the Rights of Older Persons with a Physical Disability, an Intellectual Disability or a Related Condition” means the person appointed pursuant to [NRS 427A.1232](#).
4. “Community-based living arrangement services” has the meaning ascribed to it in [NRS 433.605](#). 5. ~~2.~~ “Complainant” means a resident who files a complaint pursuant to [NRS 427A.125](#) to [427A.165](#), inclusive, or a person who files a complaint on behalf of a recipient. The term includes a person claiming retaliation for having filed a complaint, a person who provides information regarding a complaint, and an advocate or the representative of an advocate.
6. “Facility for intermediate care” means an establishment operated and maintained to provide 24- hour personal and medical supervision, for a person who does not have illness, disease, injury or other condition that would require the degree of care and treatment which a hospital or facility for skilled nursing is designed to provide.
7. “Facility for intermediate care” means an establishment operated and maintained to provide 24- hour personal and medical supervision, for a person who does not have illness, disease, injury or other condition that would require the degree of care and treatment which a hospital or facility for skilled nursing is designed to provide.
8. “Facility for skilled nursing” means an establishment which provides continuous skilled nursing and related care as prescribed by a physician to a patient in the facility who is not in an acute episode of illness and whose primary need is the availability of such care on a continuous basis. Does not include a facility which meets the requirements of a general or any other special hospital[ULW1].
9. ~~3.~~ “Facility for the care of adults during the day” means an establishment operated and maintained to provide care during the day on a temporary or permanent basis for aged or infirm persons. The term does not include a halfway house for recovering alcohol and drug abusers.
10. ~~3.~~ “Hearing officer” means the Attorney for the Rights of Older Persons with a Physical Disability, an Intellectual Disability or a Related Condition or a person designated by him or her.
11. ~~4.~~ “Person” means a natural person, partnership, association, corporation or other public or private entity.
12. ~~5.~~ “Recipient” means a resident of a facility for long-term care who resides in a long-term care facility, or receives services from a day care center or a facility for long-term rehabilitation; or living arrangement services.
13. “Residential facility for groups” means an establishment that furnishes food, shelter, assistance and limited supervision to a person with an intellectual disability or with a physical disability or a person who is aged or infirm. The term includes, without

limitation, an assisted living facility.

~~14.—6.—~~“Respondent” means a person against whom a complaint has been filed.

~~15.~~“Supported living arrangement services” has the meaning ascribed to it in NRS 435.3315.

~~—7.—~~“Attorney for the Rights of Older Persons with a Physical Disability, an Intellectual Disability or a Related Condition” means the person appointed pursuant to NRS 427A.1232.

(Added to NAC by Aging Services Div., eff. 6-19-90; A by R163-06, 9-18-2007; A by Aging & Disability Services Div. by R017-10, 7-22-2010)

**NAC 427A.012 “Family council” interpreted.** ([NRS 427A.070](#)) For the purposes of [NRS 427A.125](#), the Administrator will interpret the term “family council” to mean a group of family members of recipients of a facility for ~~long-term care~~skilled nursing that is formed to discuss concerns about the facility, communicate those concerns to the staff of the facility and cooperate with the staff in developing solutions to the concerns.

(Added to NAC by Aging & Disability Services Div. by R017-10, eff. 7-22-2010)

**NAC 427A.014 “Notify” interpreted.** ([NRS 427A.070](#)) For the purposes of [NRS 427A.155](#), the Administrator will interpret the term “notify” to include verbal notification.

(Added to NAC by Aging & Disability Services Div. by R017-10, eff. 7-22-2010)

**NAC 427A.016 “Person or persons designated as responsible for decisions regarding the recipient” interpreted.** ([NRS 427A.070](#)) For the purposes of [NRS 427A.145](#), the Administrator will interpret the phrase “person or persons designated as responsible for decisions regarding the recipient” to mean a person or persons designated by a recipient as able to receive information about the recipient and make decisions on the recipient’s behalf, including, without limitation, such a person who is a member of the recipient’s family or the recipient’s attorney-in-fact.

(Added to NAC by Aging & Disability Services Div. by R017-10, eff. 7-22-2010)

**NAC 427A.018 “Resident council” interpreted.** ([NRS 427A.070](#)) For the purposes of [NRS 427A.125](#), the Administrator will interpret the term “resident council” to mean a group of recipients of a facility for ~~long-term care~~skilled nursing that is formed to discuss concerns about the facility, communicate those concerns to the staff of the facility and cooperate with the staff in developing solutions to the concerns.

(Added to NAC by Aging & Disability Services Div. by R017-10, eff. 7-22-2010)

**NAC 427A.020 Scope and construction.** ([NRS 427A.070](#), [427A.135](#), [427A.138](#)) The provisions of [NAC 427A.010](#) to [427A.310](#), inclusive:

1. Govern all practice and procedure for a hearing held pursuant to [NRS 427A.135](#) or [427A.138](#); and
2. Must be liberally construed to secure a just, speedy and economical determination of all issues presented to the hearing officer.

(Added to NAC by Aging Services Div., eff. 6-19-90; A 9-19-90)

**NAC 427A.030 Severability.** ([NRS 427A.070](#), [427A.135](#), [427A.138](#)) Each provision of [NAC 427A.010](#) to [427A.310](#), inclusive, is hereby declared to be severable and the invalidity of any provision does not affect the validity of any other provision.

(Added to NAC by Aging Services Div., eff. 6-19-90)

**NAC 427A.040 Deviation from requirements.** ([NRS 427A.070](#), [427A.135](#), [427A.138](#)) In special cases, upon a showing of good cause, the hearing officer may permit deviation from the requirements set forth in [NAC 427A.010](#) to [427A.310](#), inclusive, if compliance is impractical or

unnecessary.

(Added to NAC by Aging Services Div., eff. 6-19-90)

**NAC 427A.042 Training of advocates.** ([NRS 427A.070](#)) The training of advocates provided by the Ombudsman pursuant to [NRS 427A.125](#) will include, without limitation:

1. A minimum of 40 hours of initial training which is based on standards of the Administration on Aging of the United States Department of Health and Human Services and which includes, without limitation:

(a) An introduction to the Ombudsman Program administered by the Administration on Aging, including the history of that program and related state programs and the role and responsibilities of ombudsmen; and

(b) Instruction concerning:

(1) Federal, state and local law and policies with respect to the program established in this State by the Ombudsman to assist residents of facilities for long-term care and with respect to facilities for long-term care in this State, including laws and policies concerning confidentiality and consent;

(2) Ethics, advocacy and problem solving with respect to the program established in this State; and

(3) Investigative techniques, periodic visits to facilities for long-term care and techniques for resolving complaints with respect to the program established in this State; and

2. At least 8 hours of in-service training on an annual basis.

(Added to NAC by Aging & Disability Services Div. by R017-10, eff. 7-22-2010)

**NAC 427A.044 Forming and activities of residents' councils and family councils. (NRS 427A.070)** The Ombudsman or an advocate may assist in the forming and activities of the resident councils and family councils in any facility for long-term care.

(Added to NAC by Aging & Disability Services Div. by R017-10, eff. 7-22-2010)

**NAC 427A.046 Visits to facilities by volunteer advocates. (NRS 427A.070)**

1. A volunteer advocate may enter any facility for long-term care and any area within the facility at reasonable times with or without prior notice. Upon arrival at the facility, the volunteer advocate shall make his or her presence known to the staff of the facility and shall present appropriate identification.

2. A volunteer advocate who visits a long-term care facility shall:

(a) Meet with recipients of the facility and the staff of the facility during the visit; and

(b) Report to the Ombudsman or a designee of the Ombudsman concerning the visit.

(Added to NAC by Aging & Disability Services Div. by R017-10, eff. 7-22-2010)

**NAC 427A.048 Posting of notice regarding Ombudsman and advocate and procedure for making complaint. (NRS 427A.165)**

1. Each facility for long-term care, day care center or a facility for long-term rehabilitation; or living arrangement services shall post a notice which describes the purpose of the Ombudsman and an advocate and sets forth the procedure for making a complaint to the Ombudsman or an advocate if a resident's recipient's rights have been violated.

2. The notice described in subsection 1:

(a) Must be posted in prominent-accessible locations throughout the facility for long-term care, including, without limitation:

~~(1) The entry area;~~

~~(2) The dining area; and~~

~~(3) An area where residents convene for activities; and~~

(b) Must include, without limitation:

(1) The name of the program established in this State by the Ombudsman to assist recipients of facilities for long-term care; and

(2) The address and telephone number of each office of the Aging and Disability Services Division in this State.

3. A civil monetary penalty not to exceed \$500 will result if there is a failure to comply with paragraph (1) and (2).—~~3.— As used in this section, “resident’s rights” includes the rights of a recipient of a facility for long-term care as set forth in 42 C.F.R. § 483.10.~~

– (Added to NAC by Aging & Disability Services Div. by R017-10, eff. 7-22-2010)

**NAC 427A.125 Ombudsman or advocate may advocate for and assist recipient during discharging process.** ([NRS 427A.070](#)) In attempting to resolve a complaint made by or on behalf of a recipient of a facility for long-term care, the Ombudsman or an advocate, upon request, may advocate for and assist a recipient or a member of a recipient’s family during the process of discharging the recipient from a facility for long-term care, including, without limitation, any appeal from a notice of discharge given to the recipient.

(Added to NAC by Aging & Disability Services Div. by R017-10, eff. 7-22-2010)