

Tips for Consumers about Oregon's Assisted Living and Residential Care Facilities

Oregon has a unique long-term care system with several options for consumers. While these options give you more choices they can also be confusing. Much of the general information available to consumers about long-term care applies only to nursing homes. If you are entering Oregon's long-term care system as a resident of either an assisted living or residential care facility, the following tips will help you be a more informed consumer. For additional state-specific information, click on "Select a LTC Facility" on our home page or call us at 1-800-522-2602.

1. **Assisted living and residential care facilities are not the same as nursing homes.** They are an *alternative* to nursing homes. They have their own regulations that are different from the nursing home regulations. More so than in nursing homes, the care provided by assisted living and residential care facilities is governed by the contract you sign with the facility. The staff members providing care are not nurses or certified nurses aides.
2. **The Uniform Disclosure Statement (UDS) is a legally binding document and an important consumer tool.** This is a form, developed by the State Of Oregon, that every assisted living and residential care facility must have. It fills in many of the gaps in the state rules, such as the staffing ratio, and supplements the residency agreement or contract. Ask for the UDS at every facility you visit so you can compare the services each one offers. Once you have made your facility choice, keep the UDS in a safe place.
3. **Read the contract before signing.** Nearly everyday we get calls to the Oregon Long-Term Care Ombudsman Program from people who are unhappy with provisions in the contract they signed. Unfortunately, most of these people did not read the contract before signing it. Many assisted living and residential care contracts are 50 pages or more and are written in legalese. If you do not feel up to thoroughly reading the contract, hire a lawyer. A little time, energy and money up front can save you a world of hurt later.

Here are some common contract provisions you should know about:

- Nonrefundable move in fees

The facility can charge any amount as long as this fee has been disclosed. Often, these fees are the equivalent of one month's base rate. We have had cases where the resident signed the contract, paid the fee then changed her mind before ever actually moving in. The facility insisted on keeping the non-refundable fee. Do your homework and make sure the facility is a place you would feel comfortable living before paying any money.

- Binding arbitration clauses
While some courts have disallowed these in nursing home contracts, so far in Oregon, they are allowed in assisted living and residential care contracts.
 - Discounted daily rate for guaranteeing to stay one year
This may be a great way to save money. But if you become unhappy with the care or services and want to move, the facility will demand you pay for the entire rest of the year at the time you move out. We have heard from some former residents that they were told they would only have to pay back the daily discount. It may not matter what you are told if your contract says otherwise.
 - Third party guarantor provisions
Unless you want to be personally liable for your loved one's bill, do not sign a contract as guarantor. If you are power of attorney for a loved one who is moving into an assisted living or residential care, make sure the contract reflects that you are signing *as power of attorney*, not guarantor.
4. **Get it in writing.** Many consumers have told us that promises made at the time they or a loved one moved into an assisted living or residential care facility were not honored later. "You can stay here until you die," is a theoretically true statement, not a promise, unless you get it in writing in your contract.
 5. **If the assisted living or residential care facility has a Medicaid contract, it cannot require you to pay privately for a set period of time before you can go on Medicaid.** Usually this will come up in conversation and will not be part of the written contract. A facility representative may say something to you such as, "We require residents to pay privately for a year before going on Medicaid. Does your mother have sufficient funds for this?" This is called a "duration of stay" contract and it is neither allowed nor enforceable under the Medicaid rules. While not all assisted living and residential care facilities take part in the Medicaid program, those that do must follow the rules.
 6. **Photograph your belongings when you move in and at least twice a year while you live in the assisted living or residential care.** Unlike nursing homes, these facilities are not required to inventory your possessions, although some will do it for an additional fee. The facility is responsible if anything you own is lost or damaged due to the facility's negligence. However, the burden may be on you to prove the condition of the item as well as whether you even owned it.
 7. **If your care hasn't changed, your service fee shouldn't change.** The facility must do a pre-admission evaluation of a prospective resident's care needs. The service rate you are quoted should be based on that evaluation. This initial evaluation must be updated and modified as needed during the first 30 days after a resident move in, which may result in the service rate going up or down. The Oregon Long-Term Care Ombudsman Program has gotten reports of rates going up by as much as \$10,000 after the initial 30 days. Try to get the facility to

commit in writing to keep the service fee within a realistic range if there has not been a major change in you or your love one's condition.

8. **What you pay depends in large part on how much care you need.** Assisted living and residential care facilities charge a base rate that covers room and board and usually a certain level of care. If your care needs go up you will likely have to pay more. The facility must give you immediate written notice if your service charges are going up, and you cannot be billed for services already provided. According to the regulations, you have a right to understand your bill. Ask for a meeting with the facility if you do not understand any billing changes and keep asking questions until it makes sense.
9. **Do not sign a revised disclosure statement or care plan you do not agree with.** While this will not get you out of your legal obligation to abide by changes (to pay the bill, for example) it may give you a better chance of eventually winning the argument that the changes were wrong or unfair. Some facilities now include a statement on the care plan asserting that your signature affirms you agree with what is in that document.
10. **If your room door has a lock, use it. If you have valuables in your room, store them in the facility provided locked storage space.** Locking your room door will not keep staff out, they all have a passkey, but it will prevent unauthorized entry by non-employees. While rare, there have been instances of intruders entering facilities looking for drugs and valuables.

~Authored by Ann Fade, Deputy Long-Term Care Ombudsman