



STATE OF NEW YORK
DEPARTMENT OF HEALTH

161 Delaware Avenue

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Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner of Health

Dennis P. Whalen
Executive Deputy Commissioner

October 8, 2004

DAL/DQS 04-06
Subject: Family Councils

Dear Administrator:

The purpose of this letter is to advise facilities of recently passed legislation regarding family councils in residential health care facilities. While current law allows for the creation of family councils, the new statute clarifies their rights. This legislation creates more opportunity for family members and friends of residents to communicate freely with each other and facility administration.

Under present regulations in 10NYCRR 415.5, a resident's family has the right to meet in the facility with the families of other residents. Facilities are required that when a family council exists, that private meeting space be provided, that staff and visitors shall be allowed to attend meetings at the groups invitation, and that a designated staff person be responsible for providing assistance and responding to written requests that result from group meetings. In addition, the facility is required by the regulations under 415.5 to listen to the views and act upon the grievances and recommendations of a family group concerning proposed policy and operational decisions.

The recently passed legislation defines family councils and the facility's responsibility in ensuring that family councils exercise their rights. A family council is an organization of family members, friends, or representatives of two or more residents of a residential health care facility. The legislation outlines the nursing home's responsibilities are:

- No health care facility may prohibit the formation of a family council.
- Facility policies on family councils shall in no way prohibit the right of residents, family members, and family council members to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during non working hours.
- The family council shall be allowed to meet in a common meeting room of the facility, in private, without facility staff at least once per month during mutually agreed upon hours.

- Family councils shall be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, newsletters, or other information pertaining to the operation or interest of the family council.
- The facility shall respond in writing to written requests or concerns of the family council, within 10 working days.
- When a family council exists, the facility shall include notice of the family council meetings in at least a quarterly mailing, and shall inform family members or representatives of new residents who are identified on the admissions agreement, during the admissions process, or in the resident records, of the existence of the family council. The notice shall include the time, place, and date of the meetings, and the person to contact regarding involvement in the family council.
- No facility shall willfully interfere with the formation, maintenance, or promotion of a family council. Willful interference shall include, but not be limited to, discrimination or retaliation in any way against an individual as a result of their participation in a family council, or the willful scheduling of facility events in conflict with a previously scheduled family council meeting.

The Department supports the establishment of family councils and continued efforts to involve families in the lives of their relatives and friends in the nursing home. Please review the information contained in this letter and incorporate the responsibilities into your policies and procedures. When families and facilities work collaboratively and cooperatively with one another, the result is improved quality of care and a more meaningful quality of life for residents.

Please contact Elliott Frost at (518) 408-1267, should you have any questions regarding this letter. Thank you for your continued cooperation in ensuring high quality care and quality of life for nursing home residents throughout New York State.

Sincerely,

[s]

Keith W. Servis, Director
Division of Quality and Surveillance
for Nursing Homes and ICFs/MR