

## WHEN YOU ARE ASKED TO LEAVE A RESIDENTIAL AGED CARE FACILITY

### *Can I be asked to move to another residential aged care facility?*

The provider of your residential aged care facility may ask you to leave the facility only in the following situations:

1. the residential aged care facility in which you are currently living is closing.
2. the residential aged care facility in which you are currently living no longer provides accommodation and care suitable for you, having regard to your long-term assessed needs, and the provider has *not* agreed to provide care of the kind that you presently need. Your long-term care needs must be assessed by either:
  - an Aged Care Assessment Service; or
  - at least two medical or other health practitioners - *one* must be independent of the provider and of the residential care facility and must be chosen by you or your representative; and *both* must be competent to assess your aged care needs.
3. you no longer need the care provided through the residential aged care facility. Your needs must be assessed by an Aged Care Assessment Service.
4. you have not paid any agreed fee to the provider within 42 days after the day when the fee is payable, for a reason within your control.
5. you have *intentionally* caused:
  - *serious* damage to the residential aged care facility; or
  - *serious* injury to the provider; or
  - *serious* injury to an employee of the provider or to another resident.
6. you are away from the residential aged care facility for a continuous period of at least seven days for a reason not permitted by the aged care legislation. Remember that the aged care legislation permits you to take up to 52 days social leave in each financial year; and permits you to take unlimited leave for the purpose of being in hospital or in transition care.

### *What must the provider do if I am asked to leave?*

If the provider decides to ask you to leave, the provider must give you a written notice that includes the following information:

- a. the decision;
- b. the reasons for the decision;
- c. the date by which you are to leave. The provider must give you at least 14 days notice to leave (and see further below in relation to the expiry of the 14 days); and
- d. your rights about leaving including your right to access the complaints resolution mechanisms (both the facility's internal mechanism and the Department of Health and Ageing's Complaints Investigation Scheme) and to access an advocacy service.

The provider may claim that you must leave, or that you are not to return to the facility from hospital, when in fact the provider is not entitled to require you to leave or not to return. If you have any concerns about your security of tenure, contact Elder Rights Advocacy (ERA) for information and advice as soon as possible

### *What if the 14 days notice expires and I have not been able to find another place?*

The provider must not take action to make you leave, or imply that you must leave, before suitable alternative accommodation is available that meets your long-term assessed needs and is affordable to you. This applies even though the 14 days notice period may have expired.

Your long-term needs must be assessed by *either* an Aged Care Assessment Service *or* two medical or other health practitioners. One of the medical or other health practitioners must be independent of the provider and of the residential aged care facility, and must be chosen by you or your representative. Both medical or other health practitioners must be competent to assess your aged care needs.

### ***If I move to another residential aged care facility will I have to pay extra money?***

Whether you have to pay extra (or different) amounts of money in fees and other charges if you move depends on a number of factors, including:

- whether you will be receiving the same or a different level of care (i.e. high or low level care) in the other facility from the level of care you are receiving in your current facility;
- whether you are moving to an “extra service” facility;
- the date you first entered a residential care facility as a permanent resident;
- whether you have paid an accommodation bond to your current facility;
- whether you are a pensioner;
- whether the new facility is certified;
- the amount of your assets and income.

Contact ERA for more detailed information. Also see our fact sheets called “Daily Fees”, “Accommodation bonds” and “Accommodation charges”.

If you decide to move to an “extra service” facility then you will be asked to pay an additional daily fee called an “extra service amount”. An “extra service” facility provides a higher standard of accommodation and services than is usual. It does not mean that a higher standard of care is provided as all residential aged care facilities must provide quality care.

### ***Will I be asked to sign anything if I move to another service?***

Yes. If you move to another facility, you will be offered a new resident agreement. You can choose whether or not you want to sign that agreement.

If you agree to pay either an accommodation bond or an accommodation charge to your new facility the provider must enter into an accommodation bond agreement or an accommodation charge agreement with you before or within 21 days of your entry to the new facility.

If your new facility is an “extra service” facility, the provider must enter into an extra service agreement with you.

### ***What if I can't afford to pay an accommodation charge or an accommodation bond to the new residential aged care facility?***

If your assets are below an indexed minimum amount (\$34,500 as at 1/7/08) you cannot be asked to pay either an accommodation charge or an accommodation bond (unless you paid a bond to your current facility, in which case you may be asked to transfer it to your new facility).

If your assets are over that amount, but you believe that you still cannot afford to pay an accommodation charge or an accommodation bond, you should contact the Department of Health and Ageing (DHA) to enquire about whether you can be exempted from paying on the basis of financial hardship. (Contact DHA on tel: (03) 9665 8888 or 1800 500 853 (toll free)).

The Australian Government sets the rules that determine the maximum amount of accommodation bond or accommodation charge (whichever is applicable) that you may be asked to pay. Up to these maximums, the amount of bond or charge that you pay is a matter for negotiation between yourself (or your representative) and the provider.

### ***Do the same care and accommodation standards apply if I move to another Australian Government funded residential aged care facility?***

Yes. The care and accommodation standards are set by the Australian Government and apply to everyone who is assessed by an Aged Care Assessment Service as needing high or low level care who lives in an Australian Government funded residential aged care facility.

### ***Contact ERA***

Phone: (03) 9602 3066, 1800 700 600

Email: era@era.asn.au

Mail: Elder Rights Advocacy  
Level 4, 140 Queen St, Melb. 3000

Website: www.era.asn.au

## *Empowering older Victorians*

Elder Rights Advocacy is the registered business name of Residential Care Rights Inc. (ABN 63 367 539 827) which is part of the National Aged Care Advocacy Program - an Australian Government Initiative.

Note: The information in this fact sheet is general information only – it is not legal advice.

© Residential Care Rights Inc. August 2008