

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.21734 Nursing home; bed rails; provisions; peer-reviewed, evidence-based, best-practice resources; liability.

Sec. 21734. (1) Notwithstanding section 20201(2)(l), a nursing home shall give each resident who uses a hospital-type bed or the resident's legal guardian, patient advocate, or other legal representative the option of having bed rails. A nursing home shall offer the option to new residents on admission and to other residents on request. On the receipt of a request for bed rails, the nursing home shall inform the resident or the resident's legal guardian, patient advocate, or other legal representative of alternatives to and the risks involved in using bed rails. A resident or the resident's legal guardian, patient advocate, or other legal representative has the right to request and consent to bed rails for the resident. A nursing home shall provide bed rails to a resident only on the receipt of a signed consent form authorizing bed rail use and a written order from the resident's attending physician that contains statements and determinations regarding medical symptoms and that specifies the circumstances under which bed rails are to be used. For purposes of this subsection, "medical symptoms" includes the following:

- (a) A concern for the physical safety of the resident.
 - (b) Physical or psychological need expressed by a resident. A resident's fear of falling may be the basis of a medical symptom.
- (2) A nursing home that provides bed rails under subsection (1) shall do all of the following:
- (a) Document that the requirements of subsection (1) have been met.
 - (b) Monitor the resident's use of the bed rails.
 - (c) In consultation with the resident, resident's family, resident's attending physician, and individual who consented to the bed rails, periodically reevaluate the resident's need for the bed rails.
- (3) The department shall maintain clear and uniform peer-reviewed, evidence-based, best-practice resources to be used in determining what constitutes each of the following:
- (a) Acceptable bed rails for use in a nursing home in this state. The department shall consider the recommendations of the hospital bed safety work group established by the United States Food and Drug Administration, if those are available, in determining what constitutes an acceptable bed rail.
 - (b) Proper maintenance of bed rails.
 - (c) Properly fitted mattresses.
 - (d) Other hazards created by improperly positioned bed rails, mattresses, or beds.
- (4) The department shall maintain the peer-reviewed, evidence-based, best-practice resources under subsection (3) in consultation with the long-term care stakeholders work group established under section 20155(18).
- (5) A nursing home that complies with subsections (1) and (2) and the peer-reviewed, evidence-based, best-practices resources maintained under this section in providing bed rails to a resident is not subject to administrative penalties imposed by the department based solely on providing the bed rails. This subsection does not preclude the department from citing specific state or federal deficiencies for improperly maintained bed rails, improperly fitted mattresses, or other hazards created by improperly positioned bed rails, mattresses, or beds.

History: Add. 2000, Act 437, Imd. Eff. Jan. 9, 2001;—Am. 2015, Act 155, Eff. Jan. 18, 2016;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368