

Residents' Rights & Voting in Vermont Nursing Homes

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Voting Guidance for Nursing Homes – Facility Policy:

Nursing Homes are required to preserve Residents' Rights, which includes the right to vote. According to the CMS Safety Special Alert Memo ([QSSAM-26-04-NH](#)), nursing facilities should have a plan to ensure residents have the opportunity to vote, whether in-person, by mail, absentee, or other authorized process.

CMS Requirements of Participation

§483.10(b) Exercise of Rights. The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

§483.10(b)(1) The facility must ensure that the resident can exercise his or her rights without interference, coercion, discrimination, or reprisal from the facility.

§483.10(b)(2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights and to be supported by the facility in the exercise of his or her rights as required under this subpart.

Nursing facilities should have both a policy regarding the right to vote, in accordance with CMS requirements, and procedures for implementing that policy. An example of a nursing home policy (provided by a participating nursing home):

The facility will affirm, protect, and support each resident's right to vote, to participate in elections, and to decline participation in elections. The facility shall ensure residents can exercise these rights without interference, coercion, discrimination, or reprisal.

The facility will provide reasonable assistance and accommodation necessary to enable residents to exercise their voting rights while maintaining resident autonomy, privacy, confidentiality, and freedom of choice.

The specific procedures matching this policy will depend on state laws, as each state is in charge of their own election processes. Nursing homes that have the same policy may have different procedures depending on their location. If you are reviewing sample procedures from another state, be sure to compare them to Vermont laws. See the next section for a summary of relevant provisions.

Voting Guidance for Nursing Homes – Facility Procedures:

In developing processes to protect residents' right to vote, facilities should review their procedures to ensure they comply with federal and state election laws. Vermont's rules can be found through the [Secretary of State's](#) office and in [State Statute under Title 17](#). The town or city clerk's office will implement voting in your town, and they are always available to answer questions or assist with your process.

Here are key items to consider when implementing Vermont's rules to ensure your residents can exercise their right to vote.

Registering to Vote

These key facts are taken from the Vermont Secretary of State [Voter FAQ](#) page.

Vermont residents may register to vote up to, and including, the day of the election.

Registration is available during all normal business hours of your town or city clerk's office on days preceding the election and during polling hours on Election Day.

Voters can also register online and check their voting status online:

<https://sos.vermont.gov/elections/voters/registration>

For voters who are already registered, re-registration is not necessary unless you have moved. A person residing in a nursing home may remain on the voting checklist of the town in which they previously resided, or they may register to vote at the address of the nursing facility.

Nursing home staff can help with registration for residents who want assistance. Facilities should have a procedure for documenting that staff have a resident's permission for assistance in registering.

Receiving a Ballot

Vermont offers universal mail-in voting. Note that this default to making mail-in ballots available to all voters means that any nursing home voting procedures should also comply with CMS regulatory guidance for communications through the mail, including the following (emphasis added):

§483.10(h)(2) The facility must respect the residents right to personal privacy, including the right to privacy in his or her oral (that is, spoken), written, and electronic communications, including **the right to send and promptly receive**

unopened mail and other letters, packages and other materials delivered to the facility for the resident. . .

[Early and absentee ballots can be requested online](#). General election ballots are automatically mailed to all registered voters by October 1st on even numbered years. If a ballot was sent to a location where a voter no longer resides, a replacement can be requested but they will need to sign an affidavit of “No Ballot Cast”. A best practice for facility voting procedures will include scheduling voter registration review and assistance in time to minimize the need for replacement ballots.

For voters who prefer to vote in-person, the Secretary of State’s office publishes [polling locations, hours](#), and a [guide to accessible voting](#).

Casting Your Vote

Directions on voting are available with the mail-in ballot and at the polling place.

For voters who wish to vote at the polling place, the Office of Secretary of State provides an [Accessible Voting System](#) that serves voters with a wide range of disabilities, including blind and visually impaired voters and voters with physical disabilities. An election official will assist such voters once they arrive.

[Voters can request assistance with casting their vote from the person of their choice](#). This is true both at polling places and for mail-in ballots. Assistance can also be provided by two election officials of different parties, for example at the polling place.

Facilities should have a procedure for allowing residents to be assisted with voting. As with voter registration, facilities should document that the resident has authorized this assistance. Voters must be free of coercion and influence. This is true in both election law and CMS Residents’ Rights guidance:

§483.10(b)(1) The facility must ensure that the resident can exercise his or her rights without interference, coercion, discrimination, or reprisal from the facility.

Vermont law also prohibits any person who assists another person with voting from sharing any information about the voter’s choices or the manner in which the voter’s ballot was cast. Facilities should have training and procedures in place to ensure these requirements are upheld by anyone providing voting assistance.

Facilities should provide requested assistance to any resident who wishes to vote and is able to indicate their voting choice. Vermont law prohibits voting only in cases where an individual has been ruled incompetent by a judge. The default assumption is always to follow the voter’s choice and not to impose an external assessment about the validity of that choice.

Delivering Ballots

Ballots submitted by mail need to arrive by the close of the election to be counted. While some guides suggest allowing one week for mail to arrive, recent delays in the Vermont postal service suggest that two weeks may be the safer option.

Drop boxes or delivery to the Town Clerk's office before the close of polls offer another option. Vermont [state statute allows most people to deliver completed ballots](#) on behalf of another voter. The primary restrictions are on political candidates who appear on the ballot, or their campaign staff, delivering ballots other than their own. Most individuals are limited to delivering no more than 25 ballots to a drop box. A justice of the peace may deliver more than 25 ballots and any facility needing this assistance should contact their Town Clerk's office for information.

A list of drop box locations is provided here:

<https://sos.vermont.gov/elections/voters/polling-places>

Election Results

Official Vermont election results will be [posted on the Secretary of State's website](#).

Filing Complaints

Nursing home residents or their representatives who believe their rights under CMS regulations have been violated can [file a complaint with the State Survey Agency](#).

Allegations of voter coercion or intimidation can also be referred to the Department of Justice for filing voting complaints with the Civil Rights Division by calling 800-253-3931, emailing voting.section@usdoj.gov or by submitting an online form