

VOLUNTARY BINDING ARBITRATION AGREEMENT POLICY

It is the policy of FACILITY NAME (“Facility”) to present the Voluntary Binding Arbitration Agreement (“VBAA”) to Resident / Resident’s Legally Authorized Representative (“Representative”) after the admission paperwork is completed.

It is further the Facility’s policy to:

- Not require any resident or his/her representative to sign the VBAA as a condition of admission to, or as a requirement to continue to receive care at the facility.
- Explain and explicitly state in the VBAA that the resident or his/her representative has a right not to sign the agreement.
- Explain the VBAA in a form, manner, and language that the resident and his/her representative understands.
- Obtain the resident or his/her representative’s acknowledgment the VBAA was explained in a manner and form they understand, and that he/she/they understand the VBAA.
- Provide for the selection of a neutral arbitrator, agreed upon by both parties, and a venue convenient for both parties.
- Provide the resident or his/her representative a 30-day rescission period.
- Not contain any language in the agreement prohibiting or discouraging a resident or anyone else from communicating with federal, state, or local officials, including employees of federal and state health departments or representatives of the Office of the State Long-Term Care Ombudsman.
- Retain copies of the signed agreement and the arbitrator's final decision for 5 years after the dispute resolution and make these documents available for inspection by CMS or its designee.

There will be at least one “Binding Arbitration Agreement Educator” at the facility, who is responsible for explaining the Binding Arbitration Agreement to Residents and/or their Representatives after being trained on the facility’s process.

The Binding Arbitration Agreement Educator or his/her designee will utilize the “*Facility’s Process for Introducing, Discussing, and Signing Binding Arbitration Agreements*” as the procedure for providing the Residents/Representatives with information about arbitration, explaining the VBAA, and if the Residents/Representatives agree, obtaining signatures on the VBAA. As provided for in the *Process for Introducing, Discussing, and Signing Binding Arbitration Agreements*, the Arbitration Agreement Educator or his/her designee will follow the *Facility’s Binding Arbitration Agreement Checklist* to educate the Residents/Representatives on the content of the VBAA prior to requesting the Residents/Representatives execute the VBAA.

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DISCLAIMER: This document is intended to serve as guidance only and should not be taken or construed as legal advice. Always consult with a local attorney who specializes in this area of law to ensure compliance with the law.