

**HOME AND COMMUNITY BASED SERVICES (HCBS)  
RESIDENCY AGREEMENT**

This Agreement is effective from \_\_\_\_\_ to \_\_\_\_\_ (must be updated annually).

This Residency Agreement is entered into between \_\_\_\_\_ (Resident)

or \_\_\_\_\_ (Resident's Legal Representative, as applicable)

AND \_\_\_\_\_ (Caregiver) located at:

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(Physical Address of the Residence)

This setting is certified/licensed by the Hawai'i Department of Health under the following Hawai'i Administrative Rules (HAR):

- Adult Foster Home for people with developmental disabilities, HAR Chapter 11-148.1
- Developmental Disabilities Domiciliary Home, HAR Chapter 11-89
- Adult Residential Care Home, HAR Chapter 11-100.1
- This residence is not licensed or certified but is considered a provider-controlled setting under 42 CFR §441.301(c)(4)

Certification/Licensure #: \_\_\_\_\_ Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

**Protections and Rights of Resident**

The Resident has protections and rights established under the federal Medicaid Home and Community-Based Services (HCBS) rules, 42 CFR §441.301(c)(4) et seq. The Caregiver will recognize and respect the Resident's rights, which include but are not limited to:

1. The right to live in a setting that does not have the effect of isolating the Resident from the greater community.
2. The right to live in a setting that is integrated in and supports full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
3. The right to select a setting from among setting options, including non-disability specific settings and an option, if available, for a private unit in a residential setting. The Resident's setting options must be identified and documented in the Resident's person-centered service plan and are based the Resident's needs, preferences, and resources available for room and board.
4. The right to privacy, dignity and respect, and freedom from coercion and restraint.
5. The right to live in a setting that optimizes the Resident's rights of initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom the Resident interacts.

6. The right to live in a setting that facilitates individual choice regarding services and supports, and who provides them.
7. The right to privacy in the Resident's sleeping or living unit, including:
  - a. Entrance doors that the Resident can lock, with only appropriate staff having keys or tool to unlock doors.\*
  - b. The choice of roommates in that setting if/when the Resident is sharing a unit.\*
  - c. The freedom to furnish and decorate the Resident's sleeping or living unit.\*
8. The freedom and support to control the Resident's own schedules and activities.\*
9. The right to have access to food at any time.\*
10. The right to have visitors of the Resident's choosing at any time.\*
11. The right to live in a setting that is physically accessible to the Resident.

\* As indicated by an asterisk, there may be times due to health and safety reasons, when some of these rights or protections may be modified by the Resident, the Resident's HCBS team<sup>1</sup> and the Resident's Developmental Disabilities Division (DDD) case manager. A modification to any of these rights and protections will always be based on a specific assessed health and safety need, will use the least restrictive and least intrusive method to address the need, will be revisited regularly to determine if the modification is still necessary, and will not be implemented without the Resident's, or when applicable the Resident's legal representative's, informed consent. Any modification must be documented in the Resident's person-centered plan and agreed to by the Resident (or the Resident's legal representative, as applicable).

### **Voluntary Termination of Residency (Discharge or Transfer by the Resident)**

- Residency may be terminated by the Resident in a DDD Adult Foster Home (DDD AFH).

The Resident (or Resident's legal representative, as applicable) of DDD AFH may terminate the residency by giving the Caregiver and the Resident's assigned DDD case manager written notification at least twenty-eight (28) calendar days prior to the scheduled termination or transfer, or sooner by written mutual agreement between the Caregiver and Resident (or Resident's legal representative, as applicable). In the event of an emergency discharge such as in the case of suspected abuse or other endangerment, the Resident shall provide immediate notice to the Caregiver and DDD case manager.

- Residency may be terminated by the Resident of an Adult Residential Care Home (ARCH), Expanded Adult Residential Care Home (E-ARCH) or Developmental Disabilities Domiciliary Home (DD Dom).

The Resident (or Resident's legal representative, as applicable) of an ARCH, E-ARCH, or DD Dom Home may terminate the residency by giving the Caregiver fourteen (14) day notice prior to the scheduled termination or transfer.

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<sup>1</sup> For Residents receiving services through the Hawai'i 1915(c) Waiver for Individuals with Intellectual and Developmental Disabilities, the HCBS team includes family, friends, and other persons identified by the participant as their circle of support and for being important to them. (Waiver Provider Standards Manual Version A, effective April 1, 2022.)

## Involuntary Termination of Residency (Discharge or Transfer by the Caregiver)

- Residency may be terminated by the DDD AFH Caregiver when:
  - The Resident undergoes physical, behavioral, or mental changes that require services and supports that the current Caregiver cannot provide; OR
  - The Caregiver undergoes physical, behavioral, or mental changes that leave the Caregiver unable to provide the necessary care and supervision of the Resident as defined in the Resident's person-centered plan; OR
  - The Caregiver requests the discharge; AND
  - The Caregiver has provided written notice to the Resident (or Resident's legal representative, as applicable), the Resident's DDD case manager, and certifying agency at least forty-five (45) days prior to a discharge or transfer or sooner by mutual agreement. In the event of an emergency discharge or transfer as allowed under applicable Hawai'i Administrative Rules<sup>1</sup> for that setting and/or applicable Medicaid policy, the Caregiver shall provide immediate notice to the Resident (or Resident's legal representative, as applicable) and the Resident's DDD case manager.
  
- Residency may be terminated by the ARCH Caregiver when:
  - Ordered by the Resident's physician; OR
  - Physical or mental changes of the Resident necessitates services which cannot be provided; OR
  - Physical and mental changes of the Caregiver results in the inability of the Caregiver to provide services; OR
  - Requested by the Caregiver; AND
  - The Caregiver has provided thirty (30) days notice to the Resident (or Resident's legal representative, as applicable) and the case management agency, except in an emergency.
  
- Residency may be terminated by the E-ARCH Caregiver when:
  - The Caregiver has provided a written request to the Resident (or Resident's legal representative, as applicable) and Resident's case manager, no less than thirty (30) calendar days prior to the date of transfer. Written request must state the reason for the transfer. In the event of an emergency or if mutually agreed upon by the Resident (or Resident's legal representative, as applicable), Caregiver, and DDD case manager, thirty (30) calendar days written notice is not required.
  
- Residency may be terminated by the DD Dom Home Caregiver when:
  - Ordered by the Resident's physician; OR
  - Physical or mental changes of the Resident necessitate services which cannot be provided; OR
  - Physical or mental changes of the Caregiver result in the inability of the Caregiver to provide the service; OR
  - Requested by the Caregiver; OR
  - Loss of licensure or home is discontinued; AND
  - The Caregiver has provided four (4) weeks written notice to the Resident (or Resident's legal guardian, as applicable), and responsible agency. In the case of an emergency situation that affects the Resident's health and safety, written notice is not required.

**Resident Rights in an Involuntary Discharge**

As noted above, the Resident (or Resident’s legal representative, if applicable) has the right to receive written notice prior to an involuntary discharge, except in the event of an emergency or by mutual agreement. If the Resident (or Resident’s legal representative, as applicable) disagrees with this involuntary discharge, then the Resident (or Resident’s legal representative, as applicable) may file a grievance with the DDD’s Consumer Complaints Resolution Unit by phone, email, or by mail at:

Consumer Complaints Resolution Unit  
2201 Waimano Home Road, Hale A  
Pearl City, Hawaii 96782

Telephone: (808) 453-6669  
Fax: (808) 453-6217  
Email: doh.dddcru@doh.hawaii.gov

**Signatures**

Signature of Caregiver:

\_\_\_\_\_ Date: \_\_\_\_\_

Printed Name of Caregiver:

\_\_\_\_\_

Signature of Resident or Legal Representative, if applicable:

\_\_\_\_\_ Date: \_\_\_\_\_

Printed Name of Resident or Legal Representative, if applicable:

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<sup>i</sup> Adult Foster Home for people with developmental disabilities, HAR Chapter 11-148.1  
Developmental Disabilities Domiciliary Home, HAR Chapter 11-89  
Adult Residential Care Home, HAR Chapter 11-100.1