Moving into a Nursing Home

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Moving into a nursing home, whether for yourself or a loved one, is likely to be filled with varied emotions. At an age where residents are often vulnerable, it is important to ensure that any agreement with an aged care operator protects the resident's rights and is fairly negotiated. Using a legal adviser can remove the emotion and provide families with peace of mind.

Andersons Solicitors can offer tailored legal advice that encompasses the review, negotiation and advice of nursing home agreements.

What are Nursing Homes?

Nursing homes provide accommodation, care and support for those who can no longer be cared for in their own home. The home will provide a supported living environment that includes:

- Help with day-to-day living
- Meal provision
- Medical support, including regular visits from doctors and other health care practitioners providing on-site services
- Additional services such as a visiting hairdresser

- Organised activities
- Day excursions

Aged Care Agreements

Any agreement between a new resident and an aged care operator will exist in some combination of:

- A resident agreement
- An accommodation agreement
- An extra service agreement

The Aged Care Act

The Aged Care Act 2024 is the law that controls the content, timing and form of these agreements. The care operator must provide the applicant with the terms of the resident agreement before the person enters care, allowing the applicant to review the terms and make suggestions.

To help potential residents make an informed choice, the Aged Care Act contains a list of what must be included in each type of agreement, such as details of the services to be provided, the applicable fees and the complaints process. An accommodation agreement must also set out whether fees will be paid through daily payments, refundable deposits, or a combination of both.

A higher everyday living fee may also apply if a resident chooses a higher standard of accommodation, food and services for an additional cost. Not all nursing homes offer these additional services.

Aged Care Fees

The aged care sector in Australia is regulated to ensure that those in need are able to access care. However, the sector is not fully funded by the Government. A resident's fees are determined through an income and assets assessment, which means that those with greater financial resources may need to contribute more towards their care.

Basic Daily Fee

This fee covers living expenses such as meals, laundry and cleaning. It is set by the Government and is linked to the single aged pension amount.

Means Tested Care Fee

This fee applies only to residents who can afford to contribute towards their care costs. The amount payable depends on income and assets and is subject to lifetime caps.

Accommodation Costs

These costs cover accommodation, including buildings, rooms and facility maintenance. Accommodation costs may be paid through a daily payment, a refundable accommodation deposit, or a combination of both.

Higher Everyday Living Fee

This fee applies when residents choose additional services or facilities offered by the aged care provider. Operators generally provide a menu of optional services that residents can select for an extra charge.

It is important to understand your financial position before entering into an agreement so you can determine whether you can afford the accommodation costs, deposits and any additional fees. Understanding your financial limitations can help you find a suitable aged care facility.

The amount of any refundable accommodation deposit is determined by the aged care provider and varies between facilities.

Things to Remember Before Moving into a Nursing Home

- The Basic Daily Fee may be the only fee some residents pay, particularly those with limited income and assets.
- If you choose not to have your income and assets assessed, you may be required to pay the maximum Means Tested Care Fee.
- Accommodation Costs are determined by the aged care provider, although government rules may limit the maximum refundable accommodation deposit that can be charged without approval.
- The provider must assist prospective residents to understand the Resident Agreement, including their rights, the services being provided and the fees payable.
- Once a Resident Agreement is signed, there is a minimum 14-day cooling-off period if you decide not to proceed.

Conclusion

Although the law requires aged care providers to disclose information about agreements, fees, services and resident rights, choosing the right nursing home and agreement can still be difficult. Every facility differs in terms of costs, services and accommodation arrangements.

It is important to fully understand both the Resident Agreement and Accommodation Agreement before signing to ensure your interests are protected.

It is essential to ensure that any agreement with an aged care operator protects the resident’s rights and is fairly negotiated.

Call Andersons Solicitors to discuss how we can help review and advise you on your nursing home agreement.