

SUPPLEMENTAL DISCLOSURES FOR KINDRED MEDIATIONS

Exchange of Information and Documents By Disclosure and Discovery

Exchange of information and documents shall be initiated immediately after the mediation request is filed. The parties, including the resident and the facility, have agreed to exchange information before and during the mediation and may also seek discovery after the initiation of an arbitration, if needed. The following procedures shall be followed by the parties. Any other discovery sought by the parties after an unsuccessful mediation shall be governed by the NAF Code of Procedure to the extent not inconsistent with the following procedures. Any disputes regarding discovery not resolved by the mediator shall be resolved by the arbitrator as provided in the NAF Code of Procedure.

The following disclosures and discovery provisions shall govern:

- (1) the parties shall cooperate in the exchange of information and documents; failure to cooperate may result in an impasse, at which time the mediation may be terminated.
- (2) the Resident shall provide the Facility with all of the following documents within twenty (20) days after a Request for Mediation is filed (and Facility shall reimburse Resident @ .25 per page):
 - (a) all nursing home, assisted living facility, hospital, physician, Department of Health Services, local law enforcement, Department of Justice, or Ombudsman records regarding the Resident and within Resident's possession or control, and concerning the time period of the Resident's stay at the Facility and the ten (10) years prior and subsequent to such stay;
 - (b) a list of all nursing homes, assisted living facilities, hospitals, clinics, and physicians or other health care providers that have provided care or treatment to the Resident including an executed Medical Authorization allowing Facility to obtain copies of all such records, at Facility's expense (Facility shall provide Resident with copies of all such records upon receipt of written request from Resident, but

Resident must reimburse Facility @ .25 per page);

- (c) Resident's birth certificate;
 - (d) Resident's death certificate, if applicable;
 - (e) Resident's autopsy report, if applicable;
 - (f) all medical expenses which the Resident claims were incurred due to the fault of the Facility;
 - (g) all photographs and/or video tapes regarding the Resident which were taken or recorded during the Resident's stay at the Facility;
 - (h) all records, memos, outlines, diaries, letters, etc. drafted by the Resident, the Resident's family and/or friends during the Resident's stay at the Facility if such document concerns in any fashion the Resident's stay at the Facility; and
 - (i) any sworn recorded statements to be relied upon at an Arbitration Hearing, including the full name, title, address and phone number of the statement's declarant.
- (3) Facility shall provide the following to Resident within twenty (20) days after the Request is received (and Resident shall reimburse Facility @ .25 per copy):
- (a) Resident's medical record retained by the Facility;
 - (b) the Facility's business office file regarding Resident;
 - (c) any 24 Hour Report/Shift Report regarding Resident;
 - (d) any photographs or videotapes taken of resident while at the Facility;

- (e) any sworn recorded statements to be relied upon at an Arbitration Hearing, including the full name, title, address and phone number of the statement's declarant;
 - (f) any Resident Council Minutes referencing the Resident at issue or referencing topics relevant to the allegations listed in the Request;
 - (g) any State Survey Reports or Complaint Investigation Reports from state agencies that refer to the Resident.
- (4) Resident shall designate expert witnesses within sixty (60) days after the Request is filed. The Resident is limited to two (2) expert witnesses.
 - (5) Facility shall have thirty (30) days after Resident's expert designation is received in which to depose such expert(s).
 - (6) Facility shall designate experts ninety (90) days after the Request is filed. Facility is limited to two (2) expert witnesses.
 - (7) Resident shall have thirty (30) days after the Facility's expert designation is received in which to depose such expert(s).
 - (8) Any report or affidavit of an expert, and a list of all records contained in the expert's file, must be exchanged no later than ten (10) working days before the date of the expert's deposition.
 - (9) Deposition of experts shall be limited to no more than six (6) hours per expert.
 - (10) Each party is limited to depositions of up to six (6) fact witnesses; thirty (30) interrogatories inclusive of subparts; thirty (30) requests for production of documents inclusive of subparts; and ten (10) requests for admissions inclusive of subparts.

- (11) The presiding neutral(s) may convene a pre-mediation conference to discuss evidentiary or procedural matters.