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The Maine Long-Term Care Ombudsman Program

Resident Rights

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Recognizing and preventing
Abuse, Neglect and Exploitation

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Mandatory reporting

February, 2020

RESIDENTS' RIGHTS: AN OVERVIEW

Residents' Rights are guaranteed by the federal 1987 Nursing Home Reform Law. The law requires nursing homes to "promote and protect the rights of each resident" and places a strong emphasis on individual dignity and self-determination. Nursing homes must meet federal residents' rights requirements if they participate in Medicare or Medicaid. Some states have residents' rights in state law or regulation for nursing homes, licensed assisted living, adult care homes, and other board and care facilities. A person living in a long-term care facility maintains the same rights as an individual in the larger community.

RESIDENTS' RIGHTS GUARANTEE QUALITY OF LIFE

The 1987 Nursing Home Reform Law requires each nursing home to care for its residents in a manner that promotes and enhances the quality of life of each resident, ensuring **dignity, choice, and self-determination**.

All nursing homes are required "to provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident in accordance with a written plan of care that... is initially prepared, with participation, to the extent practicable, of the resident, the resident's family, or legal representative." ***This means a resident should not decline in health or well-being as a result of the way a nursing facility provides care on a regular basis.***

The 1987 Nursing Home Reform Law protects the following rights of nursing home residents:

The Right to Be Fully Informed of

- Available services and the charges for each service
- Facility rules and regulations, including a written copy of resident rights
- Address and telephone number of the State Ombudsman and state survey agency
- State survey reports and the nursing home's plan of correction
- Advance plans of a change in rooms or roommates
- Assistance if a sensory impairment exists
- Residents have a right to receive information in a language they understand (Spanish, Braille, etc.)

Right to Complain

- Present grievances to staff or any other person without fear of reprisal and with prompt efforts by the facility to resolve those grievances
- To complain to the ombudsman program
- To file a complaint with the state survey and certification agency

Right to Participate in One's Own Care

- Receive adequate and appropriate care
- Be informed of all changes in medical condition
- Participate in their own assessment, care planning, treatment, and discharge
- Refuse medication and treatment
- Refuse chemical and physical restraints
- Review one's medical record
- Be free from charge for services covered by Medicaid or Medicare

Right to Privacy and Confidentiality

- Private and unrestricted communication with a person of their choice
- During treatment and care of one's personal needs
- Regarding medical, personal, or financial affairs

Rights During Transfers and Discharges

- Remain in the nursing facility unless a transfer or discharge:
 - is necessary to meet the resident's welfare;
 - is appropriate because the resident's health has improved and s/he no longer requires nursing home care;
 - is needed to protect the health and safety of other residents or staff;
 - is required because the resident has failed, after reasonable notice, to pay the facility charge for an item or service provided at the resident's request

- Receive thirty-day notice of transfer or discharge which includes the reason, effective date, location to which the resident is transferred or discharged, the right to appeal, and the name, address, and telephone number of the state long-term care ombudsman
- Safe transfer or discharge through sufficient preparation by the nursing home

Right to Dignity, Respect, and Freedom

- To be treated with consideration, respect, and dignity
- To be free from mental and physical abuse, corporal punishment, involuntary seclusion, and physical and chemical restraints
- To self-determination
- Security of possessions

Right to Visits

- By a resident's personal physician and representatives from the state survey agency and ombudsman programs
- By relatives, friends, and others of the residents' choosing
- By organizations or individuals providing health, social, legal, or other services
- Residents have the right to refuse visitors

Right to Make Independent Choices

- Make personal decisions, such as what to wear and how to spend free time
- Reasonable accommodation of one's needs and preferences
- Choose a physician
- Participate in community activities, both inside and outside the nursing home
- Organize and participate in a Resident Council
- Manage one's own financial affairs

Advocates for Residents Rights

Where do you go for help if you're concerned a facility is not guaranteeing the rights of residents? Contact your local or state long-term care ombudsman or, if one exists, your state's citizen advocacy group. The Long-Term Care Ombudsman Program is required by federal law to promote and protect the rights of residents in licensed long-term care facilities. The Consumer Voice can help you locate advocates and ombudsmen in your area. Visit our website: www.theconsumervoice.org to view a map listing ombudsmen and citizen advocacy groups nationwide.

For more information and resources on residents' rights go to, www.theconsumervoice.org.

National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a nonprofit organization founded in 1975 by Elma L. Holder to protect the rights, safety and dignity of American's long-term care residents.

Resident Rights Quiz

1. List 3 choices you made today.
 - a.
 - b.
 - c.

2. List ways you can promote resident rights.
 - a.
 - b.
 - c.
 - d.
 - e.

3. List five ways a nursing assistant can help maintain a resident's dignity.
 - a.
 - b.
 - c.
 - d.
 - e.

4. True or False
 - a. George is a long time resident of Golden Estates nursing home. George can often be rude to the staff, can be very demanding, and calls his bell multiple times "just to make the girls run around". Is ignoring George's call bell neglect? _____
What should be done to help the situation? _____

 - b. A resident tells you that the administrator keeps opening her mail. You should report this. _____
If so, to who? _____
 - c. If a resident is refusing medications, the family can get guardianship in order to make the resident take their medications. _____
 - d. A Nursing Home can set times for waking up and going to bed. _____

WHY DON'T RESIDENTS EXERCISE THEIR RIGHTS?

- Residents are intimidated by the idea of appearing in any way to criticize the nursing facility's staff or policies.
- Most residents do not know they have specified rights and do not know what their rights are in a long-term care facility.
- Most residents do not even think about their problems and concerns in any context related to their "rights".
- Residents often feel they have very few opportunities to exercise control over their lives.
- Some residents have few relationships with which to practice interactive or assertiveness skills or to negotiate their rights.
- Many residents face a tension between their desire for independence and their need for assistance.
- Residents face physical, emotional, psychological, social, and mental disabilities that make it difficult for them to voice their concerns.
- They may feel these are problems where nothing can be done.
- Even residents who are aware of their rights must choose their "battles" and often put up with daily violations of their individuality and dignity because:
 - a) It requires too much strength to challenge each encounter;
 - b) They are easily labeled troublemakers;
 - c) They are dependent for their care on those very people who may be the violators, and they are, therefore, hesitant to criticize them.

HOW CAN FACILITIES PROMOTE RESIDENTS RIGHTS?

- Educate residents and their families about their rights
- Educate the staff on a regular basis about resident rights
- Encourage resident and family participation in planning their care
- Management providing more support to their staff and increasing staffing ratios
- Promote a good relationship between management and staff, with residents and families
- Promote a sense of community within the nursing home
- Create resident and family counsels

Residents' Rights- LTCO Guide/Answers Trivia Board Questions

Resident Right

1. Facility staff may open personal mail if a resident is in the hospital for an extended period of time.	Privacy
2. Residents should be protected from information that would upset them.	Fully Informed
3. Residents may complain if they are not offered an alternative at meals.	Complain
4. Care Plans are in place to provide staff with a guide for resident care. Residents do not need to be consulted in creating them.	Participate
5. A place should be make available for a resident to spend private time with a member of the same or opposite sex.	Visits
6. A resident can be discharged if they are not compliant with care or hygiene.	Transfer/Discharge
7. Staff may go through a resident's drawers and belongings without permission if they suspect a person has spoiled food or missing items from other residents.	Privacy
8. A resident must go to at least some activities if they are written in their Care Plan.	Choice
9. A resident can change his/her times for waking up and going to bed even if it conflicts with medication administration schedules.	Complain
10. A resident can be restricted from smoking if their health is in danger because of it.	Choice
11. A resident may be asked to leave if he/she cannot get along with staff or other residents.	Transfer/Discharge
12. A confused resident does not need to be included in decisions if they have a Power of Attorney.	Participate
13. If a resident is upset, sending them to their room for a "time out" is acceptable.	Respect
14. A family member can have medication withheld from a resident if they feel the medication is no longer needed.	Fully informed
15. It is necessary to obtain permission from the "responsible party" before allowing a resident to leave the facility.	Visits
16. Residents appreciate having personal items put away during cleaning in their rooms to allow for a more thorough cleaning.	Respect

What resident rights do these situations refer to? *NOT T/F*

1. Facility staff may open personal mail if a resident is in the hospital for an extended period of time.	
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Recognizing and Preventing Abuse, Neglect and Exploitation

In facilities

Abuse, Neglect and Exploitation in facilities can occur in a variety of ways. Residents may abuse one another, or residents may be abused by facility staff or family members. Abuse may be an act of violence such as physical or sexual assault, or it may be verbal abuse, medication errors or failure to provide proper assistance resulting in injuries. Residents may be neglected by facility staff or family members. Residents may be exploited by facility staff, family members or other residents.

Abuse: the infliction of injury, unreasonable confinement, intimidation or cruel punishment that causes physical harm, pain or mental anguish; sexual abuse; or the intentional deprivation of essential needs

Examples of Abuse in the facility setting include –

- 101 year old woman, nursing home resident, slapped by C.N.A. resulting in serious facial bruises
- 95 year old woman, nursing home resident, physically and sexually abused by son-in-law and grandson during visits

Indicators of Physical Abuse to be aware of:

- Broken bones - Pain and inability to move a limb may be a sign of a broken bone. This may occur when a resident with osteoporosis is handled roughly by visitors or staff. Burns - Burned skin may indicate purposeful burning with a cigarette. Rope burns on arms, legs, neck or torso may also indicate abuse.
- Cuts - Cuts or scratches may result when a resident was jabbed with a sharp object such as a pencil or scratched with fingernails.
- Internal Injuries - Watch for such signs as vomiting, pain, bleeding, swelling or bloody stools.
- Marks/Bruises - A resident may have a hand-print shaped bruise. Look for injuries to the face, neck, inner arms, inner thighs..
- Scars - Scars could indicate that the resident has been a victim of repeated or past abuses.

Indicators of Sexual Abuse

- A family member offers affectionate gestures to a resident
- Injury to a resident in areas related to sexual abuse
- A staff member exposes his/her self to a resident.
- A visitor takes nude photographs of residents.

Exploitation: the illegal or improper use of an incapacitated or dependent adult's resources for another's profit or advantage

Master

PCA, PSS, Home Health aide, CNA, LPN, RN, therapist of any type, Social worker, law enforcement, Doctor, mental health professional.

Nationwide 24-hour, toll-free 1-800-624-8404

I suspect abuse, neglect or exploitation – What do I do?

You do not need to investigate! This is APS's job. The only thing you need to report is to suspect it.

After a report is made, what happens?

- It is sent to the regional supervisor at APS for review and assignment
- Reports are often notified if the report will be investigated or not
- The report is investigated
- Services are arranged to keep the adult safe
- Abuse and exploitation cases are referred to law enforcement as well

Mandatory reporting quiz

1. If you and a co-worker, who are both mandated reporters, observe the same incident or situation and you both feel there is reasonable cause to suspect abuse, are you both required to report?

2. Mary a resident of a facility confides in you that the night shift aides pick on her. One in particular calls her names and often withholds care. She tells you that she is terrified to report. She knows that if she brings attention to it, the treatment will get worse. What should you do?

3. You are a new C.N.A in the facility, you notice a resident has several bruises, one of which looks like a handprint around her arm. When you asks about it she hesitates, but begins to cry. This resident states that one of the nurses was very rough with her yesterday. You ask her if she told anyone else, she turned her head away and requested that she leave and continues to cry into her pillow. What would be your next steps, and why?

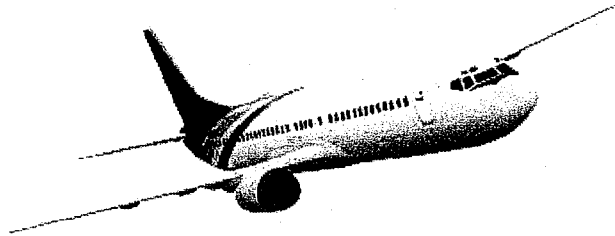
4. True or False
 - a. When making a report, you must tell them your name. _____
 - b. All reports are investigated by a case worker. _____
 - c. Law enforcement is always involved. _____
 - d. If you are a in housekeeping, you are a mandated reporter. _____
 - e. You only need to report suspected abuse if your supervisor approves reporting it. _____
 - f. If a professional is convicted of knowingly failing to report abuse, neglect or exploitation they can be fined. _____

5. You are working with a resident who was just admitted to the facility you work in, you notice that this resident's clothes are in very poor condition and his shoes are worn. One day you mention him needing some new clothes and offer to look in the facility's extra supply, he mentioned that his son doesn't let him have any money so he can't buy himself anything new. Is this something you should bring to someone's attention, and if you should then who?

Who likes to fly?

...

Losing control exercise



In this exercise we will compare the experience of being a passenger on an airplane to the experience of living in a nursing home

- Personal Belongings – _____

- Assigned a seat - _____

- Assigned seatmates - _____

- Access to bathroom limited - _____

- Eat what is served and when it is served - _____

- No place to go - _____

- Dependent on the attendants - _____

- Must trust the pilot - _____

Exercise #1:

- Write down 10 things that are important to you, things that you can't imagine yourself losing. I'll give you a minute.
- Now, cross off 3 of those things – how does that make you feel?
- Now, cross off 3 more – you should only have 4 left – how does that make you feel?
- Now, cross off 2 more – impossible isn't it?
- Really reflect on how that makes you feel..
- Now cross off that last thing..

I want you to imagine losing everything you care about, everything that make you, you.

I want you to remember how this made you feel every day when taking care of these residents.

Exercise #1

Write down 10 things that are important to you, things that make you who you are, things that you cannot live without. *(You do not have to share these)*

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.