

Module 4

Resident Rights and Resident Dignity

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- ## Objectives
- Describe resident rights regarding abuse, neglect, exploitation and personal preferences
 - Describe how to ensure the privacy of residents within a nursing facility
 - Describe how you would act to avoid abuse, neglect, and misappropriation of resident property

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Resident Rights

Residents do not give up any rights when they enter a nursing facility. They have all the same rights and protections as ordinary citizens. The facility and its staff must encourage and assist residents to fully exercise their rights.

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Importance of Resident Rights

- Safety
- Respect
- Quality of Life
- Freedom
- Choices
- Dignity



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Resident Rights Agreement

- Facilities must:
 - Provide residents with a copy of rights upon admission
 - Post a copy of the rights in a public area of the facility



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Nursing Home Reform Act

The Right to Be Fully Informed of

- Available services and the charges for each service
- Facility rules and regulations
- Address and telephone number of the State Ombudsman and state survey agency
- State survey reports and plan of correction
- Advance plans of a change in rooms or roommates
- Assistance if a sensory impairment exists
- Receive information in a language they understand

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Ombudsmen

- Long-term care ombudsmen are advocates for residents
- Ombudsmen provide information about how to find a facility and what to do to get quality care
- They are trained to resolve problems
- Every state is required to have an Ombudsman Program that addresses complaints and advocates for improvements

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Ombudsmen

- Resolves complaints
- Educates consumers and long-term care providers about residents' rights and good care practices
- Promotes community involvement
- Provides information to the public
- Advocates for residents' rights and quality care
- Promotes the development of citizen organizations, family councils and resident councils

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Long-Term Care Ombudsman Programs are Dedicated to Solving Problems

The program resolved or partially resolved **73%** of all complaints to the satisfaction of the resident or complainant.

The three most frequent nursing facility complaints handled by ombudsmen were:

- 1 Improper eviction or inadequate discharge/planning;
- 2 Unanswered requests for assistance; and
- 3 Lack of respect for residents, poor staff attitudes.

The program worked to resolve **194,516** complaints initiated by residents, their families, and other concerned individuals.

The three most frequent complaints in board and care, assisted living, and other residential care communities handled by ombudsmen were:

- 1 Improper eviction or inadequate discharge/planning;
- 2 Administration and organization of medications; and
- 3 Quality, quantity, variation, and choice of food.

The statistics in this graphic are based on FY 2018 NCLC data. For more information about the Long-Term Care Ombudsman Program, and volunteer opportunities, visit lcombudsmen.org or email ombudcenter@theconsumerservice.org.

The National Long-Term Care Ombudsman Resource Center

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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

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Right to Participate in One's 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

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Right to Privacy and Confidentiality

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

Be fully informed and participate in your own care

Voice your concerns

Privacy and confidentiality

Make your own choices

Dignity and respect!

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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
 - Is needed to protect the health and safety of other residents or staff
 - Is required because the resident has failed to pay
- Receive thirty-day notice of transfer or discharge
- Safe transfer or discharge through sufficient preparation by the nursing home

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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

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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



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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

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Your Role in Resident Rights

- Maintain confidentiality. Protect resident's dignity and privacy - 24 hours a day, 7 days a week.
- Encourage residents to make personal choices as much as they are able
- Accommodate individual needs and preferences. Allow residents to make choices about their care.
- Encourage residents to participate in feeding themselves as much as possible
- Maintain safety
- Provide care and security of resident's personal possessions

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Your Role in Resident Rights

- Do not discriminate
- Treat residents with dignity and respect
- Do not abuse or neglect residents
- Know the rights of your residents
- Speak to residents respectfully and positively
- Respect a resident's right to refuse
- Listen to residents, and their family members, who have concerns about resident's rights
 - Refer them to the appropriate facility representative

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Guidelines for Protecting Privacy

- Do not discuss a resident's medical condition
- Do not discuss ANY residents with anyone other than those who are providing care to the resident
- Be sure no one can hear your discussion with the care team or charge nurse regarding the resident
- Resident records are private and confidential
 - Only access what is needed

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Guidelines for Protecting Privacy

- Before entering a resident's room, you should knock on the door and identify yourself by name and title (even if the door is open)
- Respect the resident's room—it is his/her private space
- Have the charge nurse identify visitors with whom you may discuss the resident's needs for care and treatment

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Abuse and Neglect

- You are responsible for protecting residents from abuse, neglect and misappropriation of resident property
- All residents have the right to be free from verbal, sexual, physical and mental abuse; corporal punishment; and involuntary seclusion
- Report abuse or neglect of a resident following facility protocol

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Definitions

- Elder
 - Any person residing in your State who is 65 years of age or older
- Elder abuse
 - Acts of omission or commission by a person who stands in a trust relationship that result in harm or threatened harm to the health and/or welfare of an older adult
- Caregiver
 - Any person who has the care, custody or control of, or stands in a position of trust with, an elder or dependent adult

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Definition: Elder Abuse

- Acts of omission or commission by a person who stands in a trust relationship that result in harm or threatened harm to the health and/or welfare of an older adult.
- Willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain, or mental anguish



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Prevalence

- Estimated from 2%-10%, based on the samples, surveys, and definitions utilized
- No typical victim, but 90% of abusers are known to victim.

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Statistics

- Prevalence of elder abuse to be approximately 10%
- Most frequent reports: verbal mistreatment (9%), followed by financial mistreatment (3.5%) and lastly physical mistreatment (less than 1%)
- Adult Protective Services (APS) agencies show an increasing trend in the reporting of elder abuse
 - But still underreported
 - For every known case, 24 are unknown

-- National Center on Elder Abuse

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Risk Factors

- Low social support
- Dementia
- Experience of previous traumatic events
- Functional impairment and poor physical health
- Younger age
- Gender
- Living with a large number of household members other than a spouse
- Lower income or poverty

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Perpetrators

- Most likely to be adult children or spouses
- More likely to be male
- Have history of past or current substance abuse
- Have mental or physical health problems
- History of trouble with the police
- Socially isolated
- Unemployed or have financial problems
- Experiencing major stress

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Detailed Definition

- Willful infliction of injury
- Unreasonable confinement/Involuntary seclusion
- Intimidation with resulting physical harm, or pain, or mental anguish
- Punishment with resulting physical harm, or pain, or mental anguish

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Detailed Definition

- Deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, or psychosocial well being
- Corporal punishment & any physical or chemical restraint not required to treat the resident's symptoms
- Instances of abuse of residents, irrespective of any mental or physical condition that causes physical harm, pain or mental anguish to include verbal, sexual, physical, & mental abuse
- Abuse that includes that which is facilitated or enabled through the use of technology

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Forms of Abuse

- Verbal
- Physical
- Sexual
- Mental/Emotional
- Neglect
- Abandonment
- Financial exploitation
- Self-neglect

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Reporting

- In addition to federal requirements, each state may have specific reporting requirements related to abuse
- Familiarize yourself with the requirements for the state in which you work/provide services
- If you see something, say something! Report to your supervisor.

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Verbal Abuse

Oral, written, or gestured language that includes disparaging and derogatory terms to the residents or their families to describe the resident within their hearing distance, regardless of their age and /or ability to comprehend or disability.

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Physical Abuse

Includes hitting, slapping, pinching, scratching, spitting, holding roughly, etc. It also includes controlling behavior through corporal punishment.

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Sexual Abuse

Includes but is not limited to, humiliation, harassment, coercion, or sexual assault. Sexual abuse is non-consensual sexual contact of any type with a resident.

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Medication Diversion

Knowingly, or intentionally, interrupting, obstructing, or altering the delivery, or administration of a prescription drug.



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Mental/Emotional Abuse

- Includes, but is not limited to humiliation, harassment, and threats of punishment or deprivation
 - During the delivery of personal care, staff must remove residents from public view & provide clothing or draping to prevent unnecessary exposure of body parts
 - The taking of unauthorized photographs may constitute mental, physical, and/or sexual abuse
 - Determined by a "reasonable person standard"

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Neglect

Failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness.



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Exploitation/Misappropriation of Resident Property

Deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident/patient's belongings or money without the resident/patient's consent.

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Elder Abuse Indicators

- Physical abuse
 - Sprains, dislocations, fractures, or broken bones. Burns, internal injuries, abrasions, bruising. Injuries are unexplained or explanations are implausible.
- Sexual abuse
 - Fear of being touched/inappropriate modesty on evaluation. Inner thigh/breast bruising, tenderness.
- Emotional abuse
 - Depression, sleep and appetite disturbances, decreased social contact, loss of interest in self, apathy and suicidal ideation. Evasiveness, anxiety, hostility.

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Elder Abuse Indicators

- Neglect and Self-Neglect
 - Inadequate, dirty or inappropriate clothing, malnutrition, dehydration, odor and poor hygiene, pressure sores.
 - Misuse/disregard/absence of medicines, medical assistive devices, medical regimens.
- Self-Neglect
 - Eccentric or idiosyncratic behavior, self-imposed isolation, marked indifference.
- Financial abuse
 - Fear, vague answer, anxiety when asked about personal finances. Disparity between assets and appearance and general condition. Failure to purchase medicines, medical assistive devices, seek medical care or follow medical regimens.

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Avoid Abuse

- Remain calm and don't take the resident's behavior personally
- There is no excuse for abusing a resident
- Do not use residents' personal belongings
- Do not take money from residents
- Know your facility policy for reporting

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Elder Justice Act


- Federal law that requires the reporting of a suspicion of a crime against a resident or patient of a long-term care facility
- You have a duty to report any suspected acts involving resident mistreatment, neglect, abuse, crimes, misappropriation of resident property, or injuries of unknown source



The Elder Justice Act

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- You must immediately report any reasonable suspicion of a crime to your supervisor
- The facility must then report to:
 - Secretary of U.S Health and Human Service
 - Law enforcement authorities



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Reporting Requirements

- If the events that cause suspicion of a crime:
 - Result in “serious bodily injury” or is a suspicion of sexual abuse
 - Report made no later than two hours after forming the suspicion
 - Do not result in “serious bodily injury”
 - Report made within 24 hours

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Reporting Requirements

“Serious bodily injury” is an injury:

- Involving extreme physical pain
- Involving substantial risk of death
- Involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty
- Requiring medical intervention such as surgery, hospitalization, or physical rehabilitation

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Penalties Under Elder Justice Act

- Civil monetary penalties up to \$200,000
- If results in harm, can be increased to \$300,000
- Anyone who does not fulfill the duty to report may be classified as an “excluded individual” who becomes ineligible to participate in federally funded programs



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Promoting Dignity

“The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.”

-- State Survey Guidelines

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Promoting Dignity

- Promoting resident independence and dignity in dining
- Respecting resident's social status, speaking respectfully, listening carefully, treating residents with respect
- Focusing on residents as individuals

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The Dining Experience

Areas of potential non-compliance

- Serving trays in an order resulting in residents waiting for their trays while others at the table are eating
- Use of clothing protectors regardless of individual preference
- Staff standing over residents as they are assisted with dining

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Best Practice

- Design the meal serving tray delivery to ensure all residents seated at the same table are served at the same time,
- Develop a policy for use of clothing protectors for residents
 - Used primarily for residents who spill food while eating
 - Can the issue related to spilling food be resolved in some way?
- If food is spilled on clothing, staff should promptly assist residents requiring assistance with changing into clean clothing after the meal

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Best Practice

- Develop an environment to ensure that direct care staff can assist with feeding residents comfortably
 - Space and seating
 - Staff activity in the dining room
 - Noise level in the dining room
 - Lighting in the dining room
 - Serving tray presentation
- Monitor the dining of residents with dementia or cognitive impairment. Provide adequate supervision and assistance.

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Residents with Dementia

Areas of potential non-compliance

- Inappropriate activities and language
- Allowing residents to wander, attend activities or dine wearing soiled clothing

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Residents with Dementia

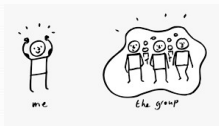
Best practices

- Address the resident by his/her given name
- Treat as an adult
- Provide activities that are age appropriate and meaningful
- Make sure clothing is clean and pieces match
- Treat everyone with dignity, respect, and consideration

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Dignity at End of Life

The most important thing that you can do to help a resident maintain dignity at end of life is to remember you are caring for an individual with unique needs, experiences, and desires. Everyone wants to be treated with respect.



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Dignity at End of Life

Key aspects of dignity in end-of-life care are:

- Respect, which includes self-respect, mutual respect, and respect for privacy
- Autonomy, which involves having and providing choices, as well as competence and independence
- Empowerment, which can involve self-esteem, pride, and modesty
- Communication, such as explaining and understanding information, both verbally and non-verbally

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Dignity at End of Life

- Speak to the resident directly
- Speak respectfully to and about the resident
- Ask how the resident would like to be cared for
- Protect personal information
- Protect the resident's physical privacy
- Protect the resident's personal information

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Dignity at End of Life

- Assist the resident with personal grooming
- Create a respectful atmosphere
- Encourage life story-telling
- Help the person say goodbye
- Support reflection
- Encourage meaningful activity
- Keep a caring, positive attitude

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Dignity at End of Life

In its simplest form, maintaining resident dignity boils down to treating the individuals in your care the way you would like to be treated. When residents are treated with respect, it creates a greater sense of trust and well-being.



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