

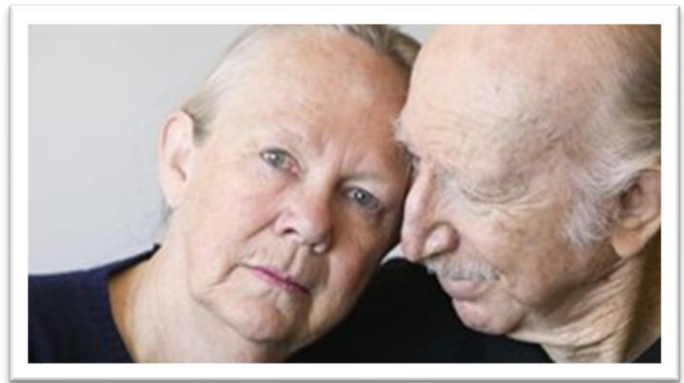
# Resident Sexuality



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## Rights, Protection, and Privacy

Mrs. Mary Thompson, 84 years old, is currently receiving medical care for her Alzheimer's disease, hypertension, and osteoarthritis. Her 85-year-old husband George is in relatively good health and has been caring for Mary, their two basset hounds – Lucy and Charlie, and their home. Mary and George have been married for 62 years and have lived in the same home for the past 40 years.<sup>1</sup>



Mary has started to go on walks (wander) during the day while George is taking care of the yard or home, and a couple of times at night. *Id.* She has had significant difficulty finding her way home and a few times the police have been called for assistance. *Id.*

Mary is clearly very fond of George but doesn't always remember his name or their relationship. Reluctantly George and their two adult children decide that Mary will best be cared for in a Memory Care Community. George is planning to continue to live in their home as Mary loves their flower gardens and the small animals that visit their yard. During the admission assessment process, George mentions that he would like to have some private time with Mary so that they can enjoy some intimate moments together. Is your facility prepared to have this conversation?

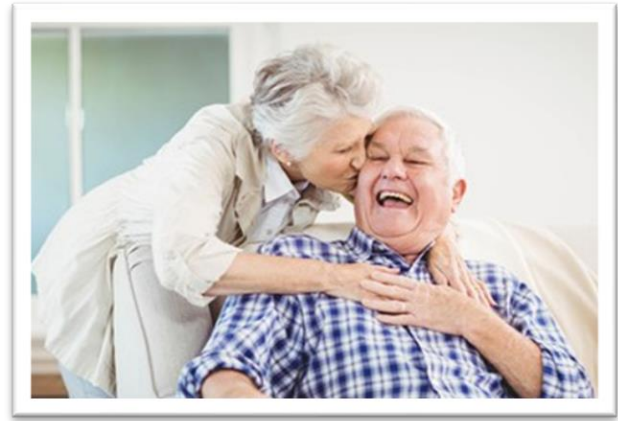
## The Facts

Sexual interest does not have an age limit. Sexual expression fulfills a natural desire for connection, affection, belonging, and enhanced relationships.<sup>2</sup> Some changes within the aging body can alter or complicate sexual expression, but while a decline in sexual functioning may occur, desire and interest remain. *Id.* The use of medications to treat sexual dysfunction in both men and women has made it possible for people to remain sexually active late into life. One study revealed 61 percent of people over 60 said their sex life was the same or better as when they were in their 40s, and 26 percent of those over 75 remain sexually active.<sup>3</sup>

The Nursing Home Reform Act (NHRA) of 1987, guarantees residents certain rights including the right to privacy, confidentiality, respect, and expression.<sup>4</sup> "Facilities must promote these rights in a manner that

enhances residents' quality of life and ensures dignity, choice, and self-determination while affording them privacy and opportunity to engage in safe and consensual sexual expression."<sup>5</sup>

Providing education for residents, family members, individuals with Power of Attorney for Health Care and guardians regarding the rights of residents to engage in consensual relationships (including, but not limited to, platonic, married, non-married, intimate, or sexual) and the facility's practice to welcome and respect "all residents, whether lesbian, gay, bisexual, transgendered or heterosexual" is "imperative to assure that all rights are respected, protected and promoted..."<sup>6</sup>



Providing staff with policy and direction, education and training, and the ability to share their concern or discomfort are important elements in supporting resident rights.

## The News...

Clinical team members in senior care are in a position to support the sexual expression of seniors, while also protecting residents from unsafe, unwanted, or abusive situations.<sup>7</sup>

**"De Pere-area care facility resident sexually assaulted another, lawsuit says, and staff failed to notify victim's family and police"** Green Bay Press-Gazette (December 7, 2021)

"A woman with cognitive disabilities was sexually assaulted by a fellow resident of an assisted living facility, but staff didn't notify the woman's family or police, or get her prompt medical care, a lawsuit alleges."<sup>8</sup>

**"Nursing Assistant Accused of Sexually Assaulting Nursing Home Residents In Wakefield, Worcester"** Channel 4 WBZ CBS Boston (September 7, 2021)

"A nursing assistant... is charged with sexually assaulting two nursing home residents while working overnight shifts."<sup>9</sup>

**"\$7.5M Pennsylvania Nursing Home Sexual Assault Verdict"** Medical Malpractice Lawyers.Com (May 24, 2018) "The resident's family alleged that the elderly woman, who had worsening dementia, was sexually assaulted while a resident of the defendants' Pennsylvania nursing home by another resident, who was twenty years younger than her. The perpetrator had reportedly been previously convicted of rape and was a registered sex offender."<sup>10</sup>

**"Parolee charged in nursing home rape of 88-year-old woman"** Fox5 San Diego (November 6, 2019) "A parolee released from jail just days before was accused of sexually assaulting an 88-year-old woman and "charged Wednesday with rape, elder abuse, and other felonies." The Deputy District Attorney alleged that the parolee "entered the nursing home around 3 a.m. and was found completely nude on top of the victim in her bed... it's believed he got in through an unlocked door." Staff responded to the victim and her roommates screaming. The resident has memory decline and sustained a fractured arm during the attack."<sup>11</sup>

## Recommendations for Healthcare Providers

- Develop policy and procedures addressing sexual expression. Suggested policy considerations include, but are not limited to:
  - Statements regarding resident rights
  - A list of working definitions including intimacy, sexual contact, and consent<sup>12</sup>
  - Environmental considerations to support intimacy rights
  - Resident and family education
  - Reporting actions for unsafe, unwanted, or abusive resident situations.
- Suggested procedure considerations include, but are not limited to:
  - Types of intimate expression and response by staff, e.g., self-stimulating expression, adult sexual materials and videos, verbal sexual talk, intimacy/courtship, physical sexual expression/sexual contact, and sexual abuse.<sup>13</sup>
  - Resources available to support residents (e.g., do not disturb door signs, lubricants)

Resource - Sexual Expression Policy Development - A Guide for Long-Term Care Facilities & Assisted Living Programs [Sexual Policy Development 112016.pdf \(iowaaging.gov\)](#) (Accessed January 24, 2022)

- Consider input from residents and family members, social workers, clergy, and other similar organizations when developing your policy and procedure. Review your policy and procedures with legal counsel prior to implementation.
- Provide staff orientation and sensitivity training regarding the sexual rights of all residents including, but not limited to, lesbian, gay, bisexual, transgendered, queer, or heterosexual residents. A list of topics to consider include but are not limited to: “intimacy and sexuality including consent guidelines, resident’s rights, abuse/neglect/misappropriation, Alzheimer’s disease and related dementias, ethics and boundaries, domestic violence/sexual assault and legal decision making.”<sup>14</sup>

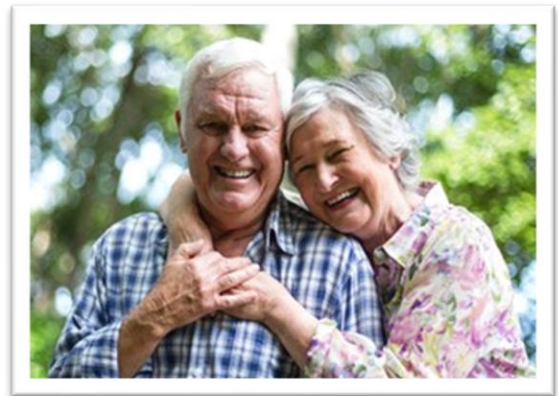
A resource document “Residents’ Rights and the LGBT Community: Know YOUR Rights as a Nursing Home Resident” can be accessed here: [lgbt-residents-rights-fact-sheet.pdf \(ltcombudsman.org\)](#) (Accessed May 29, 2022)

- Provide educational materials to residents and family members during facility tours regarding facility policies on resident rights, including sexual expression.
- Have readily accessible information for residents on safe sex, including sexually transmitted diseases and the use of prophylactic products.<sup>15</sup>

A Resource document “Tip Sheet: Safe Sex For Older Adults” can be located here [Safe Sex for Seniors HealthinAging.org](#) (Accessed January 24, 2022)

- Develop a tool for assessing resident sexual expression, including relationships, intimacy, and sexuality history. This conversation may occur with a social worker and other trained employee. Examples of questions to consider:

- “Are you comfortable giving or receiving affection such as a soothing touch, a hug, or a kiss?”<sup>16</sup>
  - “Are you currently involved in a relationship? If so, what do you think your companion will feel about visiting or spending time with you at this place of residence?” *Id.*
  - “Are you seeking to have a relationship with someone in the facility?” Do you have any concerns regarding your interactions with this person? *Id.*
- Work with legal counsel to draft guidelines for determining a resident’s ability to consent to sexual contact. Some examples include:
    1. The resident understands the distinctively sexual nature of the conduct. That is, that the acts have a special status as “sexual”.
    2. The resident understands that their body is private, and they have the right to refuse or say “no”. They should also understand the other person should respect their right of refusal.
    3. The resident understands there may be health risks associated with the sexual act. (pregnancy, STD’s, cardiac, other health risks)
    4. The resident understands there may be a negative societal response to the conduct. (gossip, name-calling, social fallout, stigma.)<sup>17</sup>
  - Consider a multi-disciplinary assessment approach in working with a resident and family/guardian (as appropriate) in determining a resident’s capacity to participate in sexual expression.<sup>18</sup>
  - Provide environmental support for sexual expression e.g., offering a room with a double bed, providing “do not disturb” signs, offering personal lubricants, establishing a knock and pause before entering a room policy.<sup>19</sup>
  - Develop a formal process for investigating allegations of unsafe, unwanted, or abusive resident situations, for example: resident examination and treatment; communication with facility leadership, primary physician, resident, and family members; interviews with involved individuals; and reporting and documentation requirements.<sup>20</sup>
  - Conduct sexual offender background checks on all potential new admissions.<sup>21</sup>



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