



Resident  
Sexuality

# 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 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. She has had significant difficulty finding her way home and a few times the police have been called for assistance.<sup>1</sup> Mary and George have been married for 62 years and have lived in the same home for the past 40 years. 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

“People don’t “age out” of being sexual. It is inherent throughout the aging process and even associated with good health! Sexual expression fulfills a natural desire and can connect people, provide opportunities for affection and passion and build or enhance relationships”<sup>2</sup>

According to a research study by the New England Journal of Medicine of 3000 participants, “Sex with a partner in the previous year was reported by 73 percent of people ages 57 to 64; 53 percent of those ages 64 to 75, and 26 percent of people 75 to 85. Of those who were active, most said they had sex two to three times a month or more.”<sup>3,4</sup>

“Residents are guaranteed certain rights under the federal 1987 Nursing Home Reform Law, including the rights to privacy, confidentiality, respect and expression. 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>

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>6</sup> Providing education for residents, family members, 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>7</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 . . .

- In August of 2014, a 79-year-old former Iowa state representative was charged with third degree sexual abuse for having “sex with his wife, Donna Lou. The facility said her Alzheimer’s made her incapable of giving consent — a claim echoed by her daughters from a previous marriage. (Donna Lou died the week before her husband was charged.)”<sup>8,9</sup> The husband’s family made a statement in support of their father, “Accusing a spouse of a crime for continuing his relationship with a spouse in a nursing home seems to us to be incredibly illogical and unnatural, as well as incredibly hurtful.” A jury found the spouse not guilty.<sup>10</sup>
- “In a 2011 case, a man in a Keystone Communities memory-care unit in Minnesota fondled six women. Rather than launching an assessment to determine whether any cases were consensual, all kissing, caressing and nudity in public areas was banned. The state cited the facility for failure to report possible abuse and for not having staff training or policies in place.”<sup>11</sup>
- “In November 2007, retired Supreme Court Justice Sandra Day O’Connor bravely, and with great love, gave her public blessing to a romance between her husband, whose Alzheimer’s no longer allowed him to recognize her, and a woman in the nursing home where they both lived.”<sup>12</sup>



## Recommendations for Healthcare Providers

- Develop policy and procedures regarding 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>13</sup>; environmental considerations to support intimacy rights; resident and family education; and 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>14</sup> Consider input from residents and family members, social workers, clergy and other similar organizations when developing your policy and procedure. Have your legal counsel review any policies and procedures prior to implementing.
- 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>15</sup> A resource document “Residents’ Rights and the LGBT Community: Know YOUR Rights as a Nursing Home Resident” can be accessed here: <http://ltcombudsman.org/uploads/files/issues/lgbt-rr-factsheet.pdf>

- Provide educational materials to residents and family members during facility tours regarding facility policies on resident rights, including sexual expression. Provide information to residents on safe sex, including sexually transmitted diseases and the use of prophylactic products.<sup>16</sup>
- Develop a tool for assessing resident sexual expression, including relationships, intimacy, and sexuality history. Examples of questions to consider:
  - “Are you comfortable giving or receiving affection such as a soothing touch, a hug, or a kiss?”
  - “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?”
  - “Are you seeking to have a relationship with someone in the facility?” “Do you have any concerns regarding your interactions with this person?”<sup>17</sup>
- Work with legal counsel to draft guidelines for determining a person’s ability to consent to sexual contact. Some examples include:

“1. The person understands the distinctively sexual nature of the conduct. That is, that the acts have a special status as “sexual”.

2. The person 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 person understands there may be health risks associated with the sexual act. (pregnancy, STD’s, cardiac, other health risks)

4. The person understands there may be negative societal response to the conduct. (Gossip, name calling, social fallout, stigmatized.)”<sup>18</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>19</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>20</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>



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