



## **A note from the State Long-Term Care Ombudsman:**

The holidays are upon us once again, meaning it is time for friends and families to gather together and catch up on all that has been happening over the past year.

For nursing home administrators and staff, 2016 certainly has been busy. As you know, [revised regulations](#) for nursing facilities participating in the Medicare and/or Medicaid programs were published in the National Register in October, with Phase 1 of the revisions going into effect on Nov. 28.



To assist facilities in understanding the differences between prior rules and the new regulations, Consumer Voice recently released a [summary of the changes](#) related to Residents' Rights; Abuse, Neglect and Exploitation; and Admission, Transfer and Discharge Rights.

While the revised rules do not add to the existing list of residents' rights, they do expand definitions of those rights and place a strong emphasis on facilities ensuring residents' rights are protected and maintained.

More information about the revised regulations is available on the [Consumer Voice website](#), or can be obtained by contacting the Office of the State Long-Term Care Ombudsman at

(866) 236-1430. In addition, resources related to residents' rights are available in our online [Resource Library](#).

As you gather with loved ones in the weeks ahead, I hope you take a moment to reflect on the dignity and respect owed to every individual, and I thank you in advance for your continued advocacy on behalf of all Iowans living in long-term care. I look forward to the advances we will make together in 2017.

Deanna Clingan-Fischer, JD

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## **New guidebook to facilitate sexual expression policy development**

In an effort to promote awareness, acceptance, and respect of the sexual rights of older adults and individuals with disabilities, the Office of the State Long-Term Care Ombudsman, in collaboration with Disability Rights Iowa, has created a set of guidelines for developing policies that address sexual expression in long-term care environments. The material is intended to guide meaningful dialogue and contribute to effective policies and procedures for addressing sexual relationships among LTC residents and ALP tenants.



In the upcoming weeks, each LTCF and ALP statewide will receive a guidebook by mail. Additionally, an electronic copy of the guidebook, as well as sample policies for internal staff and residents, may be located in the [Resource Library](#) on the Office of the State Long-Term Care Ombudsman's website. If you have questions about the materials or residents' and tenants' rights to sexual expression, please contact Merea Bentrott at [Merea.Bentrott@iowa.gov](mailto:Merea.Bentrott@iowa.gov) or (515) 344-0052

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## **I-Smile™ Silver: A pilot project to improve oral health for older Iowans**

Dental care for older adults is a growing need as more and more Iowans enter retirement. In fact, by 2030, over 20 percent of Iowa's population will be over age 65. While many Iowans will rely on Medicare to cover the costs of needed medical services, dental care is currently not a Medicare benefit. Recognizing that oral health is a necessity for overall health, the Lifelong Smiles Coalition and the Iowa Department of Public Health have created a pilot project, [I-Smile™ Silver](#).



I-Smile™ Silver is a pilot project that began in Scott, Lee and Van Buren Counties. Over the past two years, I-Smile™ Silver has been working within these counties to increase awareness on the importance of oral health for older Iowans and to coordinate access to dental care for Iowans age 60 and older, specifically those in nursing facilities, those on the Medicaid elderly waiver and those receiving home-based health services. I-Smile™ Silver

uses dental hygienists, known as I-Smile™ Silver coordinators, to work within their communities to identify the oral health needs of older Iowans, develop referral networks with local dentists, provide training for direct care professionals, promote the importance of oral health within communities and coordinate access to dental care.

With funding from federal sources and the Delta Dental of Iowa Foundation, the pilot project was able to expand services in November 2016 to Des Moines County, as well as six counties in northwest Iowa (Calhoun, Hamilton, Humboldt, Pocahontas, Webster and Wright). In addition, I-Smile™ Silver will begin to provide preventive dental services for residents of participating nursing facilities, an exciting opportunity to improve access to dental care for nursing facility residents.

For more information, contact the Iowa Department of Public Health at (866) 528-4020.

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## **Lesbian, Gay, Bisexual or Transgender (LGBT) Older Adults and Long-Term Care**



The federal 1987 Nursing Home Reform Law requires nursing homes to “protect and promote the rights of each resident,” emphasizing individual dignity and self-determination in the provision of long-term care. Every nursing home accepting Medicare and/or Medicaid must meet federal requirements, including those regarding residents’ rights.

Current estimates state that 9 million Americans identify as lesbian, gay, bisexual or transgender (LGBT). One study found that 27 percent of LGBT baby boomers had significant concerns about discrimination as they age and there are reports that LGBT older adults encounter violations of their rights when seeking long-term care services and supports.

While incidents of abuse are often unreported or unidentified, a majority of individuals responding to a recent survey (578 of the 649 respondents, or 89 percent) felt that staff would discriminate against an LGBT elder who was out of the closet. Additionally, negative treatment by other residents (such as verbal or physical harassment) was the most commonly reported problem by respondents in this study.

It is important to understand that individuals living in nursing facilities have the same right to be free from discrimination and harassment as individuals living in the larger community. In addition, they have rights and protections provided by federal regulations and state and federal anti-discrimination provisions. The rights of all residents should be honored and respected, regardless of sexual orientation or gender identity or expression. Understanding these rights, learning about ways to solve problems and knowing how to get help if issues arise is the first step in ensuring quality care.

The federal nursing home regulations provide the following resident rights and facility

requirements that may be of particular importance to lesbian, gay, bisexual or transgender individuals living in a LTC facility:

**Right to be free from abuse.** All residents have the right to be free from abuse (by any individual - including other residents) and facilities must develop and implement policies and procedures that prohibit mistreatment of residents and investigate and report allegations of abuse. Resident mistreatment includes all types of abuse, including verbal, sexual, mental and physical abuse, neglect and financial exploitation. For example, facility staff cannot refuse to provide care due to a resident's sexual orientation, nor can staff harass a resident due to his/her gender identity.

**Right to privacy.** Residents have the right to private and unrestricted communication with anyone they choose (e.g., during in-person visits and through letters, telephone and electronic communication) and privacy regarding their medical, personal and financial affairs. Residents also have the right to privacy regarding their bodies, and all care must be given in a manner that maximizes that privacy.

**Right to receive visitors.** Residents have the right to receive visitors of their choosing. The federal government states that "residents must be notified of their rights to have visitors on a 24-hour basis, who could include, but are not limited to, spouses (including same-sex spouses), domestic partners (including same-sex domestic partners), family members or friends."

**Right to participate in activities.** Residents have the right to participate in (or choose not to participate in) social, religious and community activities, both inside and outside of the facility. For example, residents have the right to participate in and promote an event, training or resource regarding LGBT equality (e.g. PRIDE parade, PFLAG support group meeting) without fear of discrimination or abuse.

**Right to be treated with respect.** All residents have the right to be treated with dignity, respect and consideration, and have the right to exercise their choice and self-determination. For example, all residents have the right to be addressed how they want to be addressed (e.g., using a resident's preferred pronoun) and the right to be clothed and groomed consistent with their gender identity.

**Right to participate in care.** Residents have the right to be informed about their care and treatment, participate in their own assessment and care planning and make decisions regarding their treatment, including health care choices related to gender transition. Residents also have the right to designate a legal surrogate (or, decision-maker) to act on their behalf. State laws, such as health care power of attorney and guardianship laws, govern how someone (including same-sex partners or spouses or other family of choice) can make decisions on an individual's behalf.

**Right to be fully informed.** Facilities must inform residents of any changes in services, changes in care or treatment, what is covered by Medicare and Medicaid or other health care insurance and of changes in roommates or rooms. Facilities must provide notice before a

change in roommate and be as “accommodating as possible” by considering each resident’s preferences. In regards to benefits, the federal government states that Medicare Advantage enrollees are entitled to equal access to services in the same skilled nursing facility their spouse resides in, regardless of sexual orientation, specifically stating that this guarantee of coverage “applies equally to couples who are in a legally recognized same-sex marriage, regardless of where they live.”

**Right to choice.** Residents have the right to make their own choices, including what to wear, how to express themselves and their daily routine. Residents also have the right to retain and use personal items (e.g., some furnishings, pictures). Additionally, residents have the right to room with a person of their choice, including same-sex spouses or partners, if they live in the same facility and both consent to the arrangement.

**Right to remain in the facility.** A nursing facility cannot transfer or discharge a resident unless one (or more) of the permissible reasons for transfer or discharge apply. Residents cannot be transferred or discharged due to their sexual orientation or gender identity.

LGBT residents have the right to voice concerns with staff without fear of reprisal and they must try to resolve grievances promptly. Nursing facility staff are required to protect all residents from abuse and report and investigate allegations of abuse. Residents also have the right to file a complaint regarding abuse, neglect, exploitation or non-compliance with the state licensing and certification agency.

There are several options for addressing concerns that can be used at any time, depending on the resident’s comfort level working with the facility staff or the type of concern and outcome desired:

- Share concerns with the facility administrator, social worker or another staff person. Inquire about the facility's policy for grievances and follow it. Document conversations and keep a written record of complaints. If necessary, ask for a care plan meeting to discuss concerns.
- Contact your Long-Term Care Ombudsman Program: <https://www.iowaaging.gov/long-term-care-ombudsman>. Ombudsmen are advocates for residents in long-term care facilities and are trained to resolve complaints.
- Contact the Department of Inspections and Appeals: <https://dia.iowa.gov/health-facilities>
- Contact Department of Human Services (DHS): <http://dhs.iowa.gov/>

More information is also available from the following:

- National Consumer Voice for Quality Long-Term Care (Consumer Voice): [www.theconsumervoice.org](http://www.theconsumervoice.org), 202-332-2275
- National Long-Term Care Ombudsman Resource Center (NORC): [www.ltombudsman.org](http://www.ltombudsman.org), 202-332-2275
- National Resource Center on LGBT Aging: [www.lgbtagingcenter.org](http://www.lgbtagingcenter.org), 212-741-2247
- Services & Advocacy for Gay, Lesbian, Bisexual & Transgender Elders (SAGE): [www.sageusa.org](http://www.sageusa.org), 212-741-2247
- Lambda Legal: [www.lambdalegal.org](http://www.lambdalegal.org), 212-809-8585
- National Coalition of Anti-Violence Programs’ National LGBTQ Training and Technical Assistance Center: <http://avp.org/resources/training-center>, 855-287-5428

- The National Gay and Lesbian Task Force: [www.thetaskforce.org/](http://www.thetaskforce.org/), 202-393-2241
  - National Center for Transgender Equality: <http://transequality.org/>, 202-903-0112
  - FORGE: Transgender Aging Network (TAN): <http://forge-forward.org/aging/>
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## **CMS announces most common deficiencies found on 2015 MDS surveys**

In a [memo](#) dated Nov. 4, 2016, the Centers for Medicare & Medicaid Services (CMS) released information pertaining to the FY 2015 MDS Focused Surveys, including an overview of the results.



According to the memo, the most frequently cited deficiencies involved MDS Accuracy (F-278) and Posted Nursing Staffing Information (F-356). Regarding MDS Accuracy, surveyors found trends in coding errors related to antipsychotics, restraints, falls, urinary tract infections, continence/catheters, pressure ulcers and status assessments. For deficiencies related to Posted Nursing Staffing Information, surveyors found that the most common reasons for noncompliance were that the staffing posted was not up to date and staffing records were not retained for 18 months, per regulation.

In the memo, CMS also provided technical resources that providers can use to help improve accuracy, maintain compliance and enhance the safety and quality of care of their residents.

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*The mission of the Office of the State Long-Term Care Ombudsman is to protect the health, safety, welfare and rights of individuals residing in long-term care by investigating complaints, seeking resolutions to problems and providing advocacy, with the goal of enhancing quality of life and care.*

*Please feel free to forward this newsletter to others who may be interested.*