

***Sample Facility's* Resident and Tenant Sexual Expression Policy**

Effective Date: XX/XX/XXXX

STATEMENT OF POLICY

It is the goal of *Sample Facility* to support residents and tenants in their personal choices regarding sexuality and promote acceptance and respect of sexual diversity. *Sample Facility's* policy is based on the federal Nursing Home Reform Act of 1987 which guarantees residents and all persons residing in Medicaid/Medicare settings the rights to dignity, privacy, freedom, personal property, and expression.

For the purposes of this policy sexual expression is defined as language, gestures, conduct, or activities that indicate desire for sexual gratification (hugging, kissing, hand-holding, flirting, masturbating, touch, signs of romance or companionship, viewing sexually-explicit materials).

To preserve the dignity and ensure the safety of residents and tenants involved in acts of healthy sexual expression, *Sample Facility* has developed the following guidelines.

POLICY

This policy applies to residents/tenants who exhibit *intact* decision-making capacity, as well as those who exhibit *diminished* decision-making capacity. Each resident's/tenant's circumstances and level of capacity differs, therefore, *Sample facility* is committed to

developing an individualized approach to assess sexually related situation.

Some residents/tenants who exhibit *intact* decision-making capacity may require a cognitive test conducted by a physician to confirm consent was and continues to be given. Residents/tenants who exhibit *diminished* decision-making capacity (e.g., Dementia or Alzheimer's disease) will require a cognitive assessment conducted by a physician to confirm consent was and continues to be given. The decision to conduct a cognitive assessment or reassessment will be made by the resident's/tenant's interdisciplinary care team (ICT) which may include, for example, the resident/tenant, physician, nurse, social worker, physical therapist, direct care worker, and family members or significant other (as deemed necessary). Members of the ICT should be determined by the resident's/tenant's needs.

Resident/Tenant Sexual Rights

Residents/tenants have the right to be sexually expressive with other residents, tenants, visitors in accordance with the following conditions:

- a. Each sexually-related occurrence is legal and consensual, and may not involve the solicitation of others. Sexual expression should be prevented where the potential for transmission of a sexually transmitted infection exists or where other residents, tenants, staff, and visitors may be negatively affected by the act.
- b. Residents/tenants should be provided access to private spaces and opportunities, as

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well as legal sexually-explicit materials (e.g., movies, videos, magazines, photographs), and electronic equipment necessary to use materials (e.g., computer).

- c. Residents/tenants have rights to receive information, consultation, education, and counseling related to sexual expression.

Sample Facility's Responsibilities

Sample Facility will conduct a thoughtful review of accounts of sexual expression among residents, tenants, or with visitors to determine a solution that best meets the needs of and protects those involved. Outcomes of the review will be shared with the resident/tenant and ICT and documented in the care or service plan. Incidents of abuse or suspected abuse will be reported to the agencies as required by law. *Sample Facility* is committed to:

- a. Continually examining the environment for restrictions to residents'/tenants' privacy or opportunities to be sexually expressive, and adapting where possible to accommodate sexual expression among residents/tenants and with visitors.
- b. Offering ongoing staff training, support and resources related to sexual expression, resident/tenant rights, sensitization, ethics, response strategies, and documentation and reporting procedures.
- c. Reviewing the sexual expression policy with residents/tenants and families and continually offering learning opportunities/resources related to sexual expression and residents'/tenants' rights.
- d. Ensuring that all staff members have received and reviewed the sexual expression

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policy (including updates) and establishing processes for ensuring policies are carried out.

Staff Responsibilities

Staff will support and facilitate resident/tenant sexual expression in a safe and respectful manner and intervene only where it is determined that the sexual expression policy is likely to be violated or where the recommendations of the ICT are not carried out. Staff will immediately report suspected sexual abuse to *Sample Facility* management.

Staff is committed to:

- a. Maintaining knowledge of *Sample Facility's* sexual expression policy and upholding the provisions it sets forth.
- b. Seeking information and resources from *Sample Facility* where necessary to uphold residents'/tenants' rights and provide proper assistance in addressing sexually related situations.
- c. Informing residents/tenants of resources, materials, and learning opportunities related to their rights to sexual expression.
- d. Making residents/tenants aware of opportunities for appropriate use of private space to the extent that it is available.

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