Slide 1

Rights of Nursing Home Residents
Long-term Care Ombudsman Program
Texas Department of Aging and Disability Services
November 2012

Slide 2

Wouldn’t it be nice?!
People like living and working here.

Slide 3

Staff know each resident.
Resident Rights - Introduction

- The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident.

TAC §19.401(a)

Resident Rights

- The facility must give a Statement of Resident Rights to each resident, next of kin or guardian, and facility staff member.

TAC §19.401(c)

*Typically in the admission packet given to the resident and family*
Rights of Nursing Home Residents

- Resident Rights poster is displayed so residents and family can easily read about the rights.

TAC §19.1921(e)(8)

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You have the right to:

- Dignity and respect
- Freedom of choice
- Privacy and confidentiality
- Information
- Participation in your care
- Transfer and discharge
- Complaints

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Dignity and Respect

- To be free from discrimination based on age, race, religion, sex, nationality, disability, marital status, or source of payment; and
- To be treated with courtesy, dignity, and respect.

TAC §19.401
Slide 10

Exercise of Rights

- The resident has the right to exercise his rights as a resident at the facility and as a citizen or resident of the United States.

TAC§19.402

Slide 11

Why Residents Don’t Exercise Their Rights

- Intimidated and reluctant to criticize the nursing facility, staff or policies.
- Don’t know they have specified rights and what they are.
- Don’t make the connection between their problems/concerns with “resident rights”.

Slide 12

Notice of Rights and Services

- The facility must inform the resident, the resident’s next of kin or guardian, both orally and in writing, in a language that the resident understands, of the resident’s rights.

TAC §19.403(a)
Slide 13

Protection of Resident Funds

- The resident has the right to manage his financial affairs and the facility may not require residents to deposit their personal funds with the facility.

TAC §19.404

Slide 14

Freedom of Choice

- Choose and retain a personal attending physicians
- Be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well being
- Participate in planning care and treatment or changes in care and treatment * TAC §19.406

Slide 15

Freedom of Choice

A resident chooses his or her own physician.
Privacy and Confidentiality

- Residents have the right to personal privacy and confidentiality of their personal and clinical records.
- The facility must ensure the resident's right to privacy:
  - medical treatment
  - personal care
  - access and visitation

TAC §19.407

11/2/2012

Personal Privacy

- Accommodations
- Medical treatment
- Personal care
- Visits
- Written and telephone communications
- Meetings of family and resident groups

TAC §19.407

11/2/2012

Personal Privacy

Staff respects privacy when giving care. They take care of resident personal needs out of view and hearing of others.
Slide 19

Personal Privacy

- Private places to visit family and friends are available.
- A different phone number for resident calls can assure privacy. Residents can use a portable phone.

11/2/2012

Slide 20

Central Texas Case Study

Presented by: Margaret Matthews

11/2/2012

Slide 21

Confidentiality

- Residents may approve and/or refuse release of personal and/or clinical records to any individual outside the facility
  - Does not apply
    - resident transfer
    - record release required by law
    - during surveys TAC §15.407

11/2/2012
Slide 22

Grievances

- Residents have the right to voice grievances without discrimination or reprisal.
- These grievances include those with respect to treatment which has been furnished as well as that which has not been furnished.

TAC §19.408

11/2/2012

Slide 23

Examination of Survey Results

- Residents have the right to:
  - Examine results of the most recent facility survey conducted by federal or state surveyors and any plan of correction in effect with respect to the facility.

TAC §19.409

11/2/2012

Slide 24

Access and Visitation Rights

- Residents have immediate access to:
  - Representatives of the State of Texas
  - Their Physician
  - Representatives of the State Long-term Care Ombudsman
  - Representative of Disability Rights Texas

TAC §19.413

11/2/2012
Slide 25

- Facility must permit a resident or guardian or legal representative to monitor resident's room through use of electronic monitoring devices.

  TAC §19.422

Slide 26

Quality of Life

Slide 27

Quality of Life

- A facility must care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

  TAC §19.701
Facility MUST promote care in a manner and in an environment that maintains or enhances each resident’s dignity and respect in full recognition of resident’s individuality. TAC §19.701(1)

Residents chose what they wish to wear.

They enjoy indoor and outdoor activities.

Staff honor personal choices. Married couples share a room (if they want to).
Slide 31

**Self Determination**

- Bathing
- Dining
- Dressing
- Taking Medicine

TAC §19.701

Slide 32

**Activities**

- Group and individual

Slide 33

**Activities**

- Social, religious, community groups

TAC §19.702
Slide 34

Social Services

TAC §19.703

Slide 35

Environment

- Personalize rooms – paint, furniture, favorite things ...

- Staff uses pagers or two-way radios, not intercom system

Slide 36

Resident Group and Family Council

TAC §19.706
Each resident must receive and facility must provide necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well-being.

TAC §19.901
Slide 43
Transfer and Discharge
- Transfer and discharge includes movement of a resident to a bed outside the certified facility, whether that bed is in the same physical plant or not.
  TAC §19.502

Slide 44
Do Not Transfer and Discharge Unless
- Transfer is necessary for resident’s welfare, and the resident’s needs cannot be met in the facility.
- Transfer or discharge is appropriate because resident’s health has improved sufficiently so the resident no longer needs the facility services.
  TAC §19.502

Slide 45
Do Not Transfer and Discharge Unless
- Safety of individuals in the facility is endangered.
- Health of other individuals in the facility would otherwise be endangered.
- Resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility.
  TAC §19.502
Do Not Transfer and Discharge

Unless

- Resident, responsible party, or family or legal representative request a voluntary transfer or discharge; or
- Facility ceases to operate or participate in the program which pays for the resident’s care.

TAC §19.502

Do Not Transfer and Discharge Documentation

- Facility must document in resident’s clinical record.
- In writing and a language and manner they understand, notify the resident, and if known, a responsible party or family or legal representative of the transfer or discharge and the reason.

TAC §19.502

Do Not Transfer and Discharge Documentation

- Except when specified in paragraph (3) of this subsection, the notice of transfer or discharge must be made by the facility at least 30 days before the resident is transferred or discharged.

TAC §19.502
Slide 49

Alamo Case Study

Presented by: Henri Eaton

11/2/2012

Slide 50

The Ombudsman Advocates

11/2/2012

Slide 51

Protect Resident Rights

- Encourage residents to say what they want, need, and prefer.
- Advocate for resident rights when needed.

11/2/2012
Ombudsmen and Complaints
- Visit residents and listen
- Offer ideas and options
- Respect resident choices and independence
- Promote resident-directed care
- Protect resident rights
- Help resolve concerns that affect residents
- Help when a facility plans to discharge residents

Resident’s Right
- A resident’s right may be restricted only to the extent necessary to
  - protect them; or
  - protect the rights of others, particularly rights relating to privacy and confidentiality.

Ombudsmen and Complaints
- Most complaints are handled directly with resident’s consent and in coordination with management.
- Some complaints are best investigated by DADS Regulatory Services while others by DADS Long-Term Care Ombudsman
Information & Complaints

A complainant can make many complaints directly to another agency, such as an allegation of abuse to DADS Consumer Rights and Services for investigation by Regulatory Services. It is not necessary for an ombudsman to file such a complaint for the person, unless he or she requests assistance.

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Information & Complaints

Department of Aging and Disability Services’ Consumer Rights & Services
- 1-800-458-9858
- CRSComplaints@dads.state.tx.us

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The Ombudsman Educates
Money Follows the Person

- The Ombudsman informs Resident Council and residents
- Example: MFP Processes and Procedures

Ombudsmen protect the rights of people living in nursing homes and assisted living

State Long-term Care Ombudsman
512-438-4356
Local Long-term Care Ombudsman
800-252-2412

Services are confidential and free