Resident Relationships

Balancing Rights and Protections

WRAP Conference, September 24, 2026

BOARD ON AGING & LONG TERM CARE

Use of this Presentation

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Resident Rights



- Dignity
- Privacy
- Self-Determination
- Access
- Freedom from Abuse and Neglect

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Person-Centered Culture

- Focuses on the whole person
- Addresses unique needs, preferences, goals, and values
- Emphasis is not on illness or symptoms
- Promotes dignity, independence and partnership in care
- Empowers individual as an expert in their own life

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Sexuality

- Sex for some can be a way of belonging, avoiding isolation, feeling “human”, and living a full and meaningful life.
- Age does not necessarily change the need or desire to be sexually expressive or active.
- Older adults and persons with disabilities have the same basic human need to be in close relationships as do persons who are younger or those without a disability. For both, social networks of people can be small, or can diminish with aging.
- Attempts to disallow any type of relationship must be based on cause and facts, not on history that may no longer be relevant, or on the personal objections or opinions of others.

Cultural Diversity and Relationships

Cultural diversity is the presence of various cultures, ethnicities, beliefs, and traditions within a society. Therefore, when we consider resident perspective on sexuality and intimacy, we need to recognize the uniqueness of their cultural beliefs.

Examples: rural vs urban, religious background, LGBTQI+

Sexual VS non-sexual/affection

Non-sexual/affection

- Holding hands
- Hugging
- Sitting close

Sexual Intimacy

- Explicit physical acts
- Sexualized behaviors or language

Statutory Language -

(5) "Sexual contact" means any of the following:

(a) Intentional touching by the complainant or defendant, either directly or through clothing by the use of any body part or object, of the complainant's or defendant's intimate parts if that intentional touching is either for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant.

948.01(5)(b)**(b)** Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.

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Sexuality is part of our humanity, regardless of age and ability



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Assessment and **consent** are the cornerstone of considering your residents' needs and abilities when a resident has identified an interest in a relationship in your community.

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Capacity

- Individuals are presumed to have capacity until assessment shows otherwise
- Diagnosis or legal decision maker status does not indicate incapacity
- Capacity for decisions related to relationships is different than capacity related to other decisions

Statutory Language -

940.225(4)**(4)** CONSENT. "Consent", as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h), and (i). The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence, subject to the provisions of s. 972.11 (2):

(b) A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.

(c) A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

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Assessment is...

- Knowing the person
- Gathering information
- Asking questions
- Finding answers
- Making observations
- Analyzing information
- Never making assumptions
- Ongoing process



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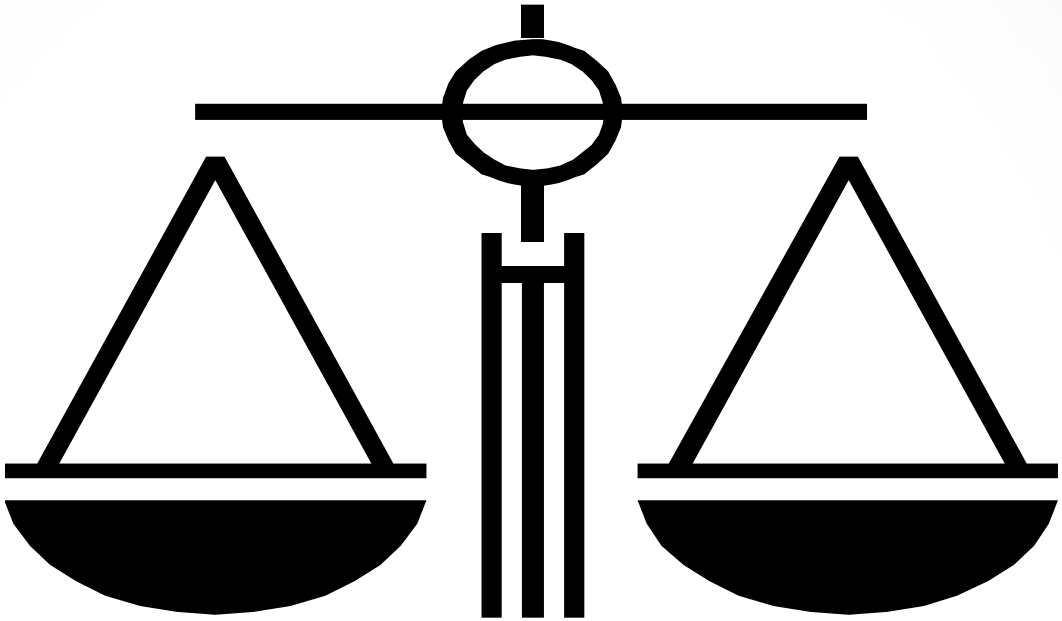

Elements of consent have not been precisely defined by Wisconsin courts, but may include:

Elements of Consent

- The physical nature of the sexual contact involved, and that it enjoys a special status as "sexual"
- That the person's body is private and that he or she has the right to refuse to engage in sexual activity
- The understanding of potential physical risk
- That there are social standards and potential social consequences that apply to the sexual contact

Assessing Capacity to Consent

- Discussion(s) with resident
- Observation of behaviors and routines
- Review pertinent medical information
- With resident consent, medical provider input
- With resident consent, legal decision maker/family may provide additional history

Assessing Capacity to Consent Continued

- The goal is to determine an individual's ability to consent
- Assessment is not based on a check-list
- Conversations should start at admission and continue thereafter
- Once ability to consent has been determined, assessment must be ongoing to determine any changes
- If capacity isn’t clear, assessment continues. Comprehensive, ongoing assessment is crucial.
- Remember, sexual contact is personal — individuals must be capable of deciding this for themselves

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Let's talk...

When?

- During assessments
- Care conferences*
- As needed

What?

- Rights to intimate or sexual relationships
- Ability to consent
- Relationship intent

Who?

- Resident(s)
- Representatives, family*
- Staff

How?

- Be prepared, comfortable with the topic
- Listen more than talk

always with consent

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Care Planning



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Care Planning…..

If Able To Consent -

- Respect resident rights
- Assure privacy and confidentiality
- Support relationship
- Accommodate needs
- Access to outside resources
- Re-assess ability to consent as needed

If Unable To Consent

- Distraction
- Redirection
- Activities
- Supervision
- Offer socialization in public, supervised area
- Early identification of relationship
- Ensuring safety
- Address the need

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Ultimate Outcome

- Difficult conversations become easier
- Concerns less likely to become complaints or crises
- Respect for rights
- Rights are balanced with protections



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Risks & Challenges

- Sexual relationships without consent or questionable consent
- Visitors/others who interfere with care, resident wishes, choices, quality of life
- Visitors/others who seek to exploit or abuse
- Visitors who exert their own will over a resident's
- Staff who cross boundaries with residents/families

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From the Field – Story #1

He was the love of my life, my north star, the inspiration that started every day and blessed every night. We vowed to never be apart. MS deprived me of my physical self, but my daughter removed my heart when she forbade Louis to stay in my life after I had to move to Tall Oaks. Never did I think I would find myself where I am today, diminished, dismissed and disrespected in every way.

George, a resident who is openly LGBTQ+.



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From the Field – Story #2

When I told her daughter about her relationship with one of our male residents, I had no idea it would go so far. The daughter, her 4 brothers and sisters and their spouses, all came in one night with a priest. They surrounded her bed and the priest did something like an exorcism and said she should never “fornicate” again. Her kids threatened to move her if she didn’t stay away from him, and they forced me to move him to another wing. It seemed like only a few weeks before she stopped eating, socializing and then she just died, I think of shame and a broken heart.

A CBRF administrator, discussing a sexual relationship between two consenting residents.

From the Field – Story #3



She used to be my sister's best friend, so I kind of grew up with her. Couldn't believe it when I saw her at mom's group home and she kept throwing herself at me. At first everyone seemed cool with it, us being together, and then they accused me of sex abuse! They said she had Alzheimer's and I took advantage of her. Now I'm shamed, and the police have been all over my business, all because of a little hugging and kissing.

A visitor accused of sexual abuse of a resident.

Key Takeaways

- Residents have the same rights that you and I have.
- Residents have the same types of relationships that you and I have and may need some support in being in those relationships.
- Residents have the right to make choices about visits until or unless the visit seems harmful to the resident.
- Residents have the right to visit in private, to manage other aspects of relationships in private.
- Residents have the right to engage in a relationship with another if both parties can consent based on assessment.
- Rights are important in all decisions and actions in a resident's life.
- Consent for a sexual relationship is a personal decision, and cannot be deferred to a POA or guardian, or an MD, or any staff member. The judgments of others should not interfere with a resident's right for a particular friendship or relationship, without cause.

Contact Us



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Resources

Wisconsin Ombudsman Program Resources

- *Provider Guide: Considerations for Resident Relationships*
- *Resident Rights and Relationships Statement Paper*

Care Planning Resources

- Rothschild Person-Centered Care Planning Model

Guardianship and Capacity to Consent Resources

- WI Department of Health Services: *Guardianship of Adults*

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Additional Resources

LGBTQIA+ Resources

- National Resource Center on LGBTQ Aging www.lgbtagingcenter.org
- Gen Silent

Advocacy and Education

- Consent: It's as Simple as Tea
- Disability Rights Wisconsin Family Care and IRIS Ombudsman Program

  1-800-928-8778 / www.disabilityrightswi.org
- Guardianship Support Center

  1-855-409-9410 / www.gwaar.org/guardianship-resources

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