

Long-Term Care Survey Alert

RESIDENT ASSESSMENT: Ask The Right Questions To Answer Whether Residents Can Consent To Sex

Follow this model to document residents' decision-making ability.

If you don't really know what to ask residents to determine whether they can weigh the risks and benefits of engaging in sex--and make an informed choice--read on.

To make that determination, you have to assess the person's decision-making capacity, said medical director **Duncan MacLean, MD**, in a presentation on sexuality in nursing homes at the recent **American Medical Directors Association** annual meeting in Dallas.

Example: Say two residents ask for privacy for sexual activity. In such a case, the interdisciplinary team should assess (and document) whether the residents in question are capable of "authentic sexual conduct," said MacLean in his presentation. The question becomes: "How confused is too confused" to consent?

The survey perspective: You have to "balance a person's right to have sex and how that fits in with cognitive impairment," says **Wendy Kronmiller**, acting director of the **Office of Health Care Quality of the Maryland Department of Health and Mental Hygiene**, in an interview with **Eli**.

"We look at that on a patient-by-patient basis by reviewing the chart and assessing the resident's right to consent," she says.

Determine Decision-Making Capacity

You can assess a resident's capacity to participate in authentic sexuality activity by assessing the person's decision-making ability related to three criteria (Lichtenberg 1994), according to the AMDA presentation. These are:

1. Specialness (intimacy)
2. Mutuality (non-coercion, safety)
3. Contingency. (For example, does the person have the emotional stamina to handle a relationship that turns intense or ends?)

To assess the resident's ability to understand specialness, ask:

- Is there anything special about a sexual partner? Does this apply to you?
- What is the difference between a sexual partner and a regular friend?
- How would you choose your own sexual partner?

To assess mutuality, ask:

- Does a person need to know whether the partner wants to have sex? (coercion). (Residents need to be educated that they should not attempt sexual activity with someone too cognitively impaired to consent, noted Feldkamp.)

- Does a person need to know whether sex may be unsafe for the partner? (safety)
- Does this apply to you?
- What's the difference between both partners wanting to have sex, and one wanting it and the other not?
- Would you force sex if the partner doesn't want it?

To assess contingency, ask:

- Can sex partners change their minds?
- Can this happen to you and your partner?
- What should a person do if the partner changes his/her mind about the relationship?
- Do you still want a relationship, even if some day your partner changes his/her mind?

The bottom line: In asking the series of questions, your goal is to determine whether the person is capable of making a conscious, safe choice, says Feldkamp. "You want to help ensure the person understands the ramifications of what she or he is doing."

Target Health, Social, Safety Issues

In addition to assessing a resident's decision-making ability, identify the potential health and safety risks and social consequences related to the person's sexual activity. For example, has the person or his partner received screening for sexually transmitted disease? Does the person have cardiovascular risk factors or functional impairments that could make sex unsafe or difficult? Is the resident married and having sex with someone besides his or her spouse? If so, what does the family think about that?

If the resident requests that the staff not contact her family about the sexuality issue--and the staff assesses the resident can make safe decisions--document that, suggested Feldkamp.