Residents’ rights, choices & preferences
What’s the difference, and WHY am I being cited??

Residents’ Rights

- Are guaranteed by the federal 1987 Nursing Home Reform Law.
- The law requires each nursing home to care for its residents in a manner that promotes and enhances the quality of life of each resident, ensuring dignity, choice, and self-determination.
- Each person is guaranteed these rights.

Residents’ Rights

- Access & Visitation Rights
- Married Couples
- Dignity
- Self-Determination & Participation
- Accommodation of Needs
- Notice of room or roommate change
- Environment
- Lighting levels
- Sanitary Conditions

F241 - DIGNITY

The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident’s dignity and respect in full recognition of his or her individuality.
Grooming residents as they wish to be groomed (e.g., maintaining the resident’s personal preferences regarding hair length/style, facial hair for men, removal of facial hair for women, and clothing style). NOTE: for issues of failure to keep residents’ faces, hands, fingernails, hair, and clothing clean, refer to Activities of Daily Living (ADLs) F310, 311, or 312; Encouraging and assisting residents to dress in their own clothes appropriate to the time of day and individual preferences rather than hospital-type gowns;

Promoting resident independence and dignity in dining such as avoidance of:
- Day-to-day use of plastic cutlery and paper/plastic dishware;
- Bibs (also known as clothing protectors) instead of napkins (except by resident choice);
- Staff standing over residents while assisting them to eat;
- Staff interacting/conversing only with each other rather than with residents, while assisting residents;

Respecting residents by speaking respectfully, addressing the resident with a name of the resident’s choice, avoiding use of labels for residents such as “feeders,” not excluding residents from conversations or discussing residents in community settings in which others can overhear private information;

Maintaining an environment in which there are no signs posted in residents’ rooms or in staff work areas able to be seen by other residents and/or visitors that include confidential clinical or personal information (such as information about incontinence, cognitive status).
F241 - DIGNITY

**Signage**
- It is allowable to post signs with this type of information in more private locations such as the inside of a closet or in staff locations that are not viewable by the public.
- An exception can be made in an individual case if a resident or responsible family member insists on the posting of care information at the bedside (e.g., do not take blood pressure in right arm).

F241 - DIGNITY

**Signage**
- This does not prohibit the display of resident names on their doors nor does it prohibit display of resident memorabilia and/or biographical information in or outside their rooms with their consent or the consent of the responsible party if the resident is unable to give consent.
- (This restriction does not include the CDC isolation precaution transmission-based signage for reasons of public health protection, as long as the sign does not reveal the type of infection);

F241 - DIGNITY

- Maintaining resident privacy of body including keeping residents sufficiently covered, such as with a robe, while being taken to areas outside their room, such as the bathing area (one method of ensuring resident privacy and dignity is to transport residents while they are dressed and assist them to dress and undress in the bathing room).

F241 - DIGNITY

**NOTE:** For issues of lack of visual privacy for a resident while that resident is receiving ADL care from staff in the bedroom, bathroom, or bathing room, refer to §483.10(e), Privacy and Confidentiality F164. Use Dignity F241 for issues of visual privacy while residents are being transported through common areas or are uncovered in their rooms and in view of others when not receiving care; and
Refraining from practices demeaning to residents such as keeping urinary catheter bags uncovered, refusing to comply with a resident’s request for toileting assistance during meal times, and restricting residents from use of common areas open to the general public such as lobbies and restrooms, unless they are on transmission-based isolation precautions or are restricted according to their care planned needs.

An exception can be made for certain restrooms that are not equipped with call cords for safety.

Surveyors will determine if staff members respond in a dignified manner to residents with cognitive impairments, such as not contradicting what residents are saying, and addressing what residents are trying to express (the agenda) behind their behavior.

For example, a resident with dementia may be attempting to exit the building in the afternoon, but the actual intent is a desire to meet her children at the school bus, as she did when a young mother. Allowing the behavior under supervision such as walking with the resident without challenging or disputing the resident’s intent and conversing with the resident about the desire (tell me about your children) may assist the behavior to dissipate, and the staff member can then invite the resident to come along to have a drink or snack or participate in a task or activity.

The resident has the right to—

1. Choose activities, schedules, and healthcare consistent with his or her interests, assessments, and plans of care;
2. Interact with members of the community both inside and outside the facility; and
3. Make choices about aspects of his or her life in the facility that are significant to the resident.
This includes *actively seeking* information from the resident regarding significant interests and preferences in order to provide necessary assistance to help residents fulfill their choices over aspects of their lives in the facility.

Many types of choices are mentioned in this regulatory requirement. The first of these is choice over “activities.” It is an important right for a resident to have choices to participate in preferred activities, whether they are part of the formal activities program or self-directed. However, the regulation at §483.15(f) Activities, F248 covers both formal and self-directed activities. For issues concerning choices over activities, use F248.

The second listed choice is “schedules.” Residents have the right to have a choice over their schedules, consistent with their interests, assessments, and plans of care.

Choice over “schedules” includes (but is not limited to) choices over the schedules that are important to the resident, such as daily waking, eating, bathing, and the time for going to bed at night.
Right to choose health care schedules consistent with their interests and preferences, and the facility should gather this information in order to be proactive in assisting residents to fulfill their choices.

According to this requirement at §483.15(b)(3), residents have the right to make choices about aspects of their lives that are significant to them.

One example includes the right to choose to room with a person of the resident’s choice if both parties are residents of the facility, and both consent to the choice.

During resident and family interviews, determine what time the resident awakens and goes to sleep, and whether this is the resident’s preferred time.

Also determine whether the facility is honoring the resident’s preferences regarding the timing (morning, afternoon, evening and how many times a week) for bathing and also the method (shower, bath, in-bed bathing).

Obtain further information as necessary from observations and staff interviews.

If the resident is unaware of the right to make such choices, determine whether the facility has actively sought information from the resident and/or family (for a resident unable to express choices) regarding preferences and whether these choices have been made known to caregivers.
F246 – ACCOMMODATION OF NEEDS

A resident has a right to –

(1) Reside and receive services in the facility with reasonable accommodations of individual needs and preferences, except when the health or safety of the individual or other residents would be endangered; and

NOTE:
For issues regarding the psychosocial environment experienced by the resident, such as being ignored by staff, being made to feel unwelcome, or that their care needs are burdensome to staff, refer to §483.15(a), F241 Dignity.

F246 – ACCOMMODATION OF NEEDS

The facility is responsible for evaluating each resident’s unique needs and preferences and ensuring that the environment accommodates the resident to the extent reasonable and does not endanger the health or safety of individuals or other residents. This includes making adaptations of the resident’s bedroom and bathroom furniture and fixtures as necessary to ensure that the resident can (if able):

- Open and close drawers and turn faucets on and off;
- See her/himself in a mirror and have toiletry articles easily within reach while using the sink;
- Open and close bedroom and bathroom doors, easily access areas of their room and bath, and operate room lighting;
- Use bathroom facilities as independently as possible with access to assistive devices (such as grab bars within reach) if needed; and
- Perform other desired tasks such as turning a table light on and off, using the call bell; etc.

NOTE: If a resident cannot reach her/his clothing in the closet, if the resident does not have private closet space, or if the resident does not have needed furniture (such as a chair) refer to §483.15(h)(4) and §483.70(d)(2)(iv), F461.
The facility should strive to provide reasonably sufficient electric outlets to accommodate the resident's need to safely use her/his electronic personal items, as long as caution is maintained to not overload circuits.

The bedroom should include comfortable seating for the resident and task lighting that is sufficient and appropriate for the resident's chosen activities.

The facility should accommodate the resident's preferences for arrangement of furniture to the extent space allows, including facilitating resident choice about where to place their bed in their room (as long as the roommate, if any, concurs).

There may be some limitations on furniture arrangement, such as not placing a bed over a heat register, or not placing a bed far from the call cord so as to make it unreachable from the bedside.

The facility should also ensure that furniture and fixtures in common areas frequented by residents are accommodating of physical limitations of residents.

Furnishings in common areas should enhance residents' abilities to maintain their independence, such as being able to arise from living room furniture.

The facility should provide seating with appropriate seat height, depth, firmness, and with arms that assist residents to arise to a standing position. One method of accommodating residents of different heights and differing types of needs in common areas is through the use of different sizes and types of furniture.
Staff should strive to reasonably accommodate the resident’s needs and preferences as the resident makes use of the physical environment. This includes ensuring that items the resident needs to use are available and accessible to encourage confidence and independence (such as grooming supplies reachable near the bathroom sink), needed adaptive equipment (such as door handle grippers) are maintained in place and functional furniture is arranged to accommodate the resident’s needs and preferences, etc. This does not apply to residents who need extensive staff assistance and are incapable of using these room adaptations.

Staff should interact with the resident in a way that takes into account the physical limitations of the resident, assures communication, and maintains respect; for example: getting down to eye level with a resident who is sitting, speaking so a resident with limited hearing who reads lips can see their mouth when they speak, utilizing a hearing amplification device such as a pocket-talker if the resident has such a device, etc. Residents who use glasses, hearing aids, or similar devices should have them in use (except when the resident refuses), clean, and functional.

A resident has a right to - (2) Receive notice before the resident’s room or roommate in the facility is changed.

The facility should be sensitive to the trauma a move or change of roommate causes some residents, and should attempt to be as accommodating as possible. This includes learning the resident’s preferences and taking them into account when discussing changes of rooms or roommates and the timing of such changes.
F247 – NOTICE OF ROOM OR ROOMMATE CHANGE

- For a resident who is being moved at the facility’s request, a staff member should explain to the resident the reason for the move and support the resident by providing the opportunity to see the new location and meet the new roommate, and to ask questions about the move.

F247 – NOTICE OF ROOM OR ROOMMATE CHANGE

- For a resident who is receiving a new roommate, a staff member should give the resident as much notice and information about the new person as possible, while maintaining confidentiality regarding medical information.
- The facility should support a resident whose roommate has passed away by providing a little time to adjust (a couple days if possible) before moving another person into the room, depending on the resident’s level of connection to the previous roommate.
- The facility should provide necessary social services for a resident who is grieving over the death of a roommate. If the survey team identifies potential compliance issues related to social services, refer to §483.15(g)(1), Social Services F250.

F252 - ENVIRONMENT

The facility must provide--

(1) A safe, clean, comfortable and homelike environment, allowing the resident to use his or her personal belongings to the extent possible;

F252 - ENVIRONMENT

The intent of the word “homelike” in this regulation is that the nursing home should provide an environment as close to that of the environment of a private home as possible. This concept of creating a home setting includes the elimination of institutional odors, and practices to the extent possible.
Some good practices that serve to decrease the institutional character of the environment include the elimination of:

- Overhead paging and piped-in music throughout the building;
- Meal service in the dining room using trays (some residents may wish to eat certain meals in their rooms on trays);
- Institutional signage labeling work rooms/closets in areas visible to residents and the public;
- Medication carts (some innovative facilities store medications in locked areas in resident rooms);

- Part of creating a homelike environment is emphasizing individualization, relationships, and a welcoming atmosphere that makes residents comfortable.
- Homes where residents stay a short time would also benefit from elimination of institutional practices. These residents will not likely want to bring in major furniture items but may want their TV, chair, etc.

Adequate and comfortable lighting levels in all areas;

- Sufficient light with minimal glare.
- Even light levels in common areas.
- Use of daylight as much as possible.
- Elimination of glare from shiny floors and unshielded windows.

Definitions already at this tag address that adequate lighting means "levels of illumination suitable to tasks the resident chooses to perform or the facility staff must perform."

- A resident might need lighting to read a book, to apply makeup, to distinguish foods on her plate, to find the bathroom at night, to use the telephone book to look up a number by the public telephone, etc.
- Staff need sufficient light to provide care, to be able to notice problems such as bruises while dressing or bathing a resident. They need sufficient light to do charting, pour liquid medication up to a mark in a container, etc.
The second definition for comfortable lighting defines it as minimizing glare, providing maximum resident control over light intensity, location, and direction of illumination to enable residents with visual impairment to maintain or enhance independent functioning.

One resident may need more light than another, one may be more sensitive to glare than another, etc.

Whether lighting is comfortable for a resident can only be ascertained from the resident, through interviews where a resident is able to be interviewed, and through observations if the resident cannot provide this information.

There are non-shiny or minimally shiny floor waxes that minimize floor glare.

Unsafe food sources - Unsafe food sources are sources not approved or considered satisfactory by Federal, State, or local authorities. Nursing homes are not permitted to use home-prepared or home-preserved (e.g., canned, pickled) foods for service to residents.

Recent release of new guidance at this Tag has caused some questions about residents accepting food from visitors.

CMS revised a sentence at this Tag to make it clear that this regulation concerns facility procurement and does not limit the rights of residents to accept food from visitors.

The sentence that had caused problems was a Note that said the regulation does not prohibit family or visitors from bringing in food for THAT resident’s consumption.
CMS received many questions regarding whether they were prohibiting a resident’s roommate from accepting something from the visitor. The new sentence makes it clear that any resident has the right to accept food brought in by ANY visitors.

(2)(iv) Functional furniture appropriate to the resident’s needs, and individual closet space in the resident's bedroom with clothes racks and shelves accessible to the resident.

“Choice” is the act of making a selection; liberty or freedom to choose.

It is a matter of “control” for the resident.

In a study utilized for the language in OBRA, nursing home residents rated “choices” as being the top, single-most important item in their lives.

“Preference” is a greater liking for one alternative over another or others.

The MDS 3.0 serves as the basis for identifying resident preferences, and codes are usually considered when citations are received.
Observing Resident Preferences

**Examples:**
- Resident would like to sleep in until 10:00 a.m.
- Resident wants therapy in the afternoon.
- Resident would like peanut butter sandwiches for supper every night.
- Resident would like two baths a week in the evenings.
- Resident would like a private space to make personal phone calls.
- Resident wants a secure place for his/her belongings.
- Resident wants their room cleaned while they are at lunch.
- Resident prefers a cloth napkin instead of a clothing protector.

Observing Resident Preferences

**How do we determine resident preferences?**
- Review the resident preference section of the MDS 3.0.
- Upon admission and at quarterly care conference, ask about specific preferences (especially if dealing with delivery of care).
- Report resident requests for different food, new roommate, later bed time, etc., immediately to the nurse, social worker, or supervisor.
- ASK residents what they want! Don’t assume they will just follow the facility schedule and routine.
Can we really DO that??

- If resident makes a request that appears in conflict with standards of care...Often the answer is “yes.” NEVER automatically say “NO.” Always check with your supervisor or the appropriate staff person.
- Maybe the resident no longer wants to take a certain medication, does not want to follow their diet, or other requests that may seem contradictory to their plan of care.

Can we really DO that??

- If there are risks involved, complete a risk/benefit analysis and assess thoroughly. Educate resident/family of risks to assure comprehension and understanding.
- When possible, always observe their preference, choices & wishes.

Can we really DO that??

- Our job is to always try and honor the resident’s preferences and choices, in the way they would like them to occur, and as soon as possible, once the request has been made.
- Our job is to OFFER choices, make sure residents know their preferences are important. Do not wait for a request, or a complaint, to meet the stated need and/or preference.

Surveyor Questions

- How do staff know what a resident’s preference(s) is?
- How do staff honor a resident’s choice(s)?