



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

November 30, 2016

RE: DAL 16-21: Protecting Resident Privacy
Related to Photographs and Audio/Video
Recording by Adult Care Facility Staff

Dear Administrator:

This DAL supplements DAL 15-10, dated June 23, 2015 regarding security/surveillance cameras in which we indicated facilities must have policies and procedures that included ensuring resident privacy. Facilities should be reminded that written permission is required from any resident prior to any photographs or recordings, such as those used for activities or advertising.

Facilities should review, revise or develop written policies and procedures to include the prohibition of adult care facility staff from taking or using photographs or recordings in any manner that would demean or humiliate a resident(s). This would include any type of equipment (e.g., cameras, smart phones or other electronic device) used to take, keep or distribute photographs and records through any media including social media.

Facilities are expected to provide training to current and new staff regarding the policy, as well as provide oversight and supervision to staff in order to ensure that the policies are implemented and followed as written. These policies and procedures will be reviewed during your next standard survey.

Anytime an adult home receives an allegation of abuse, including the recording and/or posting of unauthorized photographs or video recordings, the facility must not only report the alleged violation to the New York State Department of Health (Department), the Administrator and appropriate officials, but must initiate an immediate investigation and take steps to prevent further potential abuse and based upon findings, the facility must implement corrective actions to prevent reoccurrence.

If the Department receives an allegation of mental abuse related to unauthorized transmission of photographs or video recordings of a resident(s), any humiliation or demeaning of a resident(s), the Department will conduct an investigation and will evaluate whether the allegation may require additional referrals.

Should you have any questions regarding this correspondence, please contact Linda O'Connell of my staff at (518) 408-1133.

Sincerely,

A handwritten signature in dark ink, appearing to read "Valerie A. Deetz".

Valerie A. Deetz, Director
Division of Adult Care Facility and Assisted
Living Surveillance