

ACCESS AND VISITATION IN NURSING HOMES

Consumer Information Sheet

Freedom to associate with others of one's choosing is a basic human right. Nursing home residents retain this right when they reside in a long term care facility. A resident's illness or changing mental ability may make visits uncomfortable or emotionally difficult for family members and friends. However, regular visits from family members and friends can be an important support for a resident's emotional well-being and can help assure that the resident receives quality care.

Federal Law Regarding Visitation

Federal law governing nursing home regulation is called the Nursing Home Reform Act of 1987. The Act says that the resident has the right and the facility must provide for immediate access to any resident by immediate family or other relatives of the resident, subject to the resident's consent. Under the Act, visits by others are subject to "reasonable restrictions" and the resident's consent. Consumers should note that the "reasonable restrictions" provision does not apply to immediate family and other relatives of the resident. The Act also says that the facility must provide immediate access to representatives of the state and "reasonable access" to entities and individuals providing health, social, or legal services to the resident. These provisions of the law clearly support a resident's right to have access to individuals of their choosing.

Why Visits Are Important

Building Relationships – Family members and friends can be important sources of information for facility staff about a resident's past work, habits, hobbies, likes and dislikes. By visiting frequently and talking with staff, you can help build a relationship between your loved one and the staff and make sure his/her preferences are respected.

Building a relationship with staff members can make it easier to express concerns about care, and creates opportunities for giving positive feedback when care is provided well. Effective communication helps promote quality care.

Regular visitors should also build and maintain relationships with other residents and families. This practice will be helpful to the many residents who

receive no visitors and may help you enlist some extra sets of eyes to look in on your loved one when you are not there.

Monitoring Care and Advocating – Family members and friends can be an important support for residents who are unable to advocate for themselves because of frailty or dementia. Frequent visits help family members and friends become familiar with the care that is being provided. This familiarity makes it easier to recognize problems with caregiving practices and can help consumers formulate suggestions for solutions based on first-hand knowledge.

Emotional Support – Moving to a nursing home can be an isolating and depressing experience. Regular visits from family and friends help keep residents connected to their social support network and the community. This support can help make the transition to nursing home life easier. A resident with dementia can often be reassured by the familiar face of a family member or friend, which may assist with her orientation to the new environment.

Privacy

One important component for a visit in a nursing home is privacy. Private space may be found in the resident's room, on an outdoor patio, or in a vacant dining or activity room. The facility should ensure that private space is available for visits with residents.

Suggestions for Successful Visits

There are a number of meaningful and comfortable ways to interact with the resident while visiting. For residents who can communicate verbally, simply talking, sharing stories, listening and empathizing can be very helpful. Looking through pictures of people who can't visit frequently or old family photo albums can also be pleasant activities. For residents who cannot communicate verbally, listening to music or just holding hands can be great comfort.

Residents often do not receive enough caring touch and some (though not all!) may enjoy receiving and giving hugs. Visitors might also offer to give the resident a manicure or some other special task that the resident can not accomplish alone. Visitors may also want to share a meal with a resident and assist her with eating and encouragement as needed. Participating in a planned facility activity gives visitors an opportunity to

observe how staff interacts with residents. Family members who have power of attorney may also want to ask to review the resident record while visiting to monitor any changes that may have occurred. Visitors should always respect the rights and dignity of all residents and the staff who care for them.

Limitations on Visitation

Unfortunately, sometimes a facility or individual may try to limit visitation with a resident. Some ways this might happen are as follows:

Visiting Hours – Many facilities post visiting hours. Sometimes, family members assume or the facility states that those visiting hours apply to all visitors to the facility including immediate family and relatives of the residents. Immediate family or other relatives of the resident are not subject to visiting hour limitations or other restrictions not imposed by the resident. In fact, it may be a good idea for family members to make some visits during off hours to monitor the care given to their loved one. If a visit will infringe on the rights of other residents in the facility (Ex. a noisy visit in a resident's room if their roommate is sleeping), a facility may require the visit to take place in another location within the facility.

Infection Control – When several residents have infections of some kind, many nursing homes will restrict access to particular units to try to limit the spread of infection. If you feel comfortable with the care your loved one is receiving, you should try to respect these restrictions (especially if you are susceptible to infection yourself). For further prevention, if you have a communicable illness like the flu, visit at another time when you are less likely to pass germs on to others. Regardless of these circumstances, if you are concerned about your loved one, the facility must provide you with immediate access, although they may ask you to follow infection control procedures such as wearing a mask or gloves. The facility can *recommend* that family members and friends not visit, but may not prohibit it unless there is an official quarantine.

Supervised Visits – Sometimes facility staff may accuse a family member or friend of frightening, upsetting, or harming the resident. The facility may then insist that a staff member supervise visits by that family member. The facility may only do this legally if they have a court order or if they have a good faith belief that there is a real and immediate threat to the safety, health and welfare of the

resident, and they must obtain a legal restraining order as soon as possible. Visitors who are subject to supervised visits should seek legal counsel.

Barring visits – Very few reasons exist for a facility to completely stop visitation. The facility may only legally bar visitors if there is a court order or a good faith belief that there is a real and immediate threat to the safety, health and welfare of the resident or a serious violation of residents' rights. The facility must then obtain a legal restraining order as soon as possible. Those who are barred from visiting may wish to contact the ombudsman or seek legal counsel providing a record of who barred them, how and why.

Power of Attorney or Guardian restricting visits – In some cases, if there is division among family members or if a resident has been assigned a guardian, the power of attorney or guardian may try to restrict visits by other family members or individuals who raise concerns about care or seem to be creating problems for the resident. Persons who experience these restrictions should investigate the state's law with regard to guardianship or power of attorney. The National Guardianship Association standards are that the guardian should encourage the resident to the maximum extent possible to participate in all decisions that affect him/her. Even if the resident has dementia, every effort should be made to determine what the resident's wishes are, or would have been, with regard to receiving visits from an individual. These wishes should be respected.

Steps to Take if You Need Help

If visitation has been limited, you may take the following steps to get help:

Public Agencies: You may wish to call the long term care ombudsman who is an advocate for residents. Contact your State Office on Aging or NCCNHR for the ombudsman closest to you. You may also wish to call the state survey and inspection agency to report any violation of regulations applying to resident's rights to visitation.

Legal Help: Simultaneously, you may also want to seek legal counsel from either a private attorney or the legal services program for your state.

Citizen Groups: For contact information for state-level citizen advocacy groups that may be able to provide support in some states, contact NCCNHR.

This document is for information only and is not intended to provide legal advice. If you are barred or restricted from visiting, you should seek specific legal advice.