

Honoring Resident & Client Rights

Effective techniques for all individuals served by DQA-regulated providers



caregivers

PREVENT  PROTECT  PROMOTE
abuse/neglect clients dignity

FACILITATOR GUIDE

Developed by:

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<https://uwosh.edu/ccdet/caregiver-home/>

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Introduction

No matter where we live, we all are guaranteed certain freedom and rights under federal and state laws. Clients receiving services in any Wisconsin Department of Health Services, Division of Quality Assurance provider setting are guaranteed additional rights because of physical or cognitive limitations. These include rights related to treatment, records access, communication, and privacy.

Honoring client rights helps caregivers and providers:

- Provide a high standard of care
- Avoid allegations of misconduct
- Avoid citations and other penalties
- Remind us of the humanity with which we must treat others

[This training recognizes that facilitators and attendees may represent any DQA-regulated healthcare, homecare or residential care provider and may use different terms to refer to their provider type; to the individuals receiving care, treatment, or services; and to the individuals providing care, treatment, or services.

- *For this training, the term “provider” or “provider type” is used to refer to any DQA-regulated provider, entity, or facility.*
- *The terms “client” or “resident” are used to represent any person receiving care, treatment and/or services from any provider in a facility or in their own home.*
- *The terms “caregiver” or “staff” are used to represent any individual employed by or under contract with the provider.*

Facilitators may wish to change the language to be appropriate to the setting in which they are presenting this information.]

Learning Points

Let’s review the main learning points:

- Consider the definition of home from a client’s perspective
- Identify the rights of clients under the law
- Explore common violations of client rights
- Learn effective techniques to safeguard client rights
- Recognize resources provided by the Ombudsman program

What is Home?

[Make 2 columns on a flip chart. Ask participants to define what home means to them. Write the responses in the first column. Then ask participants how they feel clients in their setting would define home. Write those responses in the second column. Compare the two responses from the participant perspective of home and the client's perspective of home. Are they very different? The purpose of this activity is to help participants see that home is not just a place and that home is where we want to feel safe, comfortable and loved.]



Home has different meanings to many people. Home is typically described as a place where we live. Some of us may have had many places we've considered home over our lifetime. Our childhood home; our first apartment; or a home we've lived with our spouse, children, and pets. Sometimes the physical location of our home changes but we all seek a place where we feel safe. A place where we feel comfortable. A place where we feel we belong. A place where we can call home.

Consider how your clients might feel as they have services provided to them in their current home. People they don't know and maybe don't trust are coming into their home to provide personal cares. Will the caregivers remember to come? Will they treat me nicely? Will my personal items be safe? Further, consider when clients have to leave their long time home. A place where they've lived with their families, raised their children, knew their neighbors, entertained their friends. Now they've had to move to a new place where they live with strangers; where strangers are providing personal cares to them; a place where they may feel they don't have choices in their daily living and they've lost their quality of life as they once knew it. As caregivers, it's important that we consider what's important to clients in their home.

Review Client Rights

[This workshop is intended to apply to client and resident rights across a variety of health care settings. Although each provider type is governed by different rules and/or laws, the lists of client rights contain many similarities. In order to effectively facilitate this class, please review the specific statute/rule covering the provider type you are training, e.g., nursing home, CBRF, personal care agency, etc. A list of links to client and resident rights outlined in statute or rule is located at the end of this guide under Legal Resources, organized by provider type.]

[Provide each participant with the condensed client rights handout.]



The Client Rights handout is a condensed description of legal rights commonly found in laws and rules governing DQA regulated provider settings. Please review the handout briefly.

After looking at the list, can you say which right would be most important to you personally? Why?

[Using a flip chart or white board, list participant responses. This activity is a good way to help participants remember the rights, rather than just reading the list out loud. To spark conversation, you may need to offer an example of a right that feels most important to you and say why, briefly.]

Common Violations of Client Rights



Consider the examples listed below and think about the client right(s) that may be violated and how you might feel if you were the client. These examples demonstrate how violations of client rights can have negative, or even fatal, results on those in your care.

Activity: Examples of Violations

Please review each example below. Compare the incident to your condensed list of client rights. Using the space provided, write which right or rights did the example violate? Next think about how you would feel if this happened to you?

[Ask for volunteers to read an example out loud. Then ask the group which right(s) were violated. This activity helps participants remember client rights by reviewing the condensed list of rights again. Then ask the participants to volunteer their responses about how they think the client in the example would feel. Depending upon time, you may only want to use a few of these examples or change the provider setting in the example to match your setting. Also, depending upon your group size, you may want to break the group into smaller groups and assign one or two examples to each group and have them report out their responses.]

[NOTE: This facilitator guide contains suggested responses to each example. The participant guide contains only blank lines for participants to write answers. There may be more than one correct response to each question. This activity is more about having participants increase awareness of client rights, not as much about “right” or “wrong” responses.]

Example #1:

May lives in her own home and has personal care services to provide assistance with showering, medication set up, and meal prep. A caregiver comes to May's home each day to prepare her evening meal and provide clean up. May has always enjoyed a cocktail before dinner and this is known by May's physician. Edna is one of May's caregivers and does not believe in alcohol consumption. On the evenings that Edna is scheduled to assist May, she refuses to make May her cocktail before dinner.

Right(s) violated: _____

[Sample responses: self-determination; be treated with dignity and respect]

If you were May, how would you feel? _____

Example #2:

Bobby resides in an in-patient mental health treatment facility. Bobby likes to get up at night and visit with the caregiver on duty. Bobby can be very demanding of the caregiver's time which prevents the caregiver from completing their nightly assignments. A practice among the night-time caregivers is to tie Bobby's bedroom doorknob to the closet doorknob across the hall; preventing Bobby from leaving his room.

Right(s) violated: _____

[Sample responses: freedom from seclusion; freedom from physical restraints; least restrictive: safe environment; be treated with courtesy and respect]

If you were Bobby, how would you feel? _____

Example #3:

Sylvia lives in a community-based residential facility. Sylvia sometimes becomes agitated at night and has been prescribed a PRN medication for anxiety during these

times. Caregivers give Sylvia the medication nightly because they find that she is easier to deal with.

Right(s) violated: _____

[Sample responses: freedom from chemical restraint; receive medication, prompt and adequate treatment; freedom from mistreatment (neglect)]

If you were Sylvia, how would you feel? _____

Example #4:

During a recent hospital stay, a nurse aide assisted Ed to the bathroom. Ed was expecting visitors and asked that the bathroom door be closed while he was toileting in case his visitors arrived. The nurse aide told Ed no and left the door open. Ed’s visitors arrived to a foul smell and observed Ed on the toilet.

Right(s) violated: _____

[Sample responses: treated with courtesy and respect; physical and emotional privacy]

If you were Ed, how would you feel? _____

Example #5

Santiago has mild dementia and lives in a nursing home. He has irritable bowel syndrome (IBS) and many times is incontinent of bowel. Caregivers often times leave Santiago in soiled briefs because they feel he can control his bowel movements and soils himself to get attention. One caregiver in particular tells Santiago that he smells and is disgusting.

Right(s) violated: _____

[Sample responses: freedom from mistreatment (neglect and mental abuse); receive prompt/adequate/appropriate treatment]

If you were Santiago, how would you feel? _____

Example #6

Ken resides in an Adult Family Home. He requires assistance with showering and other personal cares. The caregivers have reported to the owner that the shower chair has a broken leg that causes the chair to be wobbly; however, the owner has not done anything about it. Caregivers take extra care to try to steady the chair when assisting clients with showers. During Ken’s last shower, the shower chair tipped over, causing Ken to hit his head on the tile floor. He suffered a large cut and a concussion and was taken to the hospital.

Right(s) violated: _____

[Sample responses: freedom from mistreatment (neglect) and potentially abuse (owner knowingly allowed use of the broken shower chair); safe environment]

If you were Ken, how would you feel? _____

Example #7

Samantha receives out-patient substance use disorder (SUD) treatment from a local provider. Samantha is the daughter of a prominent business leader in the community. The staff person who checks clients in and out for their appointments has taken a picture of Samantha leaving the office and has shown it to her friends, stating “You won’t believe who is coming to the clinic!”

Right(s) violated: _____

[Sample responses: be treated with courtesy and respect; no recording, filming, photographing; confidentiality; physical and emotional privacy]

If you were Samantha, how would you feel? _____

Thinking about the examples we just reviewed, why do you think client rights are sometimes ignored or violated?

[Ask participants to volunteer responses and write them on a flip chart or white board for all to see. To increase participation, you may also ask if anyone would like to volunteer to do the recording on the flip chart.]

[Possible responses are listed below. Please incorporate these responses if participants don't think of them:

- *Lack of awareness of client rights by clients/residents, caregivers, family members, facility administrators*
- *Loss of empathy or sensitivity to the plight of disabled, elderly, ill clients by caregivers and others*
- *Facility staffing shortages*
- *Lack of effective, person-centered approaches to challenging situations*
- *Poor or incomplete individual service plans (ISPs)*
- *Treating clients as children, not adults*
- *Lack of adequate training and/or education]*

Activity: Rewind: What Could Be Done Differently?

[Briefly review each of the examples with the participants and ask what the caregiver/employee in each example could have done differently to avoid violating client's rights.]

Example #1 – May: _____

[Suggested responses: Although the caregiver does not agree with May’s alcohol consumption, she needs to recognize May’s right to self-determination and her long-time routine of having a nightly cocktail.]

Example #2 – Bobby: _____

[Suggested responses: The caregivers could talk to their supervisor about Bobby’s desire for company at night and come up with suggestions to include him in some activity or have him assist the caregivers (as appropriate).]

Example #3 – Sylvia: _____

[Suggested responses: The supervisor should be aware of the PRN medication being given to Sylvia on a nightly basis and question staff as to this practice. If Sylvia is agitated on a nightly basis, caregivers need to report this to her doctor who may change Sylvia’s dosage from a PRN to a routine medication.]

Example #4 – Ed: _____

[Suggested responses: The nurse aide needs to recognize patient’s privacy and dignity. If there was a reason the door needed to remain open, the nurse aide should have explained that to Ed and kept his visitors away until he was finished toileting.]

Example #5 – Santiago: _____

[Suggested Responses: Caregivers need to have a better understanding and increased empathy of Santiago’s medical condition and his need for increased continence care.]

Example #6 – Ken: _____

[Suggested responses: The owner of the provider setting needs to promptly respond to reports of broken or unsafe equipment. Caregivers could document their attempts to let the provider know of the unsafe situation with the shower chair in order to show the provider’s knowledge of the situation.]

Example #7 – Samantha: _____

[Suggested Responses: The clinic setting should have a policy regarding use of personal cell phones while in the office.]

[NOTE: In each of these examples, retraining of the caregiver/employee in client and resident rights is needed.]

Effective Techniques to Honor Client Rights



Now that we have reviewed the rights of clients and learned more about violations, let’s talk about how best to safeguard those rights. Think about some techniques or best practices that would help ensure that client rights are honored every day in your facility. Take a moment to jot down your thoughts.

[Ask participants to volunteer responses. Again, post them on a flip chart or white board. Suggested responses:

- *Post client and resident rights in the provider setting*
- *Ensure that client, residents, family members, caregivers, managers are aware of the rights*
- *Ensure that caregivers have received the correct training for tasks they are performing. E.g., Medication Administration training in CBRFs*

- *If you see something, say something. Report anything that just doesn't feel right to a supervisor or manager.*
- *"Walk a mile in their shoes." Stress empathy and respect for clients. Ask yourself, "How would I feel if I were treated like that?"*
- *Make sure that care plans/ISPs are up to date and offer effective strategies that are personalized for the client*
- *Learn more about the client's life history which helps to see the person as an adult with a lifetime's worth of experience, wisdom, relationships, etc. Don't just "see the illness."]*

The Ombudsman Program – Board on Aging and Long Term Care

What is an "Ombudsman?" The word Ombudsman (Om-budz-man) is Scandinavian. In North America this has come to mean "helper," advocate or "voice of the people."

A Long Term Care Ombudsman works with individuals and their families to protect and promote the rights of long term care consumers, while also working with long term care service providers to define and achieve the highest standards possible.

It is the philosophy of the Ombudsman Program of the Board on Aging and Long Term Care that all clients, including those with activated powers of attorney and/or guardians, have the right to participate, to whatever extent they may be capable, in all decisions impacting their choices, care, safety and well-being.

-Used with permission: WI Board on Aging and Long-Term Care
<https://longtermcare.wi.gov/Pages/Ombudsman.aspx>

DQA regulated nursing homes and assisted living facilities are encouraged to include their regional Ombudsman in assisting a client or resident or their family regarding concerns with care or treatment. In addition, volunteer Ombudsman make unannounced visits to DQA regulated nursing homes to interact with staff and residents and help respond to any concerns reported by residents by working with designated nursing home staff for resolution.

Thoughts on Rights, Respect and Response from the Ombudsman

- Recognize rights, expectations, point of view of both the resident and yours.
- Request information about satisfaction and expectations for concerns large or small. Don't wait for a concern to emerge before asking.
- Respond. Listen more than talk. Be objective and consider other's point of view.
- Resolve. Collaborate on a resolution. Consider dignity of risk and act when action is required.
- Resources. Know who or what else may be available to achieve resolution. Don't be afraid to reach out. Call an Ombudsman.
- Reflect. Check back more than once to make sure the resolution is the right one.

-Used with permission: WI Board on Aging and Long-Term Care
<https://longtermcare.wi.gov/Pages/Ombudsman.aspx>

Learning Points Review

The learning points represent the main ideas we hoped to cover today:

- Consider the definition of home from a client's perspective
- Identify the rights of clients under the law
- Explore common violations of client rights
- Learn effective techniques to safeguard client rights
- Recognize resources provided by the Ombudsman program

[Point out how each part of the training covered the learning points. For example, the handout helped identify client rights under the law. Thank participants for attending. Ask if there are any questions. If you wish, seek input on the training via (your own) training evaluations.]

Legal Resources for Resident/Patient/Client Rights

Wisconsin Statutes

s.50.09, WI stats, Rights of residents in certain facilities (CBRF, Nursing Home, FDD)
<http://docs.legis.wisconsin.gov/statutes/statutes/50/1/09>

s.51.61, WI stats, Patient rights of certain persons receiving services for mental illness, developmental disabilities, alcoholism or drug dependency
<http://docs.legis.wisconsin.gov/statutes/statutes/51/61>

Wisconsin Administrative Code

The organization of administrative code (rules) on the website below changes frequently. The best way to locate a section of specific Administrative Code is to:

- 1) Go to: <https://www.dhs.wisconsin.gov/dqa/index.htm>
- 2) In the left corner of the page, click on Regulation of Health and Residential Care Providers: <https://www.dhs.wisconsin.gov/regulations/health-residential.htm>
- 3) Click on desired provider type under Provider Types

Listed below are specific sections of administrative code that refer to resident rights in settings regulated by DQA. Use this list in your searches that are outlined above.

DHS 83.32 Rights of residents (CBRF)

DHS 88.10 Resident rights (Adult Family Home)

DHS 89.34 Rights of tenants (Residential Care Apartment Complex)

DHS 94.05 Subchapter II Patient Rights (Community Substance Abuse Standards)

DHS 105.17(1w)(b) Information to provide to the client (Personal Care Agency)

DHS 124.05(3)(a) Patient Rights and Responsibilities (Hospital)

DHS 131.19 Patient rights (Hospice)

DHS 132.31 Rights of Residents (Nursing Home)

DHS 133.08 Patient rights (Home Health Agency)

DHS 134.31 Rights of Residents (FDD)

The Board on Aging and Long Term Care – Ombudsman Program
<http://longtermcare.wi.gov>

Training Materials Checklist

[For this training, you will need:]

- *Laptop computer (recommended)*
- *MS PowerPoint (PPT Viewer can be downloaded for free at Microsoft.com)*
- *LCD Projector (recommended)*
- *Screen for viewing the PPT (recommended)*
- *Flip chart and markers*
- *Printed Participant Guides*
- *Examples of Resident Rights Handout (one per participant)*
- *Pens or pencils*
- *Evaluation (optional)*
- *Certificate of completion (optional)*

[Note: It is recommended that the PPT be viewed using an LCD projector. If that option is not available, the PPT may be downloaded and printed as a handout.]