



BOARD ON

AGING &
LONG TERM CARE

Balancing Privacy & Protection: Video and Audio Monitoring & Communication Devices

State of Wisconsin Board on Aging and Long Term Care



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.

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Rights of Residents

Residents living in long-term care settings have the same rights as persons living in any community, plus additional protections related to their status as living in a long-term care setting.

These rights relate particularly to freedoms from abuse, neglect and exploitation, and the entitlement to quality, individualized care and treatment.

Monitoring Devices & Rights

State and federal laws offer residents of long-term care settings specific rights to privacy in managing a resident's property, health care, and living arrangements, including relationships.

- Privacy in receiving care, medical service, counseling
- Privacy in receiving and sending mail, including email, text messages and other electronic communications
- Privacy in visits, phone calls and communications with others, including when in groups such as a resident council meeting
- Privacy to speak with an advocate, regulator, physician, or any other individual who may assist with resolving concerns, and arranging for legal, financial or medical services

State Laws & Guidelines Regarding Privacy Rights & Monitoring Devices

- Media reports have portrayed instances where abuse has been captured on a camera or monitoring device, leading some states to propose rules for how such devices are managed in nursing homes.
- As of 2025, Illinois, Kansas, Louisiana, Minnesota, Missouri, New Jersey, New Mexico, Ohio, Oklahoma, Texas, Utah, Virginia and Washington have proposed or enacted laws that permit the installation of cameras in residents' rooms.
- Resident and room-mate consent is a typical requirement for installation.
- Some states such as Maryland, have issued “guidelines” to direct the conversation around device use, consent and accountability.

State Law Components*

- Written notices to various entities (survey agency, primarily) by the nursing home.
- Cannot involuntarily discharge or decline to admit based on device use.
- Require posting of device use in surrounding areas, resident bedroom doors.
- Law includes description of tampering with devices as being a criminal act.
- Inability to alter or intercept any image or recording without resident consent.
- Recordings admissible as evidence in criminal or civil proceedings.

Source: Oklahoma Nursing Home Care Act

State Law Resident & Decision-Maker Powers & Limitations*

- Requires written consent from both the resident and roommate before installing the device.
 - Roommate can designate limitations
 - Roommate can deny use, and resident requesting the device may be offered a room change
- Requires written notice to the facility of the use of the device before installing.
- Installer assumes responsibility for all costs and liabilities.
- Requires posting of device use on the resident's bedroom door.

Source: Oklahoma Nursing Home Care Act

Why Are Electronic Devices Used?

From a resident's perspective:

- “Alexa” often provides music, news, weather, even a joke at a touch or voice command.
- Listening devices can offer a desired immediate (virtual) connection to family or friends.
- May provide some sense of security, “a quicker response than a call light.”
- Some devices might turn lights or TVs on/off, make a call that residents might otherwise wait for a staff to assist with.
- Sometimes combined with AI, and using devices such as smart watches, some settings now use electronic devices to remind persons in rehab to come to therapy or walk a prescribed number of steps.

Why Are Electronic Devices Used?

From a family member's or other's perspective:

- Lack of trust in caregivers or systems
- Past negative experience with a LTC or caregiving setting
- Prior use in other ways (able to watch kids, pets in home or day care settings)
- Intention to provide direction to the resident from afar (time to take meds, go to bed)
- Alert if the resident gets out of bed or exits a room
- Perceived proof of allegations of abuse, neglect or theft
- Control
- Intentional identity theft, abuse or exploitation

Initial Findings from Oklahoma

- Deterrence of incidents of abuse, irrefutable evidence for law enforcement
- Findings of obstruction against some facilities
- Residents report feelings of safety and security, feeling empowered
- Residents also report concerns about personal privacy, concerns with disagreements/retaliation with/from staff and family members of differing views
- For residents with dementia, some increased challenges described as paranoia, exacerbated auditory hallucinations
- *Incomplete data as to whether the use of electronic devices contributed to lower incidents of abuse, neglect or exploitation*

Monitoring Devices – Potential Resident Impacts

Risks and benefits of audio and video devices are dependent upon perspective:

- Security, social and community connection, immediate virtual access to family & friends
- Potential invasion of privacy when unable to consent
- Can impact privacy in intimacy (personal care, emotions, intimate or personal relationships)
- Possible vehicle for abuse when used to observe personal care, sexual expression
- Perceived loss of privacy and personal control over the most intimate moments and care
- Lack of acknowledgement for former preferences about being filmed, having images shared in ways the resident does not control
- Potential for increased disorientation, dis-ease with “random voices” with no presence of a person

Monitoring Devices – Potential Staff Impacts

- Depending on approach and reason for use, could lead to strained relationships between residents, decision-makers and staff. Some staff report feeling as though they're not trusted.
- Staff report feeling that their privacy is also at risk.
- Some report feeling more prone to make mistakes due to feeling as though they're being watched.
- CNAs or resident assistants report feeling a lack of support by supervisors or the home's leadership staff.

Monitoring Devices – Use With Caution & Permission

Questions to ask and things to remember:

- “Nothing about me without me.” Please don’t leave the resident out of the discussion or the decision, and be mindful to avoid anyone trying to influence the resident’s decision – good opportunity to call the ombudsman.
- What does the resident want?
- Nevers: never in a bathroom, never aimed at an unclothed resident, never during personal care, never when a resident says no, and other “nevers” determined by the resident.

Monitoring Devices – Use With Caution & Permission

More questions to ask, and things to remember:

- If used without the resident's control, terms of use must be defined: time and place-limited, frequently evaluated from the resident's point of view.
- Know who will have access to tapes, streams, and how controls will be managed to protect from unwanted or unauthorized “hacking,” public viewing such as on social media.
- Inform room-mates, visitors and others if a device is to be used and address concerns.
- Recommend the use of signage to inform others that monitoring devices are in use.

Ongoing Discussion

- **What's the “why” behind the request for device use?**
- Monitoring devices should always be a resident benefit, never a substitute for personal visits and engagement.
- Monitoring devices should never replace a person who is vigilant and care that is individualized and caring.
- Conversations about device use should be continuous, and with all involved.
- Monitoring device use should be a part of new staff onboarding, including when agency staff are used, so rights and responsibilities are clear.
- Engage the ombudsman if communications aren't clear, or if discussions might need a facilitator, potentially, with the resident's permission.

Summary

A nursing home or assisted living community is home to the people who live there. As part of the conversation, ask: Do you have listening or video devices in your home that you don't control? Can others watch you or listen to you without your permission or control? If you do use these devices, for what purposes do you use them? What's your "why?"

Assess:

- Reason(s) for use, risks and benefits from all perspectives, with the emphasis on that of the resident. What does the resident understand about the intended use of the device(s), if the request for use isn't the resident's?
- The resident's personal history and preferences regarding photographs, shared images, social media. What is the resident's risk awareness, and does she or he find the risks to be acceptable?
- The resident's relationship with those requesting the monitoring device.
- If the use is about lack of trust or care concerns, what alternatives might there be to installing video or audio devices?

Resources

- Board on Aging and Long Term Care Ombudsman Program
800-815-0015 / <http://longtermcare.wi.gov>
 - **Use of Electronic Monitoring Devices and Recording Devices in Long-Term Care Settings** {A provider resource regarding rights and privacy}
 - **Determining Privacy & Protection: Use of Electronic Monitoring and Recording Devices in Long Term Care Settings** {A resident resource for talking with residents and families about the use of electronic devices}
- Disability Rights Wisconsin - www.disabilityrightswi.org
- Guardianship Support Center
(855) 409-9410 / guardian@gwaar.org
- “Balancing Privacy & Protection: Surveillance Cameras in Nursing home Residents’ Rooms,” The Consumer Voice
<https://ltcombudsman.org/uploads/files/issues/cv-ncea-surveillance-factsheet-web.pdf>

Resources

- “A Process for Care Planning for Resident Choice,” Rothschild Person-Centered Care Planning Task Force
<https://www.pioneernetwork.net/wp-content/uploads/2016/10/Process-for-Care-Planning-for-Resident-Choice-.pdf>
- “Protecting Resident Privacy and Prohibiting Mental Abuse Related to Photographs and Audio/Video Recordings by Nursing Home Staff,” CMS Memo S&C: 16-33-NH
www.cms.gov/medicare/provider-enrollment-and-certification/surveycertificationgeninfo/downloads/survey-and-cert-letter-16-33.pdf
- Wire, electronic, or oral communications & privacy: Wis. Stats. §§ 968.31, 942.08, 942.09

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