

Welcome to the 2013 Annual Long-Term Care Provider Meeting

The Section for Long-Term Care Regulation
presents...



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Risky Business- Honoring Controversial Resident Choices

Alcohol and Smoking

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HAPPY HOUR – CAN YOU KEEP IT HAPPY AND SAFE?



Does this scene look enjoyable to you? What if someone told you that you are “NOT ALLOWED” to have a glass of wine with your meal?

Alcohol consumption by adults 21 years old or older is legal in the United States

- **It is the resident’s choice if they would like to have an alcoholic beverage. They have the same rights as all of us, as US citizens!**
- Keep in mind that all homes are required, as employers, to ensure alcohol is not accessible to minors. Homes do have employees under the age of 21.



An administrator asked...

"I am working on a policy for the serving of alcoholic beverages to the resident who would like to have a beer, glass of wine or whiskey, etc. I am looking for a policy that would also work for having a happy hour activity."

What should homes consider when developing an alcohol policy?

- Some homes already have policies in place regarding alcohol consumption:
 - Some assess each individual resident on a case-by-case basis.
 - Some require physicians' orders.
 - Some have strict policies that absolutely forbid the use of alcohol.

Developing a policy

- Each individual's circumstances are so unique that it is inappropriate to apply a blanket policy for all residents, including requiring physicians' orders.
- It is not appropriate to create unnecessary policies that restrict residents self-determination. Each resident should be **individually assessed** to determine whether or not they can safely consume alcohol.
- **19 CSR 30-88.010 Residents Rights (41)** *"Residents shall not have their personal lives regulated or controlled beyond reasonable adherence to meal schedules and other written policies which may be **necessary** for the orderly management of the facility and the personal safety of the residents."*
 - The key word is "necessary."
- *F151 Exercise of Rights*
- *F241 Dignity, 19 CSR 30-88.010 (29)*

Developing a policy

- Policies should not be based on the provider's personal preferences or views, or for staff convenience.
- It is the home's responsibility to assess the risk to the individual and to others who might be impacted by the choice.
- As with any choice, the individual should be informed of the risk and allowed to make his/her own informed choice.
- The home should honor the individual's choice.
- The home should put interventions in place to mitigate risks associated with the choice. Alcohol consumption should not be an issue, unless there are extenuating circumstances which create a serious risk for a particular individual.
- The home should determine if there is a realistic risk of harm, without unduly regulating the individuals life.

Developing a policy

Individualized Assessments = Individualized Care =
QUALITY OF LIFE



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Developing a policy

- Residents should not be required to have a physician's order, supervision, or documentation for them to do something that they would have normally done in their own home. However, a resident's specific medical condition may need special consideration.
- You may need to have a physician's order if alcohol and medication contraindications are likely.
- A medication review is required. What specific medications might not be compatible with alcohol consumption?
- Many medications have side-effects that could increase with alcohol consumption.
- The resident must be informed and understand any risks associated with contraindications.

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F323 Accidents

For various reasons, residents are exposed to some potential for harm. Although hazards should not be ignored, there are varying degrees of potential for harm. It is reasonable to accept some risks as a trade off for the potential benefits, such as maintaining dignity, self-determination, and control over one's daily life. The facility's challenge is to balance protecting the resident's right to make choices and the facility's responsibility to comply with all regulations.

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F323 Accidents

Consent by resident or responsible party alone does not relieve the provider of its responsibility to assure the health, safety, and welfare of its residents, including protecting them from avoidable accidents.

The regulations hold the facility ultimately accountable for the resident's care and safety. Verbal consent or signed consent forms do not eliminate a facility's responsibility to protect a resident from an avoidable accident.

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Scenario One: A resident's social network



- A man that was moving into a nursing home asked to be “allowed” to bring his liquor cabinet along. He wanted to keep it in his room.
- *The home searched for a regulation to deny this request. There was not a regulation.*

Scenario One: A resident's social network

- The man wanted to bring the cabinet along to maintain his normal way of life. He frequently had friends that would stop by and he would offer them a drink.
- It was not about drinking in excess or alcoholism, it was simply part of his social network. He wanted his friends to continue to visit him in his new home.
- Ultimately, the resident moved in with his cabinet – and come to find out- it was a sentimental family heirloom!

Scenario Two: A resident's life at risk

- The home's alcohol policy was: "Drinking is not allowed, *but as long as the resident is not on the premises, it is ok.*"
- Three residents left the home unassisted and without staff knowledge. One of the three residents consumed excessive amounts of alcohol.

Scenario Two: A resident's life at risk

- This resident ended up being hospitalized. The ER documented the resident was brought to the ER because he/she was intoxicated. Symptoms included an altered mental status. The resident yelled, cursed and was verbally aggressive, making threats to hospital security.
- Lab analysis showed the resident's blood alcohol concentration (BAC) was 0.314. A physician stated consuming excessive amounts of alcohol could have caused the resident to have seizures, when mixed with the resident's prescribed medications. It was noted an ethanol level of 400 mg. could cause coma or death. This resident's life was in danger and he/she could have experienced seizures or brain damage.

Scenario Two: A resident's life at risk

- The home's policy of ***“but as long as the resident is not on the premises, it is ok.”*** was a poor choice. The residents left the home, so that they could drink alcohol.
- Staff failed to provide protective oversight of their residents. The home was issued a Class I citation under *19 CSR 30-86.043, Protective oversight and supervision.*

An administrator asked...



“Do you have any documentation or suggestions to help assist us in updating our smoking policy for the residents? We want to comply with culture change as well as safety for our residents.”

Smoking is a major health risk! ...Shouldn't we have a "no smoking" policy?

- Most people, including your residents, are aware of the health risks of smoking.
- This is a personal choice.



Smoking could cause a fire in our home! ...Shouldn't we have a "no smoking" policy?

For residents who do smoke, it is imperative that your home consider the amount and level of supervision the resident may need for this activity and other considerations, such as a resident that smokes and who uses oxygen, that would require additional precautionary measures to be taken.

Cases involving fires in homes are sometimes caused by a lack of oversight. Residents with deficits or recent changes in memory and/or judgment need to be assessed to determine how much supervision they will require when smoking.



F242 Self-Determination and Participation

- *The intent of this requirement is to specify that the facility must create an environment that is respectful of the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life. **For example, if a facility changes its policy and prohibits smoking, it must allow current residents who smoke to continue smoking in an area that maintains the quality of life for these residents.***

Quality of Life

- *F240; The intention of the quality of life requirements is to specify the facility's responsibilities toward creating and sustaining an environment that humanizes and individualizes each resident. Compliance decisions here are driven by the quality of life each resident experiences.*
- *F246; If the facility has outdoor smoking areas, how have they accommodated residents when the weather is inclement?*
- **State and Federal Laws do permit smoking indoors**

Assessment

- Each resident should be individually assessed to determine whether or not they can safely smoke without supervision.
- If a resident is NOT able to safely handle the materials and smoke unsupervised:
 - Include this information in the resident's plan of care.
 - Provide protective oversight and accommodate the resident as much as possible.
 - Ensure precautions are taken for the resident's individual safety, as well as the safety of others in the home
- Re-assessments are required for residents who have a change in condition.
- *F272, F274: Resident Assessment*

WAIT - What about residents on oxygen?

- Consider there are residents who are on oxygen who can be assessed as being able to smoke independently.
- Supervision required for residents who are on oxygen is simply that staff need to ensure that the resident doesn't forget to leave their oxygen out of the smoking area. Staff need to ensure that residents do not smoke near the oxygen - not necessarily supervise them while they smoke.
- Smoking by residents when oxygen is in use is prohibited

Regulatory References

- *F323: Accidents*
- *F324; Each resident receives adequate supervision and assistance devices to prevent accidents... Are residents who smoke properly supervised and monitored?*

Regulatory References

Life Safety Code K66: Smoking Requirements

Smoking regulations shall be adopted and shall include not less than the following provisions: NFPA 101; 18.7.4, 19.7.4

- Smoking shall be prohibited in any room, ward, or compartment where flammable liquids, combustible gases, or oxygen is used or stored in any other hazardous location, and such area shall be posted with signs that read NO SMOKING or shall be posted with the international symbol for no smoking.
- Smoking by patients classified as not responsible shall be prohibited, except when under direct supervision.
- Ash trays of noncombustible material and safe design shall be provided in all areas where smoking is permitted.
- And...

Regulatory References

- **Metal containers with self-closing cover devices into which ashtrays can be emptied are readily available to all areas where smoking is permitted.**



DO NOT USE

Regulatory References

- **19 CSR 30-85.022 (31) Smoking shall be permitted only in designated areas...(32) Designated smoking areas shall have ashtrays of noncombustible material and of safe design. The contents of ashtrays shall be disposed of properly in receptacles made of noncombustible material.**
- **19 CSR 30-86.022 (14) Smoking. (A) Smoking shall be permitted in designated areas only. Areas where smoking is permitted shall be designated as such and shall be supervised either directly or by a resident informing an employee of the facility that the area is being used for smoking. (B) Ashtrays shall be made of noncombustible material and safe design and shall be provided in all areas where smoking is permitted. (C) The contents of ashtrays shall be disposed of properly in receptacles made of noncombustible material.**

Safety, Danger & Risk

We know that human development and growth doesn't take place without taking risks.

- “Safety and danger are distributed along a continuum of risk that in large part varies according to an individual's abilities and judgment and environmental conditions at any given time.”
- “A person may decide that it's safe to walk around their neighborhood. The relative safety or danger depends on any given day on factors such as the time of day, weather, kind of neighborhood, orientation ability, gait and balance, vision, etc. of the person. This is true for a person at any age.”

Safety, Danger & Risk Continued

“Risk, a broad territory that lies between safety and danger, is relative to each person's competencies, and is an appraisal in the person's mind that is the product of an assessment of his/her ability to produce an outcome that is at least equal to or better than expected when they contemplate the action and its results.”

“The probability of a better or worse outcome than expected (our definition of risk) is not fixed. It is a variable depending on how well the risk taker appraises his/her ability to be safe and avoid danger that would cause grave harm.”

Safety, danger and risk: The environment as crucible for lifelong development

By [Dr. Judah Ronch](#) | Published: April 3, 2013

The Green House Project Blog: <http://blog.thegreenhouseproject.org/safety-danger-and-risk-the-environment-as-crucible-for-lifelong-development/>



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