Sex
Rights, Consent, and Abuse in the Nursing Home

Julie Myers, OSDH

Objectives

• Face ageism and reality
• Discuss sexuality in long term care residents
• Examine consent and policies
• Define sexual abuse
• Review reporting requirements
• Discuss equity
Video: Sex Among Nursing Home Residents Causes Concern
https://youtu.be/XI4VKZUar0
Sexuality in Long-Term Care

- The need for intimacy does not go away just because a person ages or enters a care facility
- This is a grey area that has no easy answers
- Having the discussion now can improve the quality of life and quality of care for long-term care residents

Video: Consent is for Old People, Too

https://www.youtube.com/watch?v=ldETVtgPfRE
Video: Consent is for Old People, Too
https://youtu.be/ldETvtxjR6E

Quick Facts

• About 2% of persons age 65 or older experienced sexual abuse
• Older victims are most often females over age 70 who are totally dependent or functioning at a poor level
• Older victims suffer more genital trauma from sexual assault than younger victims
Is It Abuse or Not?

Elderly Perpetration of Sexual Abuse

As with any population, sexual abuse can be

• Verbal
  – Sexual harassment
  – Unwanted flirting
• Physical
  – Unwanted sexual touching
Oklahoma Adult Protective Services Act

• Sexual Abuse Defined: O.S. 43A 10-103
  
a) oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object, or

B) for the purpose of sexual gratification, the touching, feeling or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult, or
Oklahoma Adult Protective Services Act

- Sexual Abuse Defined: O.S. 43A 10-103

  C) indecent exposure by a caretaker or other person providing services to the vulnerable adult;

- “Indecent exposure” means **forcing or requiring** a vulnerable adult to:
  - 1- **look upon** the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult, or
  - 2- **touch or feel the body or private parts of another**

Mandatory Reporting

**Title 43A 10-104**

- Who must Report? Persons required to make reports pursuant to this section shall include, but not be limited to:
  1. Physicians;
  2. Operators of emergency response vehicles and other medical professionals;
  3. Social workers and mental health professionals;
  4. Law enforcement officials;
  5. Staff of domestic violence programs;
  6. Long-term care facility personnel, and
  7. **Any person having reasonable cause to believe** that a vulnerable adult is suffering from abuse, neglect, or exploitation.
Reporting

• For every report of abuse or neglect, it is estimated that FIVE go unreported
• Sexual abuse faces even more barriers to reporting than physical abuse or misappropriation
  • STIGMA

Physical Signs of Sexual Abuse

• Physical injuries such as cuts or bruising in the area of the genitals
• New pain when seated or moving
• Sexually transmitted disease or infection
Behavioral Signs of Physical Abuse

- Unusual fear or anxiety, particularly in a specific place or when a specific person is nearby
- Depression, withdrawal, refusal to communicate
- Psychosomatic complaints: Men will most often complain of stomach aches, while women tend to complain of headaches

Behavioral Signs of Physical Abuse

- Changes in the way the individual shows affection, such as being touched, especially when this behavior is a sudden change or deviates from typical behavior
- Changes in sleep patterns, including nightmares or difficulty sleeping
Perpetration

- Perpetrators are likely to be paid or unpaid male caregivers

But can also be
- Other residents
- Resident’s own family members or visitors
- Visitors/Family of other residents

Intervening in Sexual Abuse

If you see or suspect sexual abuse
- Ensure that the victim is separated from the abuser and safe. Provide medical help if necessary.
- Follow your organization’s policy
  - Contact supervisor and authorities
  - Contact your local rape crisis center for assistance with SANE exams 1-800-522-7433 (Oklahoma Safeline)
Intervening in Sexual Abuse

Contact local law enforcement when appropriate – know your facility policy

- Do not disturb evidence
  - Bathing
  - Removing bedding
  - Wiping down surfaces

Creating a Safer Environment- Hiring

- Background checks
  - Prior sexual crimes including ‘low-level’ such as public indecency
  - Prior history of protective orders or restraining orders
Creating a Safer Environment
Supporting Staff

• Ensure that staff who experienced sexual abuse don’t come into contact with the abuser as much as possible.

• Provide supervisor support to intervene if a patient is behaving sexually inappropriately.

Creating a Safer Environment-Supporting staff

• Use a two person team approach
  – Provides a witness
  – Documentation is critical to protect staff and other residents from harm
Creating a Safer Environment
Social Norms

• “Be Nice” is a recipe for disaster
  – Watch for non-verbal signals of discomfort

• Consent is possible at any age – but not in all cognitive states

• Rights vs. Consent

Culture, Rights, Consent

• Less than 25% of nursing homes have policies on intimacy and sexual behavior

• AMDA White Paper “Capacity For Sexual Consent In Dementia In Long-term Care” Accessed 9/21/2016:
Video:
Sexuality: Guidelines and Respectful Approaches for Persons in Long Term Care
• https://youtu.be/JksjZ6rxNtl?t=1m55s
A Flexible Approach in Policy

• Consider “indicators” such as a loving relationship, the impact of ageism, risk and safety when developing policies regarding sexual relationships.

• “Taking this flexible, recommended approach can facilitate the development of policies and procedures that capture the resident/consumer voice, protect against harm and support safe sexual expression for individuals living in nursing homes.”


Resource


• Copyright protected so email them for permission if you want to use it verbatim
Test your Knowledge

• Are you required to report actual or even suspected abuse?

• Can you be fired for making a report?

• Can you lose your personal license and or certificate if you fail to report it?

Test your Knowledge

A care provider’s best protection:

✓ Clear policies

✓ Staff that know and practice the policies

✓ Prevention through hiring and conversation

✓ Discussing sexual activity at as part of the initial assessment and periodically
  – the resident
  – Family members
  – mental health providers
  – And your medical director
Creating a Safer Environment- Responding to Complaints

• Complaint policy
• Increase awareness of policy
  – Staff
  – Patients and families

Hotline:
1.800.747.8419

Questions?
State Long-Term-Care Ombudsman
William “Bill” Whited
405-521-6734
William.Whited@okdhs.org

CMP Fund Program
Julie Myers
405-271-5288
CMP@health.ok.gov
http://CMP.Health.ok.gov
If you are in an abusive relationship or have been sexually assaulted, or if you know someone who needs help, please call
OKLAHOMA SAFELINE Number: 1-800-522-SAFE (7233)

Questions regarding certification of domestic violence/sexual assault programs please contact: Margaret Goldman  405-522-0146

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<td>Family Shelter of Southern Oklahoma</td>
<td>Family Crisis &amp; Counseling Center, Inc.</td>
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<td>Crisis: (580)-436-3504</td>
<td>Southwest OK Community Action Group, Inc.</td>
<td>Crisis: 800-466-3805 (580)482-3800 Central Office: (580)482-5040 <a href="mailto:acmihouse@cableone.net">acmihouse@cableone.net</a></td>
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<tr>
<td>Office: (580)-436-6648</td>
<td><a href="mailto:fccada@sbcglobal.net">fccada@sbcglobal.net</a></td>
<td><a href="mailto:acmihouse@cableone.net">acmihouse@cableone.net</a></td>
<td>Crisis: (580) 226-6424 (580) 226-3750 <a href="mailto:thefamilyshelter@cableone.com">thefamilyshelter@cableone.com</a></td>
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<td>Action Associates, Inc.</td>
<td>Women’s Haven, Inc.</td>
<td>Crisis Control Center</td>
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<tr>
<td>Crisis: (800) 734-4117 (405) 222-1818</td>
<td>Crisis (918) 341-9400 (918) 341-1424</td>
<td>Crisis (580) 323-2604 Crisis (580) 323-0838</td>
<td>Crisis (877) 970-4357 Crisis (580) 252-4357</td>
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<td>Crisis: (580) 924-3030 (580) 924-3056</td>
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<td>Crisis: (580) 323-2604 M-F (580) 243-5913</td>
<td>Crisis: 800-966-7644 (580) 234-7581</td>
<td>Crisis: (918) 681-4250</td>
<td>Crisis: (800) 400-0883 (918) 542-1010</td>
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B. The Attorney General shall adopt and promulgate rules and standards for certification of batterers intervention and domestic violence programs and for private facilities and organizations which offer domestic and sexual assault services in this state. These facilities shall be known as “certified domestic violence shelters” or “certified domestic violence programs” or “certified sexual assault programs” or “certified treatment programs for batterers”, as applicable.

74 O.S. § 18p-6
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<td>Guymon</td>
<td>Northwest Domestic Crisis Services</td>
<td>(580) 338-7081, (580) 338-2780</td>
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<td>SOS For Families</td>
<td>(888) 286-3369, (580) 286-7533</td>
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<td>Family Shelter of Southern Oklahoma</td>
<td>(580) 276-2042</td>
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<td>McAlester McCare Center</td>
<td>(918) 423-0032</td>
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<td>大阪</td>
<td>(918) 276-2042</td>
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<td>Oklahoma City</td>
<td>(405) 236-0701 M-F</td>
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<td>Latino Community Development Agency</td>
<td>(405) 236-0701 M-F</td>
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<td>Domestic Violence Program of North Central OK</td>
<td>(405) 762-2873</td>
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<td>Women's Crisis Services</td>
<td>(800) 230-9799, (918) 647-9800</td>
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<td>Safenet Services</td>
<td>Help- In- Crisis</td>
<td>Day Spring Villa Women &amp; Children’s Shelter, Inc.</td>
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<td>Crisis: (888) 372-9400 (918) 825-0190</td>
<td>Crisis: (918) 775-3300</td>
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<td>Help- In- Crisis</td>
<td>Help In Crisis, Inc.</td>
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<td>Crisis: (800) 821-9953 (405) 273-9953</td>
<td>Crisis: (877) 810-5637 (918) 967-3277 (918) 967-2512</td>
<td>Crisis: (800) 624-3020 (405) 624-3020</td>
<td>Crisis: (800) 300-5321 (918) 456-0673</td>
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<td>Domestic Violence Intervention Services, Inc. 4300 S Harvard Ave</td>
<td>Community Crisis Center</td>
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<tr>
<td>Crisis (918) 585-3143</td>
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<td>(918)259-1945</td>
<td>Crisis: (888) 256-1215 (580) 256-1215</td>
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| www.sdvs.org     |                     |                        |                             |                             |

|                       |                     |                        |                             |                             |
APPENDIX A

ABUSE or INTIMACY Older Adult Sexuality

Aging does not mean a loss of sexual intimacy, but when an older adult is cognitively impaired (Alzheimer’s, dementia) it can be difficult to determine whether he/she is engaged in a healthy sexual relationship or is a victim of a sex crime. Older adults should be actively involved in the assessment process to protect their rights and choices.

1. **HAS A CRIME OCCURRED?**

Example: RAPE OR FORCED SEXUAL ACT BY A PERPETRATOR OF ANY AGE

Report to law enforcement immediately if a violation of the law is suspected. Each state has specific laws defining sex crimes.

2. **HAS SEXUAL ABUSE OCCURRED?**

Example: non-consensual sexual behavior between vulnerable older adults; no clear intention by perpetrator to commit sexual offense

FOLLOW REGULATORY REPORTING EVEN IF THERE IS NO VIOLATION OF A SPECIFIC LAW

3. **HAS INAPPROPRIATE SEXUAL ACTIVITY OCCURRED?**

Example: hyper-sexuality or poor impulse control in older adult with dementia intervention and care planning is required to prevent inappropriate conduct, even when a law or regulation has not been violated.

4. **HAS A REAL RELATIONSHIP OCCURRED?**

Example: sexual activity which appears to be consensual between older adults with cognitive or physical conditions

No intervention is required when older adult is able to express some evidence of consent to participate in a healthy relationship. Monitoring is advisable to ensure continued consent.

(From Hebrew Home at Riverdale Sexual Rights Program. Available at [www.hebrewhome.org](http://www.hebrewhome.org).)
APPENDIX B

ASSESSING CONSENT TO SEXUAL ACTIVITY IN OLDER ADULTS

1. **ABILITY TO EXPRESS CHOICES/CONSENT**

   **Ask:**
   - What are your wishes about this relationship?
   - Does your sexual partner make you happy?
   - Do you enjoy sexual contact?

   **Consider:**
   - Observations and non-verbal clues when older adult is unable to verbalize choices (facial expressions and body language)
   - Emotion and mood, before and after sexual contact

2. **ABILITY TO APPRECIATE SEXUAL ACTIVITY**

   **Ask:**
   - Do you know what it means to have sex?
   - What does it mean to you/your partner?
   - What would you do if you wanted it to stop?
   - What if your partner wanted it to stop? Consider:
     - Nature of the relationship (monogamous)
     - Emotion and mood, before and after sexual contact

3. **PERSONAL QUALITY OF LIFE CHOICES IN THE HERE AND NOW**

   **Ask:**
   - Was and is intimacy important in your life?
   - What are your social and companionship needs?
   - What brings happiness or fulfillment to your day? Consider:
     - Past and present relationships (including family)
     - Impact of cognitive impairment (not an automatic reason to deny relationship)
     - Privacy and intimacy rights
     - Responsibility to uphold older adults’ choices
     - Policies for staff education and practice
     - Impact of third party objectives or values on assessment process

(From The Weinberg Center and The Hebrew Home at Riverdale, Sexual Rights Policy. Available at www.hebrewhome.org.)
APPENDIX C

P. LICHTENBERG – SUGGESTIONS FOR ASSESSING SEXUAL CONSENT CAPACITY

1. Patient’s Awareness of the Relationship:
   a. Is the patient aware of who is initiating sexual contact?
   b. Does the patient believe that the other person is a spouse and, thus, acquiesces out of a delusional belief, or [is he/she] cognizant of the other’s identity and intent?
   c. Can the patient state what level of sexual intimacy [he/she] would be comfortable with?

2. Patient’s Ability to Avoid Exploitation:
   a. Is the behavior consistent with formerly held beliefs/values?
   b. Does the patient have the capacity to say no to uninvited sexual contact?

3. Patient’s Awareness of Potential Risks:
   a. Does the patient realize that this relationship may be time limited (placement on unit is temporary)?
   b. Can the patient describe how [he/she] will react when the relationship ends?