

Representative of direct care employees. A representative of direct care employees is an employee of the facility, or a third party authorized by direct care employees at the facility to provide expertise and input on behalf of the employees for the purposes of informing a facility assessment.

Sexual abuse is non-consensual sexual contact of any type with a resident.

Transfer and discharge includes movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement of a resident to a bed within the same certified facility.

F550

(Rev. 229; Issued: 04-25-25; Effective: 04-25-25; Implementation: 04-28-25)

§483.10(a) Resident Rights.

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility, including those specified in this section.

§483.10(a)(1) A facility must treat each resident with respect and dignity and care for each resident in a manner and in an environment that promotes maintenance or enhancement of his or her quality of life, recognizing each resident's individuality. The facility must protect and promote the rights of the resident.

§483.10(a)(2) The facility must provide equal access to quality care regardless of diagnosis, severity of condition, or payment source. A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the State plan for all residents regardless of payment source.

§483.10(b) Exercise of Rights.

The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

§483.10(b)(1) The facility must ensure that the resident can exercise his or her rights without interference, coercion, discrimination, or reprisal from the facility.

§483.10(b)(2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights and to be supported by the facility in the exercise of his or her rights as required under this subpart.

INTENT §483.10(a)-(b)(1)&(2)

All residents have rights guaranteed to them under Federal and State laws and regulations. This regulation is intended to lay the foundation for the resident rights requirements in long-term care

facilities. Each resident has the right to be treated with dignity and respect. All activities and interactions with residents by any staff, temporary agency staff or volunteers must focus on assisting the resident in maintaining and enhancing his or her self-esteem and self-worth and incorporating the resident's, goals, preferences, and choices. When providing care and services, staff must respect each resident's individuality, as well as honor and value their input.

GUIDANCE §483.10(a)-(b)(1)&(2)

Examples of treating residents with dignity and respect include, but are not limited to:

- Encouraging and assisting residents to dress in their own clothes, rather than hospital-type gowns, and appropriate footwear for the time of day and individual preferences;
- Placing labels on each resident's clothing in a way that is inconspicuous and respects his or her dignity (for example, placing labeling on the inside of shoes and clothing or using a color coding system);
- Promoting resident independence and dignity while dining, such as avoiding:
 - Daily use of disposable cutlery and dishware;
 - Bibs or clothing protectors instead of napkins (except by resident choice);
 - Staff standing over residents while assisting them to eat;
 - Staff interacting/conversing only with each other rather than with residents while assisting with meals;
- Protecting and valuing residents' private space (for example, knocking on doors and requesting permission before entering, closing doors as requested by the resident);
- Staff should address residents with the name or pronoun of the resident's choice, avoiding the use of labels for residents such as "feeders" or "walkers." Residents should not be excluded from conversations during activities or when care is being provided, nor should staff discuss residents in settings where others can overhear private or protected information or document in charts/electronic health records where others can see a resident's information;
- Refraining from practices demeaning to residents such as leaving urinary catheter bags uncovered, refusing to comply with a resident's request for bathroom assistance during meal times, and restricting residents from use of common areas open to the general public such as lobbies and restrooms, unless they are on transmission-based isolation precautions or are restricted according to their care planned needs.

Consider the resident's life style and personal choices identified through their assessment processes to obtain a picture of his or her individual needs and preferences.

Staff and volunteers must interact with residents in a manner that takes into account the physical limitations of the resident, assures communication, and maintains respect. For example, getting down to eye level with a resident who is sitting, maintaining eye contact when speaking with a resident with limited hearing, or utilizing a hearing amplification device when needed by a resident.

Pay close attention to resident or staff interactions that may represent deliberate actions to limit a resident's autonomy or choice. These actions may indicate abuse. See F600, Free from Abuse, for guidance.

The facility must not establish policies or practices that hamper, compel, treat differently, or retaliate against a resident for exercising his or her rights.

Justice Involved Residents

“Justice involved residents” includes the following three categories:

1. **Residents under the care of law enforcement:** Residents who have been taken into custody by law enforcement. Law enforcement includes local and state police, sheriffs, federal law enforcement agents, and other deputies charged with enforcing the law.
2. **Residents under community supervision:** Residents who are on parole, on probation, or required to conditions of ongoing supervision and treatment as an alternative to criminal prosecution by a court of law.
3. **Inmates of a public institution:** Residents currently in custody and held involuntarily through operation of law enforcement authorities in an institution, which is the responsibility of a governmental unit or over which a governmental unit exercises administrative control, such as state or federal prisons, local jails, detention facilities, or other penal settings (such as boot camps, wilderness camps).

Justice involved individuals are entitled to the same rights described in 42 CFR Part 483, Subpart B as all other residents residing in the facility. The facility shall not establish policies or impose conditions on the justice involved resident that result in restrictions which violate the resident's rights. Some Department of Corrections or law enforcement terms of release or placement may conflict with CMS requirements. If the facility accepts responsibility for enforcing restrictive law enforcement terms applied to a resident that are contrary to the Requirements for LTC Facilities, the facility would not be in compliance with federal long term care requirements. In addition, law enforcement jurisdictions may not be integrated with the operations of the facility.

While all portions of 42 CFR Part 483, Subpart B, apply to justice involved individuals, other areas where there may be concerns specific to this population are found at §483.12, F600, Abuse, Neglect, and Exploitation and §483.15(c), F622, Transfer and discharge. In such a case, surveyors should cite under the specific tag associated with the concern identified. For example,

if there is a concern about a facility restricting visitors of a justice involved individual, cite such deficiency under §483.10(f)(4)(vi), F564, Resident Right to Visitors.

See Survey & Certification Memorandum 16-21-ALL dated May 3, 2016 (Revised 12/23/16) for additional guidance on justice involved individuals.

PROCEDURES §483.10(a)-(b)(1)&(2)

Deficient practices cited under Resident rights tags may also have negative psychosocial outcomes for the resident. The survey team must consider the potential for both physical and psychosocial harm when determining the scope and severity of deficiencies related to dignity. Refer to the Psychosocial Outcome Severity Guide *located in the Survey Resources zip file located at <https://www.cms.gov/medicare/provider-enrollment-and-certification/guidanceforlawsandregulations/nursing-homes>*.

Surveyors shall make frequent observations on different shifts, units, floors or neighborhoods to watch interactions between and among residents and staff. If there are concerns that staff or others are not treating a resident with dignity or respect or are attempting to limit a resident's autonomy or freedom of choice, follow-up as appropriate by interviewing the resident, family, or resident representative.

- Observe if staff show respect for each resident and treat them as an individual.
- Do staff respond in a timely manner to the resident's requests for assistance?
- Do staff explain to the resident what care is being provided or where they are taking the resident? Is the resident's appearance consistent with his or her preferences and in a manner that maintains his or her dignity?
- Do staff know the resident's specific needs and preferences?
- Do staff make efforts to understand the preferences of those residents, who are not able to verbalize them, due to cognitive or physical limitations?

Determine if staff members respond to residents with cognitive impairments in a manner that facilitates communication and allows the resident the time to respond appropriately. For example, a resident with dementia may be attempting to exit the building with the intent to meet her/his children at the school bus. Walking with the resident without challenging or disputing the resident's intent and conversing with the resident about the desire (tell me about your children) may reassure the resident in a manner consistent with the requirements of §483.10(a) and (b).

Examples of noncompliance may include, but are not limited to:

- A resident has not been treated equally as compared to others based on his or her diagnosis, severity of condition, or payment source.