



policy break

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September 19, 2016

Unauthorized Photographs and Recordings of Nursing Home Residents: Impact on Right to Privacy and Freedom from Abuse New Guidance from CMS

The Consumer Voice is proud to introduce a new resource for our network: *Policy Breaks!*

***Policy Break* will update you on the latest policy developments in long-term care. So, take a break from what you're doing and read our very first *Policy Break* on protecting resident privacy and preventing mental abuse!**

On August 5, 2016, CMS's Center for Clinical Standards and Quality/Survey & Certification Group released a [memo](#) addressing the recent media reports about nursing home staff taking unauthorized photographs and video recordings of nursing home residents. Some of these photographs showed the resident in compromising positions. The photographs were subsequently posted on social media networks, including Facebook, Snapchat, and Instagram. Other photos were sent through text messaging multimedia services.

In the memo, CMS clearly outlined that "taking photographs or recordings of a resident and/or his/her private space without the resident's, or designated representative's, written consent, is a violation of the resident's right to privacy and confidentiality." Examples of this violation include "staff taking unauthorized photographs of a resident's room or furnishings (which may or may not include a resident), or a resident eating in the dining room, or a resident participating in an activity in the common area."

This guidance addresses staff actions and is issued in the context of resident abuse. CMS is sending a strong message that residents must be treated with dignity and respect in terms of their privacy and the privacy of their environment. By issuing this memo, CMS is reinforcing that resident dignity, confidentiality, and other rights could be violated in the taking and use of photos, videos, or other forms, and could potentially be considered abuse.

For more information, contact the Consumer Voice at:
www.theconsumervoice.org or info@theconsumervoice.org

It is important that all residents feel comfortable in their environments, especially when it concerns their privacy. Advocates can use this memo:

- as an opportunity to talk with their licensing and certification agency about the need to ensure that residents are protected from mental abuse and feel comfortable in their environments, especially when it concerns their privacy;
- in educating residents and family members about privacy rights;
- for in-service training with facility staff or with ombudsman volunteers