

Intimacy & Sexuality in Long Term Care: Recommendations for Addressing Resident Relationships

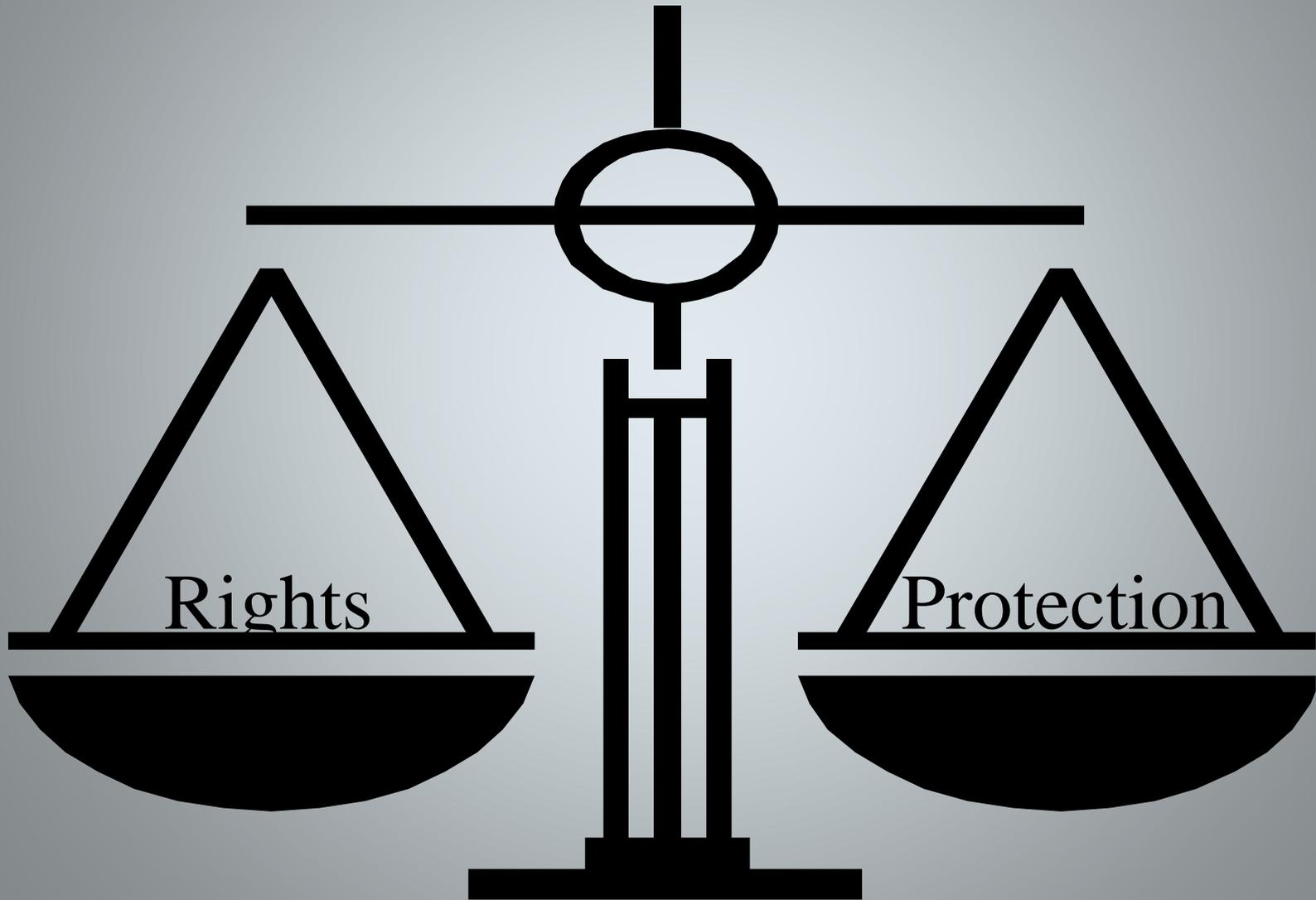


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State of Wisconsin
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Learning Objectives

- ‘De-myth’ sex as it relates to older adults and people with disabilities
- Distinguish what is sexual assault from consensual sex
- Understand assessment guidelines that are specific to a person’s ability to consent to sex
- Discuss sexuality in long-term care and everyone’s responsibility to...

Balance



Myths Associated with Sexuality of Older Adults or People with Disabilities

- They do not have sexual desires or healthy sexual relationships.
- They are unable to perform sexually.
- Any sexual activity among older adults or people with disabilities is awkward and embarrassing.
- They are fragile physically & might harm themselves or others.
- They are grateful for sexual contact.
- If they claim to be sexually active, they are fantasizing.
- Sex is for the young and healthy!

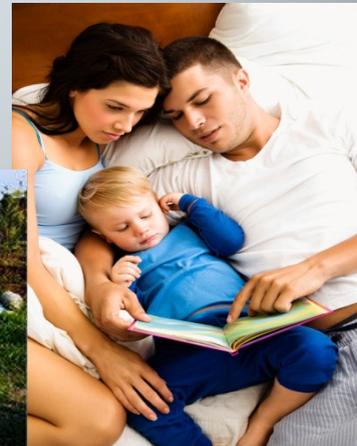




The reality is...

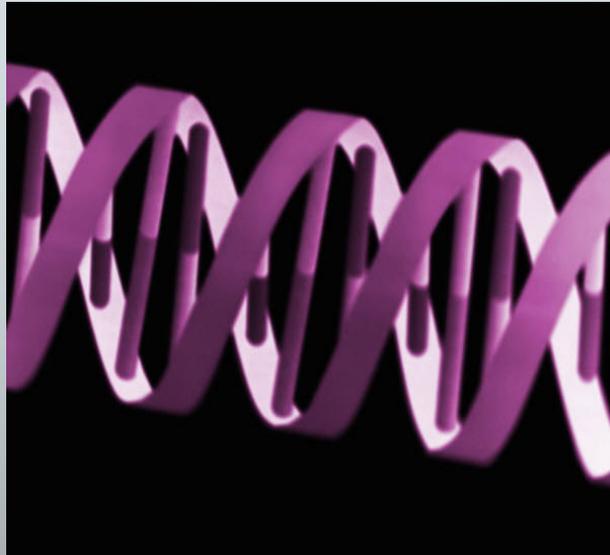
Sexuality is a total sensory experience, involving both mind and body.

Nature and Nurture both play a role.



Sexuality is shaped by a person's...

genetics



"GEN SILENT"



What would you do to survive if you were old, disabled and ill
- afraid of discrimination or abuse?

Gen Silent is a LGBTQ documentary from award-winning director and documentary filmmaker Stu Maddux that asks six LGBTQ seniors if they will hide their lives to survive.

They put a face on what experts in the film call an epidemic: gay, lesbian, bisexual or transgender seniors so afraid of discrimination, or worse, in long-term/health care that many go back into the closet.

And, their surprising decisions are captured through intimate access to their day-to-day lives over the course of a year in Boston, Massachusetts.

<https://www.youtube.com/watch?v=fV3O8qz6Y5g>

<http://stumaddux.com>



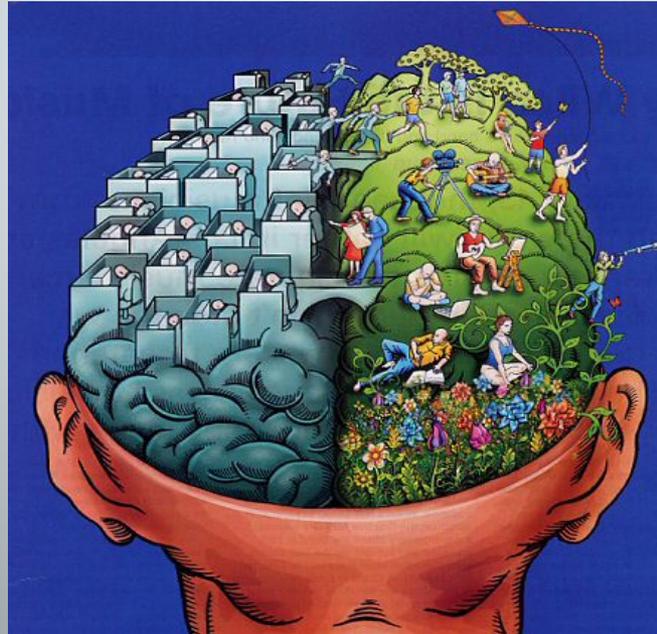
Perspectives of older adults and people with disabilities who are LGBTQ

- Potential to go back to living in secret
- Fear of not being accepted
- Fear of mistreatment
- Family ties may be severed
- LGBTQ elder may age alone
- SAGE and National LGBTQ Resource Aging Center are knowledgeable and sensitive resources



Sexuality is shaped by a person's...

personality



Sexuality is shaped by a person's...

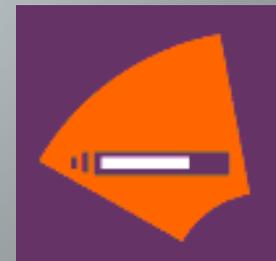
Spirituality

Values

Beliefs

Behaviors

Pop Culture



Everyone is an individual,
every situation is unique,
there is no one simple answer
or response to address instances
of intimacy or sex.



Intimacy:

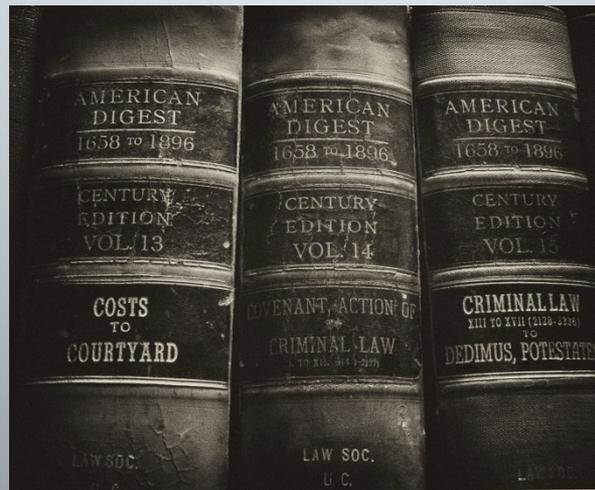
- Intimacy is affection, closeness, understanding, caring, tenderness
- Intimate relationships are important. People want to feel they belong, are valued and cared about by other people.
- Intimate relationships can be between two people of the same or different gender.
- Intimate expression may include holding hands, hugging, cuddling or kissing.
- Intimacy, for this discussion, does not include sexual contact.



Sexual Contact:

Includes intentional touching of intimate body parts, either directly or through clothing by the use of any body part or object, for the purpose of sexual arousal, gratification, degradation or humiliation.

Paraphrased from 940.225(5)(b)



Consent is...

- permission
- approval
- agreement
- acceptance
- voluntary
- understanding
- not forced

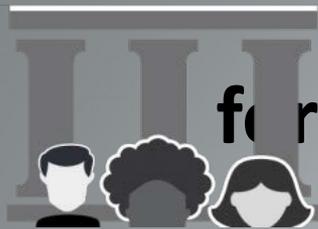


Random House Dictionary, © Random House, Inc. 2011

Merriam-Webster's Dictionary of Law, © 1996

Consent is NOT...

- Deferring to a Guardian, an Agent under an activated Health Care Power of Attorney and/or family member or friend
- Deferring to a physician or psychologist
- Deferring to caregivers and involved professionals
- Based on the person's actions or responses alone



WI Case Law provides Guidelines for determining a person's ability to consent to sex:

- The person understands the distinctively sexual nature of the conduct...the acts have a special status as “sexual.”
- The person understands that their body is private and that they have the right to refuse.
- The person understands there may be health risks associated with the sexual act.
- The person understands there may be negative societal response to the conduct.

Ability to consent is very complex and has basis in case law. This is a brief overview. A more detailed handout is available on the Ombudsman Program website at longtermcare.wi.gov.

Acts that are sexual assault, even with “consent”



- Adult having sexual contact with a child.
- Employee of a nursing home, CBRF, adult family home or a state treatment facility having sexual contact with a resident/patient.
- Any person who performs or claims to perform therapy including social workers, physicians, nurses, counselors or psychologists, having sexual contact with a client.
- Any person having sexual contact with someone whom they know is unconscious, who is physically unable to communicate a refusal, or who is under the influence of an intoxicant or is suffering from a mental illness or defect to the extent it impairs capacity to appraise personal conduct.

Remember...

- No person can make the decision for another person to have sex.
- Not family, not legal guardian, not an agent under a Power of Attorney.
- Sexual contact is personal—every person must be capable of deciding this for themselves.

Consent must be based on individual assessment.

Through the assessment process, the person reveals their ability or inability to consent to sex.



Assessment is...

- Knowing the person, current information and history
- Gathering Information
 - Making observations
 - Asking questions
 - Finding answers
- Analyzing information
- Never making assumptions
- Ongoing process



Guideline #1:

The person understands the distinctively sexual nature of the conduct...the acts have a special status as “sexual.”

Example Questions:

- Let's talk about your friends and what you enjoy doing together.
- Do you have any special friends that you are intimate/affectionate/sexually involved with?
- How do you feel about touch? Does a special friend touch you? How?
- Do you like being touched this way?
- Are you having sex with your friend?
- Where do you have sex?
- Does this offer you privacy?
- Do you understand what sexual contact means?

Guideline #2:

The person understands that their body is private and that they have the right to refuse.

Example Questions:

- Do you feel comfortable & safe living here? Why or why not?
- Anyone around here who makes you feel unsafe, uncomfortable?
- Has anyone ever hurt you? Can you talk about it?
- Did you tell them to stop?
- If you do not like something, how do you say no?
- Do you tell someone? Who?
- Do you understand you have the right to say no?

Guideline #3:

The person understands there may be health risks associated with sexual activity.

Example Questions:

- Do you have any health issues that limit your activity?
- What are they?
- How do they limit you?
- Is having sex a health concern for you?
- Do you know what a Sexually Transmitted Disease or Infection is?
- Do you know anyone with a STD or STI?
- Is pregnancy a concern?
- Has your partner shared her or his sexual history with you?

Guideline #4:

The person understands there may be negative societal response to the conduct.

Example Questions:

- Do you ever hear people talking about others unkindly?
- Does this concern you? Why?
- Have you ever been afraid people would talk about you?
- Have you noticed people being excluded from groups? Have you ever been excluded?
- Has anyone ever judged your behavior or choices? How did that make you feel?
- Do you have concerns that your family or friends would treat you differently because of this relationship? What are your concerns?
- Will you continue this relationship if your family and/or friends disapprove?

A consent assessment was conducted; information was gathered. It includes this person's history and current information, some of which was learned by making observations of everyday life and also through interviews. The next important step --

Analyze the information...



this means to examine something in great detail in order to understand it better or discover more about it

Remember, the goal of the assessment is to allow that person to reveal his or her ability or inability to consent to sex.

If it isn't clear, continue assessing. This important and complex personal issue requires a comprehensive, ongoing assessment.

Common Questions...

WHAT IF...?

- The person is married or has a life partner?
- The person has dementia? Or has a disability?
- The family insists the person can have sex? Or cannot have sex?
- The person looks happy when with his/her partner?
- The doctor has determined the person can have sex? Or cannot have sex?
- The person has a guardian or agent under a Power of Attorney?

Assessment is STILL necessary!

Why is assessing for consent important?

- Healthy relationships are critical to quality of life.
- There is a lack of definitive guidance in matters of sex in long-term care.
- The stereotypes and myths that exist regarding older adult sexuality are damaging.
- LTC providers often fear regulatory implications.
- There can be criminal implications if assessment is lacking.
- Sexuality is an emotionally charged, value based, private matter that our society often considers taboo when speaking of older or disabled adults.

Regulatory & Legal Safeguards

- Develop policies and procedures
 - Sexuality
 - Sexual harassment
 - Abuse
 - Investigation & Reporting
 - Rights
- Educate ALL staff on Sexuality, Diversity, Policies
 - Conduct periodic audits to assure compliance
 - Closely supervise staff and evaluate competence in policies and caregiving
- Respond appropriately to situations and complaints
 - Do not ignore words, touches, actions, hints, jokes

Education for Residents

- Frequently inform residents of all rights.
- Rights must be the foundation for all decisions and actions.
- Clarify the importance of balancing all residents' rights, and note that each resident is responsible to respect the rights of all.
- Ensure that residents are aware of their right to have consensual relationships.

Education for Families, Health Care Agents, Guardians

- Resident Rights information must be provided to everyone, to assure rights are respected, protected and promoted by all who interact with residents.
- Education eliminates people's perceived control in directing resident relationships and in ignoring resident choice in other rights matters.

Education for All Staff

- Education provides staff with the knowledge and tools needed to address situations appropriately.
- Education allows for open discussion about subjects that, for some people, are embarrassing.
- Education builds teamwork skills and promotes interdisciplinary approaches.
- Education leads to acceptance and appreciation.
- Education gives confidence.



Resources to Help with Training, Assessment and Care Planning

- Ombudsman Program
- Interdisciplinary Team
- Alzheimer's Association
- Memory Assessment Clinics
- Ethics Committees
- Geriatrician, Physician, Psychologist, Psychiatrist
- Guardianship Support Ctr.
- LGBTQ organizations
- Disability Rights Wisconsin
- Domestic Violence Center
- Sexual Assault Center
- Law Enforcement

Contact Information & Resources

- ❖ Wisconsin Board on Aging & Long Term Care Ombudsman Program – 800-815-0015. This call goes to our central Madison office, and your message will be directed to the appropriate Ombudsman.
- ❖ Wisconsin Board on Aging and Long Term Care webpage: longtermcare.wi.gov

The Ombudsman publications section includes:

1. “Resident Relationships Guidelines”
2. Appendix 1 “Intimacy Sexuality History”
3. Appendix 2 “Assessment for Consent”