White Paper
Sexual Offenders in Skilled Nursing Facilities and RCFs

OHCA/OCAL recommends that member facilities make the best admission and retention decisions possible to assure that they are able to provide for the needs and services of those under their care, including the potential impact on other residents. This would include researching sex offender background status about existing and potential residents.

Background

There has been recent media attention regarding sexual offenders residing in Ohio nursing homes and assisted living facilities. Currently Ohio’s Megan’s Law (ORC Chapter 2950) requires that sheriffs notify neighbors of offenders residing within 1000 feet, but the form notification to facilities has largely been up to each sheriff department, and the requirements are not specifically clear related to long term care facilities. As a result, facilities may or may not be aware of the offender status of their current residents or of those seeking admission. Ohio adopted the federal Adam Walsh Child Protection and Safety Act of 2006 in June, 2007 (SB 10) which revises Ohio’s Offender Registration and Notification Law (Megan’s Law) parts of which are already in effect and the remainder takes effect January 1, 2008.

Legal Considerations

- Potential for lawsuits related to resident to resident sexual abuse, or resident to staff sexual abuse.

Regulatory & Survey Considerations

- F223 §483.13(b) Abuse. The resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.

- http://codes.ohio.gov/orc/2950
Ohio adopted the federal Adam Walsh Child Protection and Safety Act of 2006 in June (SB 10) which revises Ohio’s Offender Registration and Notification Law (Megan’s Law). As currently posted on Lawriter (http://codes.ohio.gov/orc), ORC 2950 lists the current law language and the language changes that will be effective January 1, 2008. This law relates to sex offenders’ requirement for registration, and sheriff departments’ requirements for notification.

- Effective January 1, 2008: Sexually oriented offender or a child-victim oriented offender is prohibited from living within 1,000 feet of a preschool or child day-care center premises in the same manner as such an offender is prohibited from living within 1,000 feet of a school premises.

Policy Considerations

- Consider using the search tool provided by the attorney general’s office which allows providers and others to research community individuals’ offender status at Ohio Sex Crimes Notification- http://www.sexcriminals.com/registration-notification/us/ohio/ prior to every admission to determine the appropriateness of the admission.
• Consider establishing policies and procedures that include researching current and potential residents’ sex offender status, especially if the facility is within 1000 feet of a school, preschool or day care center.

• Make admission and retention decisions related to the facility’s ability to provide for the needs and services of the individual, including the potential impact on other residents. Consider preadmission visits, interviews and record reviews to assist in making such determinations.

• Consider contacting your county sheriff regarding the notification that you would like for your facility. After January 1, 2008 – they must notify anyone who so requests, in addition to those within 1000 feet of sex offender’s residence. This can also be accomplished via the Oho Attorney General’s eSORN, Ohio's Electronic Sex Offender Registration and Notification. Here, you will find information about how to sign up to receive automated messages when a sex offender moves near a location of concern (your facility, daycare provider, home, etc.) and how to submit tips to investigators on offenders within the system: http://ohio.esorn.net/registeroh.php

• Develop appropriate care plans for any residents with sex offender history that you decide to admit, as appropriate, including but not limited to:
  • Monitoring of behaviors
  • Room, roommate selection
  • Proximity to vulnerable residents

• Assure that all staff members are aware of such POCs and their responsibilities related to monitoring of behavior of applicable residents.

**Educational Considerations**

• Staff education regarding abuse prevention, observation and reporting
• Need for immediate reporting to Administrator and DON for investigation

**Additional Information**

• GAO study March 2006: Long-Term Care Facilities: Information on Residents Who Are Registered Sex Offenders or Are Paroled for Other Crimes.
  o “However, while long-term care facilities may learn that certain of their residents are sex offenders or parolees through required community notification or through other means, our findings did not indicate that residents with prior convictions are more likely than other residents to commit abuse within these facilities. Absent such evidence, it may be more appropriate to focus on residents’ behaviors versus their prior convictions when assessing the potential for committing abuse.” For the complete GAO report: http://www.gao.gov/cgi-bin/getrpt?GAO-06-326

• Senate Bill 10 analysis – changes to ORC 2950 http://www.legislature.state.oh.us/analysis.cfm?ID=127_SB_10&ACT=As%20Enrolled&hf=analyses127/07-sb10-127.htm

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