



## QUESTIONS FROM THE FIELD

**Question:** I am trying to find a voting policy for skilled residents that includes an assessment to determine if they have the mental capacity to vote. Can you help me?

**Answer:** The answer to this can be found in the Federal Regulation:

### **F151**

#### **§483.10(a) Exercise of Rights**

**§483.10(a)(1) 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(a)(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 the State Regulations, Title 19, Department of Health and Senior Services, Division 30, Chapter 88 Resident's Rights 19CSR 30-88.010

*(20) Each resident shall be encouraged and assisted, throughout his or her period of stay, to exercise his or her rights as a resident and as a citizen...  
The facility shall assist residents in exercising their rights to vote. II/III*

*(21) The exercise of resident rights shall be free from restraint, interference, coercion, discrimination or reprisal. II/III*

*Dave's memo:* I believe that we have to be careful and not be "gatekeepers" to the resident's right to vote. It is not our responsibility to determine if they can make reasonable choices at the ballot. It is my opinion that you offer EACH resident the opportunity to vote: either by assisting them to the Polls, helping them register as a voter (if new to the community), or helping them obtain an absentee ballot. Make sure you ask and document their response at all State, Federal, and local elections. If they can't or won't respond to your question, then they probably aren't interested in voting - but give them that opportunity.

For further consideration, the following was taken from "**Preserving Voting Rights in Long-Term Care Institutions: Facilitating Resident Voting While Maintaining Election Integrity**" (page 1103)

#### *B. Long-Term Care Facility Responsibilities*

Having concluded that LTC institutions may not and should not prevent residents from obtaining access to the ballot or to assistance with ballot completion—even in situations in which facility staff reasonably believe residents lack capacity to vote—the question is whether there is another role for LTC facilities to play in the electoral process. The final section of this article addresses this question. It concludes that LTC facilities should be considered to be under an affirmative obligation to assist all residents in obtaining access to the ballot. In making this argument, this article recognizes the significant barriers that institutionalization places on access to the ballot.

The entire article that is quoted above can be found at

<http://www.americanbar.org/content/dam/aba/migrated/aging/voting/pdfs/kohn.authcheckdam.pdf>

Please e-mail your "Questions from the Field" to Dave Walker, LTC Leadership Coach, Sinclair School of Nursing, University of Missouri at [walkerdavi@missouri.edu](mailto:walkerdavi@missouri.edu)