

## **Bureau of Human Services Licensing**

### **Use of Voice-Controlled Electronic Devices in Personal Care Homes and Assisted Living Residences**

The Department recognizes that voice-controlled electronic devices including smartphones and similar technology can enhance the lives of residents by providing an easy means of communication with family and friends and allows instant access to services and information. This includes but is not limited to digital assistants (Such as Dot or Echo hardware using Alexa); voice-activated devices and smartphone applications (Such as Siri, Google Now or Alexa on phones and tablets); internet-connected devices or applications that may record conversations and transmit information; operating systems/applications (Such as Windows 10, etc.) that allow voice commands. The facility may allow the use of these devices with certain safeguards in place. These devices are collectively referred to in this document as “electronic communication devices” and do not include surveillance monitoring such as nanny cams, security cameras or similar technology.

The increasing popularity and emerging use of electronic communication devices by residents and their families include the use of voice-controlled electronic devices that respond to verbal cues and have video and/or audio recording capabilities. Electronic communication devices purchased by residents and their families that may record conversations could present challenges for the facility in complying with legal requirements pertaining to resident privacy rights.

The Department will not waive the regulatory right of residents to privacy of self and possessions. Title 55 Pa. Code § 2600.42(s) and § 2800.42(s) provide: “A resident has the right to privacy of self and possessions. Privacy shall be provided to the resident during bathing, dressing, changing and medical procedures.” The following considerations should be followed to ensure the facility complies with pertinent privacy requirements.

Please be advised except as otherwise permitted by law, the knowing or intentional recording of a person’s voice or disclosure of the recording of a person’s voice without their consent is a crime. 18 Pa. C.S. Chapter 57 (Wiretapping and Electronic Surveillance Act). Capturing a person’s image in their home, such as a personal care home or assisted living residence, without the person’s knowledge or consent, may also be against the law depending on reasonable expectations of privacy and the interest of the person taking the image.

**Resident-Owned Electronic Communication Devices:**

- Appropriate use of resident-owned devices in living units and common areas should be addressed, at a minimum, in the resident-home contract.
- The facility's policies and procedures regarding use of these devices shall require compliance with local, state, and federal laws and regulations.
- Residents must be advised, in writing, of the facility's policies and procedures for use of these devices.
- The facility shall ensure that their policies and procedures include requirements for the use of these devices that respects the privacy of others, including a policy that prohibits residents from knowingly or intentionally recording, or disclosing an unintentional recording, of the image or voice of any person in the home without the person's consent or the consent of their legal representative.

**Facility-Owned Devices:** The facility shall ensure that their policies and procedures on the facility's use of electronic communication devices addresses the following:

- The resident's right to privacy and dignity is protected.
- Identification of staff who have access to administrative rights for the device.
- Written notification of the use of the device is posted and includes notification that the device is in operation and may be recording conversations, including conversations not intended to be recorded. While the facility may have access to these recorded conversations, the facility will delete the conversation history from any device used by the facility on a regular basis as determined by the facility.
- The facility will maintain policies and procedures that prevent recorded conversations from being shared or disclosed in any way, unless required by law.
- Knowing or intentional recording without the person's consent or the consent of their legal representative, is prohibited.
- Use of the device within the facility should be addressed at a minimum, in the resident-home contract.

**NOTE:** The Department will not issue citations for 55 Pa. Code § 2600.42(s) or §2800.42(s) for use of these communication devices if the facility maintains the safeguards set forth in this document through policy and practice management.



As technology continues to advance, please reach out to Jill Kachmar, Regulatory Implementation Manager at [jkachmar@pa.gov](mailto:jkachmar@pa.gov) or 717-425-5349 if you have any questions or concerns about the specific device that your facility or resident are planning to use.