Effective August 1, 2019;

Notice of Right to Place and Use an Electronic Monitoring Device in your Room at a Long-Term Care Facility (assisted living, basic care, nursing home, swing bed)

WHO has the right to place and use an authorized electronic monitoring device in your room?

- A resident of a facility; or
- A resident representative of the resident (if the resident is not able to consent to electronic monitoring).
    - Must be a power of attorney for health care (agent must be in effect as per the terms of the POA document); or
    - Guardian of the resident

WHEN can you exercise this right to install and use an authorized electronic monitoring device?

- The authorized electronic monitoring law goes into effect on August 1, 2019.
- Then must complete and submit the applicable notices and authorizations.
- Also, you may choose to install an authorized electronic monitoring device in your room at any time while you reside in the long-term care facility if all the necessary documentation is completed and submitted.

WHAT should be considered before giving consent? You should know what you are giving consent to.

Video device

All residents in the room should consider the following.

- Who, and what, may be captured on video e.g. visitors, equipment in room, personal cares provided, intimate relations, etc.
- With whom will you share the recording? What restrictions do you want placed on sharing of the video recording?
- If there will be intimate times with a significant other do you want the recording turned off during those times?

Audio device

All residents in the room should consider the following.

- The device will likely record conversations with staff, family and friends, etc. for both the resident wanting the recording and for any other resident sharing the room. This may mean private information about finances, family relationships, and health information may be recorded.

- With whom will you share the recording? Do you want all conversations and possibly private information being on a recording? Do you plan to go to a family room or conference room for private conversations?

WHAT is the process to use an authorized electronic monitoring device in your room at the facility? **ALL** the following is required by law.

1. **WRITTEN NOTICE GIVEN TO LONG-TERM CARE FACILITY**
   - **a.** You, the resident, or your resident representative, must complete and give a Notice to Facility of your intent to place and use an authorized electronic monitoring device.
   - **b.** You, or your resident representative, must give the facility an **installation plan** that follows the facility's regulations and policies.
2. **DOCUMENTATION OF CONSENT**
   - **a.** You, the resident, or the resident representative, completes a document showing consent.
   - **b.** Each of the resident's roommates, or his/her resident representatives, must also complete a document of consent.
     - **i.** The roommate may put limits on the authorized electronic monitoring device and all of the limits must be followed for the authorized electronic monitoring device to be used.
   - **c.** The documentation of consent includes:
     - **i.** Written consent for the placement and use of the authorized electronic monitoring device and
     - **ii.** written authorization for disclosure of protected health information and
     - **iii.** written release of liability of the facility for violation of a resident's privacy resulting from the use of an authorized electronic monitoring device.
3. **PAYMENT**
   - **a.** You, the resident, or your resident representative, are responsible to pay for the authorized electronic monitoring device, and all installation, operation, maintenance, and removal costs associated with the device except for electricity.

4. **INFORMATION REQUIRED ON VIDEO RECORDINGS**

   a. All recordings from a video electronic monitoring device must include the date and time of the recording.

5. **AUTHORIZED ELECTRONIC MONITORING DEVICE**

   a. The authorized electronic monitoring device shall be in a fixed, stationary position.

   b. The authorized electronic monitoring device shall be directed only on the resident who initiated the installation and use of the authorized electronic monitoring device.

   c. The authorized electronic monitoring device shall be placed for maximum protection of the privacy and dignity of the resident and the roommate.

A person may be subject to a Class B misdemeanor if he

- Intentionally hampers, obstructs, tampers with or destroys a recording or an authorized electronic monitoring device placed in a resident's room without the express written consent of the resident or resident representative.

A person may be guilty of a crime or civilly liable if he

- Unlawfully violates the privacy rights of another by placing an electronic monitoring device in the room of a resident or by using or disclosing a tape or other recording made by the device.

- You can choose at any time to revoke your consent to have an authorized electronic monitoring device in your room by written notice.
- The roommate must agree to the use of an authorized electronic monitoring device in the room or it can't be used. You can request to move to a different room with a roommate that will agree to the use of an authorized electronic monitoring device
- A facility cannot refuse to admit you or discharge you if you choose to have an authorized electronic monitoring device.
- A facility, or staff of the facility, may not access any recording from the authorized electronic monitoring device without written permission from you or your resident representative, or a court order.