



RESIDENT CARE POLICY

POLICY TITLE: Abuse, Neglect and Exploitation

EFFECTIVE DATE: 10/2022 **REVIEWED/REVISED:** 10/2022

OWNER: Social Services

POLICY

It is the policy of this facility to provide protections for the health, welfare, and rights of each resident by developing and implementing written policies and procedures that prohibit and prevent abuse, neglect, exploitation, and misappropriation of resident property.

PROCEDURES & REQUIREMENTS

Definitions:

"Staff" includes employees, the medical director, consultants, contractors, volunteers, caregivers who provide care and services to residents on behalf of the facility, students in the facility's nurse aide training program, and students from affiliated academic institutions, including therapy, social and activity programs.

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish, which can include staff to resident abuse and certain resident to resident altercations. Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology.

"Willful" means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.

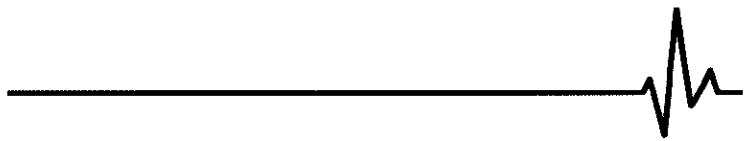
"Verbal Abuse" means the use of oral, written, or gestured communication or sounds that willfully includes disparaging and derogatory terms to residents or their families, or within their hearing distance regardless of their age, ability to comprehend, or disability.

"Sexual Abuse" is non-consensual sexual contact of any type with a resident.

"Physical Abuse" includes, but is not limited to hitting, slapping, punching, biting, and kicking. It also includes controlling behavior through corporal punishment.

"Mental Abuse" includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation. Mental abuse also includes abuse that is facilitated or caused by nursing home staff taking or using photographs or recording in any manner that would demean or humiliate a resident(s).

"Neglect" means failure of the facility, its employees, or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.



“Involuntary Seclusion” refers to the separation of a resident from other residents or from his/her room or confinement to his/her room against the resident’s will or the will of the resident’s legal representative. Emergency or short term monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used for a limited time as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident’s needs as long as the least restrictive approach is used for the minimum amount of time.

“Alleged Violation” is a situation or occurrence that is observed or reported by staff, resident, relative, visitor or others but has not yet been investigated and, if verified, could be indication of noncompliance with the Federal requirements related to mistreatment, exploitation, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property.

“Covered individual” is anyone who is an owner, operator, employee, manager, agent or contractor of the facility.

“Crime” is defined by law of the applicable political subdivision where the facility is located. A political subdivision would be a city, county, township or village, or any local unit of government created by or pursuant to State law.

“Serious Bodily Injury” means an injury involving extreme physical pain; involving substantial risk of death; involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; requiring medical intervention such as surgery, hospitalization, or physical rehabilitation; or an injury resulting from criminal sexual abuse.

“Law Enforcement” means Northwood Police at 587-5651

“Criminal sexual abuse” is serious bodily injury/harm shall be considered to have occurred if the conduct causing the injury is conduct described in section 2241 (relating to aggravated sexual abuse) or section 2242 (relating to sexual abuse) of Title 18, United States Code, or any similar offense under State law. In other words, serious bodily injury includes sexual intercourse with a resident by force or incapacitation or through threats of harm to the resident or others or any sexual act involving a child. Serious bodily injury also includes sexual intercourse with a resident who is incapable of declining to participate in the sexual act or lacks the ability to understand the nature of the sexual act.

“Exploitation” means taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion.

“Misappropriation of Resident Property” means the deliberate misplacement, exploitation, or wrongful, temporary, or permanent, use of a resident’s belongings or money without the resident’s consent.

“Mistreatment” means inappropriate treatment or exploitation of a resident.

Screening

- A. Potential employees will be screened for a history of abuse, neglect, exploitation, or misappropriation of resident property.
 - 1. Background, reference, and credentials checks shall be conducted on potential employees.



2. Screenings may be conducted by the facility itself, or a third-party agency.
 3. The facility will maintain documentation of proof that the screening occurred.
- B. Prospective residents will be screened to determine whether the facility has the capability and capacity to provide the necessary care and services for each resident admitted to the facility.
1. An assessment of the individual's functional and mood/behavioral status, medical acuity, and special needs will be reviewed prior to admission.
 2. The facility will make individual determinations in consideration of current staffing patterns, staff qualifications, competency and knowledge, clinical resources, physical environment, and equipment.

Employee Training

- A. New employees will be educated on abuse, neglect, exploitation and misappropriation of resident property during initial orientation.
- B. Existing staff will receive annual education through planned in-services and as needed.
- C. Training topics will include:
 1. Prohibiting and preventing all forms of abuse, neglect, misappropriation of resident property, and exploitation.
 2. Identifying what constitutes abuse, neglect, exploitation, and misappropriation of resident property.
 3. Recognizing signs of abuse, neglect, exploitation, and misappropriation of resident property, such as physical or psychosocial indicators.
 4. Reporting process for abuse, neglect, exploitation, and misappropriation of resident property, including injuries of unknown sources.
 5. Understanding behavioral symptoms of residents that may increase the risk of abuse and neglect such as:
 - a. Aggressive and/or catastrophic reactions of residents.
 - b. Wandering or elopement-type behaviors.
 - c. Resistance to care.
 - d. Outbursts or yelling out; and
 - e. Difficulty in adjusting to new routines or staff.

Prevention of Abuse, Neglect and Exploitation

- A. Establishing a safe environment that supports, to the extent possible, a resident's consensual sexual relationship and by establishing policies and protocols for preventing sexual abuse. This may include



identifying when, how, and by whom determinations of capacity to consent to a sexual contact will be made and where this documentation will be recorded; and the resident's right to establish a relationship with another individual, which may include the development of or the presence of an ongoing sexually intimate relationship.

- B. Identifying, correcting, and intervening in situations in which abuse, neglect, exploitation, and/or misappropriation of resident property is more likely to occur with the deployment of trained and qualified, registered, licensed, and certified staff on each shift in sufficient numbers to meet the needs of the residents, and assure that the staff assigned have knowledge of the individual residents' care needs and behavioral symptoms.
- C. Assuring an assessment of the resources needed to provide care and services to all residents is included in the facility assessment.
- D. The identification, ongoing assessment, care planning for appropriate interventions, and monitoring of residents with needs and behaviors which might lead to conflict or neglect.
- E. Ensuring the health and safety of each resident with regard to visitors such as family members or resident representatives, friends, or other individuals subject to the resident's right to deny or withdraw consent at any time and to reasonable clinical and safety restrictions.
- F. Providing residents, representatives, and staff information on how and to whom they may report concerns, incidents, and grievances without the fear of retribution; and providing feedback regarding the concerns that have been expressed.
- G. Addressing features of the physical environment that may make abuse, neglect, exploitation, and misappropriation of resident property more likely to occur; and
- H. Assigning responsibility for the supervision of staff on all shifts for identifying inappropriate staff behaviors.

Identification of Abuse, Neglect and Exploitation

- A. Possible indicators of abuse include, but are not limited to:
 - 1. Resident, staff, or family report of abuse
 - 2. Physical marks such as bruises or patterned appearances such as a handprint, belt or ring mark on a resident's body
 - 3. Physical injury of a resident, of unknown source
 - 4. Resident reports of theft of property, or missing property
 - 5. Verbal abuse of a resident overheard.
 - 6. Physical abuse of a resident observed.
 - 7. Psychological abuse of a resident observed.



8. Failure to provide care needs such as comfort, safety, feeding, bathing, dressing, turning & positioning.
9. Evidence of photographs or videos of a resident that are demeaning or humiliating in nature, regardless of whether the resident provided consent and regardless of the resident's cognitive status.
10. Sudden or unexplained changes in behaviors and/or activities such as fear of a person or place, or feelings of guilt or shame.

Investigation of Alleged Abuse, Neglect and Exploitation

- A. An immediate investigation is warranted when suspicion of abuse, neglect, or exploitation, or reports of abuse, neglect or exploitation occur.
- B. Written procedures for investigations include:
 1. Identifying staff responsible for the investigation.
 2. Exercising caution in handling evidence that could be used in a criminal investigation (e.g., not tampering or destroying evidence).
 3. Investigating different types of alleged violations.
 4. Identifying and interviewing all involved persons, including the alleged victim, alleged perpetrator, witnesses, and others who might have knowledge of the allegations.
 5. Focusing the investigation on determining if abuse, neglect, exploitation, and/or mistreatment has occurred, the extent, and cause; and
 6. Providing complete and thorough documentation of the investigation.

Protection of Resident

The facility will make efforts to ensure all residents are protected from physical and psychosocial harm, as well as additional abuse, during and after the investigation. Examples include but are not limited to:

- A. Responding immediately to protect the alleged victim and integrity of the investigation.
- B. Examining the alleged victim for any sign of injury, including a physical examination or psychosocial assessment if needed.
- C. Increased supervision of the alleged victim and residents.
- D. Room or staffing changes, if necessary, to protect the resident(s) from the alleged perpetrator.
- E. Protection from retaliation.
- F. Providing emotional support and counseling to the resident during and after the investigation, as needed.



- G. Revision of the resident's care plan if the resident's medical, nursing, physical, mental, or psychosocial needs or preferences change as a result of an incident of abuse.

Reporting/Response

- A. When suspicion of abuse, neglect, or exploitation, or reports of abuse, neglect, or exploitation occur, an investigation is immediately warranted. Once the resident is cared for and initial reporting has occurred an investigation is to be conducted
- B. Staff, residents/patients, or family members who observe any act of abuse or neglect must immediately report the incident to their supervisor, their Department Manager, or a facility Social Worker who is then to report this to the Chief Executive Officer (CEO).
- C. Any covered individual must follow these time guidelines when reporting the following:
- If the reportable event results in *serious bodily injury*, including criminal sexual abuse to the resident and/or patient, the staff member must report the suspicion immediately, but not later than two (2) hours after forming the suspicion to the local authorities and the ND DOH.
 - All other crimes must be reported to the local police department, the State Health Department, and your immediate supervisor within 24 hours of forming the suspicion.
- D. The results of all investigations must be reported to the administrator and to other officials in accordance with State law (including to the State Survey and Certification Agency) within five (5) working days of the incident, and if the alleged violation is verified, appropriate corrective action must be taken.

Reporting Guideline

Initial Report of Allegation (Immediate) and Final Report (within 5 working days) via website submission. <http://services.ndnar.org/health-facilities/>. Final report should include write-up of all witness statements and include a summary of allegations.

- A. The charge nurse will conduct a physical assessment of any alleged victim(s) as soon as possible following the allegations being made. Will contact the Director of Nursing, Assistant Director of Nursing or Social Worker immediately.
- B. All suspected abuse allegations must be thoroughly investigated by the DON/ADON or designee. This may include, but is not limited to, interviewing all persons associated with the situation, including the staff against whom the allegation was made, medical records review, and a physical assessment of the alleged victim. If the staff against whom the allegation is made works under a department other than nursing services, that department manager shall also be involved in the investigation.
- C. The need to contact police varies upon circumstances and is at the discretion of nursing management, unless a criminal activity is involved, in which case, this will be reported to the police
- D. Records of any investigation will be kept in an appropriate locked file in the DONs office, separate from the one containing the employee's personnel file. It is the policy of NDHC that investigations



are not part of the medical record. Investigation paperwork is part of the internal Quality Assurance Program, they are confidential as they include information on patients/residents/staff. Investigations are not available for public record and are protected by law and will not be released to anyone.

- E. Staff against whom an alleged violation of abuse is being investigated may be given time off from work, or reassigned duties or location until the facility has completed the investigation. Further action taken will depend upon the outcome of the investigation.
- F. Investigation to find missing item will be conducted by DON or designee, and findings will be reported to State Health Department within five (5) days using the Alleged Resident Mistreatment, Neglect or Abuse Investigation Report.
- G. Any alleged violation against a resident receiving developmentally disabled (DD) or mental illness (MI) services through State agencies will be reported to the State Department of Health and to the ND Protection and Advocacy Project.
- H. The DON or designee shall report findings of the investigation to the staff, patient, resident, resident rep and/or to the CEO against whom allegation was made when final feedback is received from ND DOH.
- I. In analyzing incidents, the following factors will be considered to determine if processes need to be adapted:
 - 1. Facility response
 - 2. QA monitors including preventive and corrective actions.
 - 3. Revision of policy/procedure
 - 4. Staff training
 - 5. Resident to resident abuse may also reported to the DOH and will be handled in the following manner:
 - 6. Any resident witnessed to abuse another resident physically or verbally will be separated from the abused and removed to his/her room.
 - 7. Should a resident become hostile or unmanageable in any way jeopardizing his/her safety, or the safety of others, physical or chemical restraints will be considered according to the restraint policy until more appropriate care can be obtained
 - 8. Should the resident pose immediate danger, become violent beyond the control of the facility, at the discretion of the medical care team, local law enforcement or psychiatric resources may be contacted for assistance.
 - 9. Any resident who has been hit, pinched, slapped, kicked, or assaulted by another resident will be assessed for injury by nursing. Nursing will also complete an Occurrence Report form and notify family of the physical abuse.

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10. The family or responsible party of the resident that is physically abusive to other residents will be notified.
11. The Occurrence Report form will be reviewed at the weekly interdisciplinary team meeting. The interdisciplinary team will present suggestions for staff interventions and individualized approaches.
12. Social Services is responsible for updating care plans with suggested interventions and completing a chart review to establish behavioral patterns and potentials for further abuse.
13. If abuse is identified follow guidelines reporting abuse in this policy.