

**NORTHWOOD DEACONESS HEALTH CENTER
PATIENT/RESIDENT CARE POLICIES**

DEPT. AFFECTED	BY	APPROVED DATE	REVISION DATE	SUBJECT	PAGE
ALL	CEO	5/22/92	1/12/10 8/29/11 7/22/13 9/4/15 8/16; 7/17 5/19 5/20; 11/21	ABUSE PROHIBITION/ ELDER JUSTICE ACT	1 OF 9

POLICY: It is the policy of Northwood Deaconess Health Center (NDHC) that every resident/patient has the right to be free from any verbal, sexual, physical, and mental abuse, involuntary seclusion, neglect, mistreatment, corporal punishment, misappropriation of resident and/or patient property, and the posting of unauthorized photographs or recording of a resident on social media, or anything defined as a crime or serious bodily injury. Residents and/or patients must not be subjected to abuse by anyone, including, but not limited to, facility staff, other resident and/or patients, consultants or volunteers, staff or other agencies serving the individuals, family members or legal guardians, friends, or other individuals.

NDHC shall ensure that no adverse or retaliatory action is taken against an employee, resident, or family, who, in good faith, reports violations of this policy.

NDHC shall post notice of the requirements of the Elder Justice Act. NDHC shall annually educate staff on the policy and reporting requirements.

The following are definitions used in the policy and procedure:

Abuse means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish. This also includes the deprivation by an individual, including a caretaker of goods or services, which is necessary to attain or maintain physical, mental, and psychosocial well-being. This presumes that instances of abuse of all residents, even those in a coma, cause physical harm, pain, or mental anguish.

Accident: An unfortunate incident that happens unexpectedly and unintentionally, typically resulting in damage or injury.

Covered individuals are owners, employees, managers, agents or contractors of the long-term care facility. Covered individuals must report.

Crime is a positive or negative act in violation of penal law, an offense against the State.

Immediately means as soon as possible, but not exceeding 24 hours.

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In accordance with State Law: CMS has indicated that the phrase modifies the word “officials” only. As such, state law may stipulate those alleged violations and the results of the investigation be reported to additional state officials beyond those specified in the Federal regulations. This phrase does not modify what types of alleged violations must be reported or the time frames in which the reports are to be made. As such, CMS has indicated that states may not eliminate the obligation for any alleged violations to be reported, nor can the state establish longer time frames for reporting than mandated in the regulations at 42 CFR and 483.13(c)(2) and (4).

Injuries of unknown source: An injury should be classified as an “injury of unknown source” and reported as possible abuse when **both** the following conditions are met:

- 1) The source of the injury was not observed by any person, **or** the source of the injury could not be explained by the resident; **and**
- 2) The injury is suspicious because of the extent of the injury **or** the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma) **or** the number of injuries observed at one particular point in time **or** the incidence of the injuries over time.

Involuntary seclusion means separation of a patient/resident from other patients/residents or from his/her room against the patient’s/resident’s will or against the will of the patient’s/resident’s legal representative. Emergency or short term monitored separation may be permitted if used for a limited period of time as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident’s need.

Local law enforcement means Northwood Police at 587-5651.

Mental Abuse/Exploitation includes humiliation, harassment, threats of punishment or deprivation. Mental abuse also includes that which is facilitated or caused by nursing home staff taking or using photographs or recordings in any manner that would demean or humiliate a resident(s).

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

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Neglect is failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness.

Physical abuse includes, but is not limited to, such things as hitting, slapping, punching, pinching, etc., as well as controlling patient's/resident's behavior through corporal punishment.

Serious bodily injury is bodily injury that creates a substantial risk of death, or which causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of the function of any bodily member or organ, a bone fracture, or impediment of air flow or blood flow to the brain or lungs.

Sexual abuse includes, but is not limited to, sexual harassment, sexual coercion, sexual assault, and non-consensual sexual contact of any type with a resident and/or patient.

State agency is the ND Health Department at 701-328-2352.

Verbal abuse refers to any use of oral, written or gestured language that willfully uses disparaging and derogatory terms to patients/residents or their families, or within their hearing distance.

PROCEDURE:

1. SCREENING

- a. Prior to a person beginning employment at NDHC, the department manager shall assure a background check has been completed in compliance with Facility Policy #212 to ascertain a clear record. NDHC will not employ persons listed on the abuse registry.
- b. The NDHC Job Application form shall inquire as to whether the applicant has ever (1) been convicted, reprimanded, or disciplined for mistreatment, neglect or abuse of residents or misappropriation of their property, or (2) had a finding by an agency or institution against him/her for child abuse or neglect.
- c. The prospective employee shall be required to complete a form indicating whether or not he/she has ever been convicted of a crime and, if so, disclose the details.

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d. Persons supplying references shall be asked whether they know if the applicant has had any convictions in a court of law, been convicted, reprimanded or disciplined for mistreatment, neglect or abuse of a resident or misappropriation of a resident's property and whether the applicant has ever had a finding by an agency or institution against him/her for child abuse or neglect.

2. TRAINING

- a. NDHC's "Abuse Prohibition/Elder Justice Act" policy will be reviewed with all new employees as a part of the employee orientation program. On an annual basis, or more frequently if needed, training will be given to . . .
 - Help staff identify and manage burnout, frustration, and stress.
 - Train staff in interventions for aggressive behaviors and/or catastrophic reactions.
- b. As part of the training, staff will be educated as to "how" and "to whom" to report any violations without fear of reprisal.

3. PREVENTION

- a. During the admission process at NDHC, the resident/family is to be informed and educated with verbal explanation and handouts of this information regarding Resident Rights, grievances, and abuse/neglect issues. The importance of telling the nurse or any staff if there is a concern in any of these areas is to be emphasized, assuring them that this can be shared with NDHC staff without fear of reprisal. A copy of this "Abuse Prohibition" policy will be posted on the Resident Information Bulletin Board located by the Activity Room.
- b. NDHC will identify, correct, and intervene through analysis of the physical environment, staff deployment and staff supervision, identifying residents' needs and behaviors through a care planning process, individually for each resident. The issues of plan interventions, history of aggressive behaviors, self-injurious behaviors, communication, and total dependence on staff for care are to be addressed in the care planning process. The resident is to be assessed and a plan of action in place, as needed for that individual. Besides the Resident Care Plan, the Resident Care Card will address special needs.

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4. IDENTIFICATION OF ABUSE, NEGLECT AND EXPLOITATION

The facility will consider factors indicating possible abuse, neglect, and/or exploitation of residents, including, but not limited to, the following possible indicators:

- Resident, staff, or family report of abuse.
- Physical marks such as bruises or patterned appearances such as a handprint, belt or ring mark on a resident’s body.
- Physical injury of a resident, or unknown source.
- Resident reports of theft or property, or missing property.
- Verbal abuse of a resident overheard.
- Physical abuse of a resident observed.
- Psychological abuse of a resident observed.
- Failure to provide care needs such as feeding, bathing, dressing, turning & positioning.
- 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.

5. PROTECTION

- a. The employee will be under suspension until the investigation is completed. The patient/resident is to be informed that the employee will not care for this patient/resident during the investigation
- b. NDHC shall ensure that no adverse or retaliatory action is taken against a resident, family or staff member who, in good faith, reports violations of this “Abuse Prohibition Policy.”

6. INVESTIGATION/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.
 - In the event that an accident occurs while resident is under the care of NDHC, including but not limited to resident being transferred to the ER, a report will be initiated and fully investigated to rule out or substantiate abuse and/or neglect.

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- b. 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 per Elder Justice Act.
 - 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.

Items not meeting the definition of crime or serious bodily injury shall be reported as noted in 6(b).

- c. Employees 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). Any suspicion of abuse listed in the “Policy” section of this “Abuse Prohibition” policy must be immediately reported to the Department Manager of Nursing Services and investigated. Failure to do so may result in disciplinary action and may lead to dismissal.
- d. A resident or family member suspecting any form of abuse as listed in the “Policy” section of this “Abuse Prohibition” policy is to report this immediately to NDHC’s Social Services Department, a supervisor, or manager, who is then to report this to the CEO. The CEO then must report immediately to “other officials in accordance with State law through established procedures (including to the State Survey and Certification Agency). 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. Final report should include write-up of all witness statements and include a summary of allegations.

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The “Resident’s Grievance Procedure” found in NDHC’s *Resident Care Manual* addresses how a resident or family is to proceed with a grievance and the facility’s procedure in responding to the grievance.

However, they should report suspected financial exploitation to the Department of Human Services at 1-855-462-5465, online at <https://fw2harmonyis.net/NDLiveIntake/> or via email to carechoice@ndgov.

Exception: Assisted Living Facilities

Assisted Living Facilities are regulated by the Department of Human Services. Staff in these facilities should report suspected abuse, neglect, or exploitation of vulnerable adults to the Department of Human Services by calling 1-855-462-5465, filing a report online at <https://fw2.harmonyis.net/NDLiveIntake/> or emailing carechoice@ndgov.

- e. The charge nurse, the Assistant Department Manager or Department Manager of Nursing Services (DMNS) will conduct a physical assessment of any alleged

victim(s) as soon as possible following the allegations being made. If abuse is suspected, the DMNS or designee must be notified immediately, and will in turn notify the family, the CEO and the physician.

- f. If a resident’s missing/lost item is not found on the shift it was discovered to be missing, a Clarity online report will be completed by nursing – using “miscellaneous” event type and “lost belongings” sub type. At the time the Clarity report is completed, nursing will notify the State Health Department at 701-328-2352. A message may be left at any time 24/7. Information to be included in the message – date, time, facility name, resident name, item missing, and first and last name of person leaving message.

Investigation to find missing item will be conducted by DMNS 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. All alleged violations will be reported to the State Department of Health within five working days of the incident, including all information as listed on the Investigation Report Form, and to other agencies as appropriate: Nurse Aide Registry; State licensure authorities; the Long Term Care Ombudsman; Adult Protective Services, or Medicare Fraud and Abuse Unit.

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- h. 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.
- i. All suspected abuse allegations must be thoroughly investigated by the DMNS or designee. This may include, but is not limited to, interviewing all persons associated with the situation, including the employee against whom allegation was made, medical records review, and a physical assessment of the alleged victim. If the employee against whom the allegation is made works under a department other than nursing services, that department manager shall also be involved in the investigation.
- j. Alleged violations shall be documented on the “Alleged Resident Mistreatment, Neglect, or Abuse Investigation Report” form. The results of the investigation will be reported to the CEO within five working days of the incident and appropriate action will be taken as a result of the findings of the investigation.
- k. 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.
- l. Records of any investigation will be kept in an appropriate locked file in the DMNS’ 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 release to anyone.
- m. Staff against whom an alleged violation of abuse is being investigated will be given time off from work, with pay, until the facility has completed the investigation. Further action taken will depend upon the outcome of the investigation.
- n. The DMNS or designee shall report findings of the investigation to the employee against whom allegation was made within five working days following the initial report.
- o. The DMNS or designee shall report findings to the alleged victim (patient/resident) and to the CEO within five working days following the initial report.

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- p. The DMNS or designee shall report findings of the investigation to the State Department of Health and any substantiated findings to the appropriate licensing authority by the fifth working day following the initial report.
- q. In analyzing incidents, the following factors will be considered to determine if processes need to be adapted:
- Facility response
 - QA monitors including preventive and corrective actions
 - Revision of policy/procedure
 - Staff training
- r. Resident to resident abuse is also reported to the DOH and will be handled in the following manner:
- 1) Any resident witnessed to abuse another resident physically or verbally will be separated from the abused and removed to his/her room.
 - 2) 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.
 - 3) 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.
 - 4) 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.
 - 5) The family or responsible party of the resident that is physically abusive to other residents will be notified.
 - 6) The Occurrence Report form will be reviewed at the weekly Falls/Nutrition/ Behavior interdisciplinary team meeting. The interdisciplinary team will present suggestions for staff interventions and individualized approaches.
 - 7) 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.

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**Guide for Potential Incident of Act Covered by
Abuse Prohibition/Elder Justice Act**

RESIDENT: _____

INCIDENT AT INITIAL REPORTING APPEARS TO BE: (Check all that apply)

- 1) Abuse _____ 2) Verbal abuse _____ 3) Sexual abuse _____
4) Physical abuse _____ 5) Involuntary seclusion _____ 6) Neglect _____
7) Misappropriation of resident property _____ 8) Crime against resident _____
9) Serious bodily injury to resident _____ 10) Missing/Lost Item _____

If #8 applies, the individual who suspects this must report the crime within 24 hours to the Northwood Police at 587-5651, and the ND Health Department at 701-328-2352.

If #9 applies, the individual who suspects this must report the incident within two (2) hours to the Northwood Police at 587-5651, and the ND Health Department at 701-328-2352.

If #10 applies, Nursing must report missing item to ND Health Department if item not found before their shift ends at 701-328-2352.

An individual may ask for assistance from their supervisor in reporting the incidents to named agencies. If their supervisor is suspected of the crime, they should select another supervisor. No individual, however, is required to ask for assistance.

TYPE OF INJURY/ITEM MISSING: _____

INJURY FIRST NOTED (date & time) or ITEM FIRST REPORTED TO BE MISSING/LOST:

DISCOVERED BY: _____

WITNESSES: _____

STATE SURVEY AGENCY NOTIFIED (date & time): _____

If applicable, date and time Northwood Police notified: _____

REPORTING GUIDELINE: Initial Report of Allegation (Immediate)

Method: (check one) _____ Phone _____ Fax _____ E-mail _____ Website

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Notification must include the following:

- Facility name and phone number
- Caller's first and last name
- Resident(s) name involved in incident/or item missing
- Name of witness (es)
- Date and time of the allegation (incident) – item noted to be missing

- Briefly describe the alleged incident and/or injury
- Identify if local law enforcement has been notified

If a CNA is suspected of crime:

- Name of CNA you are investigating (including the correct spelling)
- CNA registry number and/or Social Security number

DEPT. MGR. OF NURSING NOTIFIED (date): _____

CEO NOTIFIED (date): _____

FAMILY LEGAL REPRESENTATIVE NOTIFIED (date): _____

NAME OF REPRESENTATIVE: _____

COMMENTS MADE: _____

PHYSICIAN NOTIFIED (date): _____

PHYSICIAN NAME: _____

INVESTIGATION COMPLETED (date): _____

INVESTIGATED BY: _____

INVESTIGATION PROCEDURES AND FINDINGS:

Final Written Investigation Report Submitted (date): _____

Method: (check one) _____ Phone _____ Fax _____ E-mail _____ Website