



ELC Abuse, Neglect, Mistreatment, Injury of Unknown Origin Reporting and Investigating

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I. Purpose

The residents of Elizabeth Levinson Center (ELC) have the right to be treated in a courteous, considerate and humane manner. Each employee has a responsibility to guard against client abuse, neglect and mistreatment. As mandatory reporters, all staff of ELC must promptly report all possible cases of resident abuse, neglect or mistreatment or injuries of unknown origin to their supervisors. All allegations must then be reported to State officials in accordance with State and Federal Laws and regulations.

An allegation of mistreatment is just that – an allegation; there is no presumption of wrongdoing on the part of the staff member. The only effective way to deal with any allegation is by a prompt and thorough investigation which results in the revelation of the facts in each case. Substantiated charges of resident mistreatment will result in disciplinary action.

II. Policy

Definitions

ABUSE is the willful infliction of injury, unreasonable confinement, intimidation or punishment with the resulting physical harm, pain or personal anguish.

- a. **Physical Abuse** refers to any action intended to cause physical harm or pain, trauma or bodily harm (e.g. hitting, slapping, punching, kicking, pinching, etc.) It includes the use of corporal punishment as well as the use of any restrictive, intrusive procedure to control inappropriate behavior for purposes of punishment.
- b. **Verbal Abuse** refers to any use of insulting, demeaning, disrespectful, oral, written or gestured language directed towards and in the presence of the client.
- c. **Psychological Abuse** includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation, sexual coercion and intimidation (e.g. living in fear in one's home). Please note: since many clients residing in ICF/IIDs are unable to communicate feelings of fear, humiliation, etc. associated with abusive episodes, the assumption is made that any actions that would be viewed as psychologically or verbally abusive by a member of the general public, would also be viewed as abusive by the client residing in the ICF/IID, regardless of that client's perceived ability to comprehend the nature of the incident.
- d. **Sexual Abuse** includes any incident where a client is coerced or manipulated to participate in any form of sexual activity for which the client did not give affirmative permission (or gave permission without the attendant understanding required to give permission) or sexual assault against a client who is unable to defend him/herself.

Neglect: means a failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness. Please note: Staff failure to intervene to prevent self-injurious behavior may constitute neglect. Staff failure to implement safeguards once client to client aggression is identified, may constitute neglect.

Mistreatment: for the purposes of this guideline, includes behavior or facility practices that result in any type of client exploitation such as financial, physical, sexual, or criminal/ Mistreatment also refers to the use of behavioral management techniques outside of their use as approved by the Human Right and Assurance Committee and facility policies and procedures.

Inappropriate Conduct: Improper interaction between staff and clients that does not rise to the level of abuse, neglect or mistreatment.

Confidentiality: The act of ensuring that all medical administrative records, reports and facts contained in them are not disclosed by any person without proper authorization.

Injury of Unknown Origin: Any physical injury which was **not** witnessed and cannot be explained by the individual's medical condition, medication, or known behaviors for which a program is in place or otherwise noted in the individual's care plan.

Reporting Procedures

All allegations of abuse, neglect, mistreatment, resident injury, and injury of unknown origin (child or adult) will be reported to the Division of Licensing and Regulatory Services (DLRS) Department of Health and Human Services *immediately*, either by phone 1-800-383-2441 or in writing via fax (207) 287-9307.

1. Abuse, Neglect and Mistreatment

All staff, whether paid or volunteer, including directors, supervisors, and the Chief Executive Officer are required to report any case of neglect, abuse or exploitation or suspected neglect, abuse or exploitation to DHHS per 22 M.R.S.A. §3477 for Adults and 22 M.R.S.A. §4011-A for Children. The supervisor receiving the report will *immediately* notify the facility Director/Administrator, DLRS, the DHHS Adult Protective Service 1-800-624-8404 (for individuals eighteen years of age and older) and the residents parent and/or guardian, if appropriate, of the allegation. For individuals under eighteen years of age, Child Protective shall also be notified. (CPS- 1-800-452-1999). The Director of Nursing has the authority to act in the Administrator's absence and take immediate corrective actions necessary to assure a client's safety.

If the initial (*immediate*) notification is made by phone the allegation must be followed up in writing within twenty-four (24) hours after the initial phone report of the incident. The Director/Administrator or his/her designee will complete a Reportable Events Form for all residents involved and submit the form to DHHS per protocol.

In addition, pursuant to 22 M.R.S.A. §4011-A(1) regarding reporting suspected abuse or neglect for children, if a staff member does not report concerns directly to DHHS and instead reports their concern to a member of management, the mandated reporter (notifying person) must acknowledge in writing that they have received confirmation that the report has been made by the agency to the Department of Health and Human Services' (DHHS') Child Protective Services. The confirmation must include the name of the individual making the report to the department, the date and time of the report and a summary of the information conveyed. This confirmation is generally documented on the Incident/Accident Form. If the mandated reporter does not received confirmation within 24 hours of notifying the agency, the mandated reporter is required to report directly to DHHS.

2. Resident Injury and Injury of Unknown Origin

All resident injuries witnessed or un-witnessed will be recorded on an "Incident Report" and posted on the physician board for review by the Director of Nursing Services, Administrator and Physician.

All injuries of unknown origin will be recorded on an "Incident Report" and reported immediately to the Facility Director/Administrator (or designee) and DLRS. Reporting will be accomplished through the use of the "Incident Report" Form. If the injury is the possible result of abuse, neglect or mistreatment, the individual's guardian will be notified and the reporting and investigation procedures for abuse, neglect or mistreatment will be followed.

Injuries are considered to be of unknown origin when both conditions are met:

1. Source of injury was not witnessed by any person **and** the source of injury could not be explained by the resident; **and**
2. Injury is suspicious because of the extent of the injury **or** the location of the injury.

Any employee found to be in violation of this reporting procedure may be subject to disciplinary action.

Investigation

1. Abuse, Neglect and Mistreatment


- A. When an allegation of resident abuse, neglect, or mistreatment is made, the Director/Administrator or designee will:
 - i. Ensure that the parent, guardian or correspondent of the resident(s) involved has been notified;
 - ii. Ensure that the Human Rights and Assurances Committee receive notice of any allegations and investigations conducted in the facility regarding allegations of abuse, neglect, mistreatment, or exploitation of a client.
- B. All staff with knowledge of the incident or who have been interviewed as part of the facility investigation must keep confidential all knowledge of the incident and investigation. Staff is to refrain from discussion so as not to impede or prejudice any investigation.
- C. The Director/Administrator or designee will give written notice to the employee(s) involved regarding the nature of the alleged resident mistreatment. A copy will be sent to the employee's supervisor.
- D. The individual alleged to have perpetrated the abuse, neglect or mistreatment will be prohibited from providing direct services to any resident during the preliminary investigation.
- E. The Director/Administrator or designee may place any employee on administrative leave or temporary reassignment pending the outcome of an investigation if it is determined that resident or employee welfare should warrant such action or to ensure that there will be an equitable investigation. Administrative leave pending investigation will not prejudice subsequent disposition of the case.
- F. The facility will conduct an investigation of the alleged abuse, neglect, or mistreatment.

- G. The investigation shall include at a minimum, where appropriate, the resident's description of the incident, the collection of all interviews, statements, physical evidence and any pertinent maps, pictures or diagrams, review of all the gathered information, resolution of any discrepancies, summary of conclusions and recommendations for action both to safeguard all the clients during the investigation and after the completion of the report.
- H. Should it become apparent to the investigator(s) that a witness may become subject to disciplinary action resulting from the investigation for not reporting, he/she will be informed in writing. (See Personnel Policy: Grievance Policy)
- I. The completed investigative report will contain a summary of all pertinent evidence, supporting written statements of witnesses, and a determination of whether or not the alleged resident mistreatment is substantiated or not substantiated. If substantiated, the report will contain a recommendation for employee discipline as well as recommendations for steps to prevent recurrence. The results of all investigations will be reported to the Director/Administrator of the Elizabeth Levinson Center, DLRS, and the agency's Director of Operations within five (5) working
- J. After reviewing the investigative report, the Director/Administrator will:
 - i. notify the employee(s) if the alleged resident mistreatment is found to be unsubstantiated or;
 - ii. if the resident mistreatment is substantiated, the Director/Administrator will direct the employee's supervisor to discipline the employee(s);
 - iii. The Director/Administrator will notify the Human Rights and Assurances Committee of the results of the investigation at the next scheduled HRAC meeting.

2. Injury of Unknown Origin

- A. All resident injuries of unknown origin will be investigated by the facility.
- B. The investigator will immediately report to the facility Director/Administrator if it is believed that the injury of unknown origin may constitute Abuse, Neglect or Mistreatment. In addition, procedures for Investigating Abuse, Neglect or Mistreatment will be implemented.
- C. The outcome of all investigations into injuries of unknown origin shall be reported, in writing, to the facility Director/Administrator within five (5) working days.
- D. The final investigation report will be forwarded to the Division of Licensing and Regulatory Services within five (5) working days.

A copy of this policy is to be signed and dated by the employee annually and signed and dated by a witness. A copy of this policy will be maintained in the employee's personnel file.



 Scott Tash, CEO

6-12-2020

 Date

Date: _____

 Employee's Name PRINTED

Date: _____

 Employee's SIGNATURE

Date: _____

 Witness' SIGNATURE