Abuse, Neglect, Exploitation General Policy

Procedure Number: 42 CFR: 483.13(c) (2)

Date Approved:

Employees Responsible: All employees

ABUSE, NEGLECT, EXPLOITATION PREVENTION
STANDARD:
This facility has developed and implemented this policy and procedure to prohibit mistreatment, neglect, and abuse of all elders and misappropriation of elder property. “Abuse” means any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to a elder. “Neglect” means the failure or omission by one’s self, caretaker or another person to provide goods or services which are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness, including involuntary seclusion. “Exploitation” means misappropriation of elder property or intentionally taking unfair advantage of an adult’s physical or financial resources for another individual’s personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person. Facility staff will not use verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion.

PURPOSE:
To ensure that all elders of this facility will be free of physical, emotional, and sexual abuse, neglectful treatment and misappropriation of funds and resources. The accompanying procedures are employed to assure total staff adherence to this policy.

PROCEDURE:
Screening
1. This facility will not employ individuals who have been:
   - Found guilty of abusing, neglecting, or mistreating elders by a court of law
   - Have had a finding entered into the Kansas Nurse Aide Registry concerning abuse, neglect, mistreatment of elders or misappropriation of elder property
2. All certificates, diplomas, degrees, or other statements indicating special training or education listed on employment applications or resumes will be verified by the Human Resource Department. This verification includes calls and/or letters to issuing schools or organizations, review of documents produced by the applicant, the internet, or calls and/or letters to state registries.
3. All claims of professional licensure or registration by any governing body listed on employment application or resume will be verified with the appropriate professional agency or board. This verification will be conducted
by letter, internet, or facsimile and a written record of the verification will be maintained in the employee’s personnel file.

4. The names of all potential employees will be checked against the list maintained by the State of Kansas of persons who may not be eligible for employment or volunteer service in a long term care facility.

5. The names of all potential employees will be submitted to the State of Kansas law enforcement agency which will then perform a criminal background check. Result of this background check will be maintained in the employment file.

6. Any person whose name appears on the Employee Disqualification List will be terminated upon notification.

7. Testing for the presence of drugs may be conducted prior to employment and for cause at the request of the department director, Administrator or Human Resource Director.

8. Personal and professional references listed on the job applications will be checked on applicants to verify experience. These reference verifications may be conducted by telephone or letter. A record of the reference check will be maintained in the employee file.

Training

1. All staff shall be informed and acknowledge procedures of elder rights; abuse, neglect and exploitation and incident reporting.
   A. All staff will be informed and will acknowledge in-service annually of the individual employee’s reporting obligations.

2. All staff will be required to attend an annual in-service presentation on elder rights; privacy and confidentiality; abuse prevention; accident prevention and injuries of unknown origin.

3. All staff will be required to attend an annual in-service on the management of difficult behaviors and the use of therapeutic interventions for problem behaviors.

4. Selected staff will be sent to comprehensive training programs dealing with the care of the elderly and the detection of abuse, neglect and exploitation. Additional training will be provided on an as-needed basis.

5. All staff will be trained to notice subtle signs of abuse or neglect including, but not limited to: (not all-inclusive)
   A. Physical signs of ABUSE
      a. Burns in unusual locations
      b. Bruises on one or both upper arms and around wrists
      c. Bruises resembling an object
      d. Bruises on trunk
      e. Broken eyeglasses
      f. Cuts, welts, discoloration of eye
   B. Behavioral signs of EMOTIONAL ABUSE
      a. Sudden change in behavior
      b. Withdrawal
      c. Lack of complaints
   C. Physical signs of NEGLECT
      a. Unkempt appearance
      b. Untrimmed or unclean nails
      c. Signs of dehydration
      d. Pressure ulcers
e. Weight loss

D. All staff will be trained during New Employee Orientation and annually that ANY suspicion of Abuse, Neglect or Exploitation will be reported immediately to the Health Services Administrator or his/her designee and a report will be filed by Administrative staff with Kansas Department on Aging and Disability Services immediately within twenty-four (24) hours of the incident.

Prevention

1. Newly hired employees will be monitored closely by supervisors for the first ninety (90) days of employment to determine their ability to work with a variety of difficult elders and in a variety of settings.
2. The DON, Administrator or other designated staff will be available for counseling with any employee who is feeling an undue amount of job-related or personal stress. An Employee Assistance Program will be recommended to employees for stress reduction tips as appropriate.
3. Adequate staffing will be scheduled to provide assistance to all elders who require it and to permit ample opportunities for rest periods and breaks.
4. All staff will be required to attend an annual in-service on stress management.

Identification

1. An inventory of all personal items brought to the facility by the elder will be made upon admission. Any item subsequently brought to the facility will be added to this personal inventory list to the best of the facility’s abilities and with the cooperation of families and friends reporting when items are added. By the same, items removed will be deleted from the inventory.
2. Elders will be encouraged to keep money and other valuables difficult to identify in the facility safe or in a locked security container in their bedroom.
3. Personal inventory of clothing and other valuables will be reviewed and updated annually.
4. Each elder will receive a complete head-to-toe examination at least weekly during the bathing experience. Any bruises, lacerations, or other marks will be documented and investigated.
5. All staff will demonstrate familiarity with the signs of abuse and neglect as listed in the “Training” section of this policy. Any such sign of abuse or neglect will be reported to the DON or Administrator who will conduct an investigation to determine the cause of the physical change or behavioral manifestation.
6. The DON will perform a monthly analysis of all incidents to determine trends in location of incidents, timing of incidents, units of occurrences, days of occurrences. The report of the analysis will be presented and evaluated the Quality Assurance Committee monthly.
7. The DON or registered nurse on duty will assess the elder who may be a victim of possible abuse, neglect, including involuntary seclusion or exploitation.
   a. Per training criteria, the following indications will be investigated: (not all-inclusive)
      i. Physical signs of ABUSE
         1. Burns in unusual locations
2. Bruises on one or both upper arms and around wrists
3. Bruises resembling an object
   a. Bruises on trunk
4. Broken eyeglasses
5. Cuts, welts, discoloration of eye

ii. Behavioral signs of EMOTIONAL ABUSE
1. Sudden change in behavior
2. Withdrawal
3. Lack of complaints

iii. Physical signs of NEGLECT, including involuntary seclusion
1. Unkempt appearance
2. Untrimmed or unclean nails
3. Signs of dehydration
4. Pressure ulcers
5. Weight loss

b. To assist with referrals of possible victims of abuse, neglect including involuntary seclusion, or exploitation, the social service staff will maintain a list of private and public community agencies that can provide or arrange for assessment and care.

c. Facility staff-development staff will educate all staff and volunteers about how to recognize signs of possible abuse, neglect including involuntary seclusion and exploitation and about the role of staff and volunteers in follow-up, including reporting.

d. Facility staff will utilize the identified criteria to identify possible victims of abuse, neglect including involuntary seclusion, and exploitation, upon admission into the facility and on an on-going basis.

e. Facility staff either assesses the elder meeting criteria for possible abuse, neglect including involuntary seclusion, and exploitation, or refers the elder to a public or private community agency for assessment.

f. Facility staff internally reports cases of possible abuse, neglect including involuntary seclusion and exploitation to the Continuous Quality Assurance Committee to develop action plans for future preventive measures including educational needs.

g. The facility chief executive or designee is responsible for reporting cases of possible abuse, neglect including involuntary seclusion, and exploitation to external agencies in accordance with law and regulation.

Investigation

1. All facility employees, family members and volunteers are educated that all alleged or suspected violations involving mistreatment, neglect or abuse including injuries of unknown origin and involuntary seclusion and misappropriation of elder property are reported IMMEDIATELY to the Administrator.

2. The Chief Executive Officer and/or Administrator ensure that all alleged or suspected violations involving mistreatment, neglect, or abuse, including
injuries of unknown origin and misappropriation of elder property are investigated and reported immediately to the Kansas Department on Aging and Disability Services Complaint Hotline.

3. In the event an incident that meets or has the potential to meet one of the definitions stated in the policy on abuse or neglect of an elder is reported to the Administrator or designee, an investigation of the incident will be commenced immediately. The Administrator will contact the Kansas Department on Aging and Disability Services Abuse Hotline within twenty-four (24) hours (working hours) of the incident and will proceed with the investigation after KDOA notification.

4. Incidents in which an elder is injured or had the potential for injury and the cause of the incident is unknown will also be promptly investigated.

5. If there is any evidence that the incident meets the definition of assault and battery, major financial theft or rape, local law enforcement will be notified by the Administrator or designee immediately. Team members will continue their investigation, but defer to law enforcement when requested.

6. The individual conducting the investigation will review the incident report, the elder’s clinical record and other pertinent documentation.

7. The elder, the elder’s legal representative and/or designated family member will be informed of the investigation.

8. A list will be compiled of all witnesses and other persons who have knowledge of the event.

9. The following individuals will be interviewed:
   a. The person making the report, if known.
   b. Individuals alleged to have been involved in the incident
   c. The elder, if able and willing to be interviewed
   d. Team members on duty in the neighborhood during the time of the alleged incidents.
   e. Team members of other neighborhoods that may have information about the incident.
   f. Neighborhood team members that may have had contact with the elder before or after the period of the alleged incident.
   g. Elder’s roommate, family members and visitors.
   h. Other elders who received care and services from the individual or individuals alleged to have committed abuse or neglect.

10. The interview of each individual will be conducted in a room that provides privacy. It is permissible for the person conducting the interview to have a second person present to record the information obtained during the interview.

11. The individual responsible for the interviews will ask each individual to describe the incident in their own words. The following areas should be covered in the interview:
   a. What happened?
   b. Where did it happen?
   c. Who was present during the incident?
   d. Describe what was going on in the neighborhood or area before the incident and after the incident.
   e. Establish a time frame for the incident.

12. Following each interview, the individual interviewed will complete a witness statement summarizing the events related to the incident. It will be emphasized to each person that they are to write the statement in their own
words. Each individual will sign and date their witness statement in front of a Notary Public.

13. If there is enough evidence to suspect that an individual may have abused or neglected an elder, that individual will not be allowed to work at the facility or allowed access to the facility until the outcome of the investigation is known.

14. The witness statements obtained will be filed with the investigation report.

15. Within five days of the incident, the Administrator will review the information from the investigation and prepare a written report that will include the following:
   a. A list of findings
   b. Summary of conclusions of the investigation
   c. Recommendations to the neighborhood council for changes in policies and procedures that could prevent a similar event from occurring.
   d. Recommendations for employee education when the report indicates employee did not follow or exhibited a lack of knowledge of the policies and procedures of this organization.

16. In the event the abuse or neglect was perpetrated by a member of the public, this information will be provided to the state adult protective services agency.

17. The abuse, neglect and misappropriation of elder property investigation form will be completed by the Administrator or designee and filed with the written report in the Administrator office.

18. Administrator and/or DON will investigate all different types of incidents. Included in the investigation will be: identification of the staff member responsible for the initial reporting, investigation of alleged or suspected violations and reporting of results to the proper authorities immediately within twenty-four hours of the initial report to the Kansas Department on Aging and Disability Services Complaint Hotline.

19. The facility investigation may take the form of physical assessment of the elder, clinical record review, staff interview, collection of elder statement and/or other investigative techniques. Refer to “Investigative Report of Injury of Unknown Origin”.
   a. The investigation will include obtaining notarized witness statements from the person filing the complaint or the person discovering the alleged incident, all staff on duty in the area of the alleged incident at the time of the alleged incident, any family member or visitor with direct knowledge about the alleged incident and any person involved in the investigation and performing interviews regarding the incident. NOTE: If the exact shift of the alleged incident cannot be determined, staff schedules for all departments will be reviewed and interviews and notarized witness statements will be obtained from all persons with any potential knowledge of the alleged incident will be obtained and submitted with the investigation report. (See Complaint Report Form attached to this policy.)

20. The elder and/or surrogate decision-maker has the right to have complaints reviewed by the facility.
   a. The Administrator is responsible for compliance with the Abuse/Neglect/Exploitation policy compliance.
   b. Social service staff informs the elder and/or surrogate decision-maker, verbally and in writing, about the internal grievance process upon admission.
c. The facility posts a description of the grievance process in a prominent location in the facility along with resources to assist the elder and/or surrogate decision-maker such as the Kansas Ombudsman, legal services, or adult protective services.
d. The Administrator and Chief Executive Officer review and, when possible, resolve complaints/grievances from the elder and/or surrogate decision-maker and/or family.
e. If facility staff is not able to resolve the complaint/grievance to the elder and/or surrogate decision-maker’s satisfaction, a referral is made by the social service team to other sources of assistance, such as the Kansas Ombudsman, legal services, or the Kansas adult protective service program.
f. When an elder and/or surrogate decision-maker submits a complaint/grievance, facility staff recognizes as significant, the Administrator acknowledges receipt of the complaint/grievance and notifies the elder and or surrogate decision-maker of follow-up to the complaint/grievance.
g. The Administrator will provide the elder and/or surrogate decision-maker with the phone number and address to file a complaint with the Kansas Department on Aging and Disability Services Complaint Hotline and will notify the elder and/or surrogate decision-maker if the Administrator has filed a report with the Department on Aging and Disability Services Complaint Hotline.
h. Facility employees allow the elder and/or surrogate decision-maker to complain/file a grievance and recommend changes without being subject to coercion, discrimination, reprisal, or interruption of care, treatment or services that could adversely affect the elder.

21. Administrative staff will have evidence that all alleged violations of abuse, neglect including involuntary seclusion, and exploitation are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.
a. The Administrator and/or DON will maintain all documentation of elders who may be victims of physical assault, sexual assault, sexual molestation, domestic abuse, elder abuse, neglect including involuntary seclusion, or exploitation. The DON or Registered Nurse on duty either assesses the elder meeting the criteria or who is reported as a possible victim, or refers the elder to a public or private community agency for assessment.
b. The Administrator reports cases of possible abuse, neglect including involuntary seclusion and exploitation in accordance with the Reporting policy and law and regulation.

Protection
1. All elders are reminded at Elder Neighborhood Meetings and other elder gatherings that they may report any behavior or treatment they do not feel is proper or correct without fear of reprisal.
2. Information is posted in highly visible places around the facility regarding elder rights, including numbers of the State Ombudsman and the Kansas Abuse Hotline.

3. All elders and their responsible parties are given a copy of elder rights’ information and the abuse and neglect reporting information at the time of admission.

4. All elders receive protective oversight twenty-four (24) hours a day. The staff is charged with the responsibility to protect elders from abusive staff members, family members and from other elders who might be acting in an aggressive manner.

5. Any alleged perpetrator of abuse, neglect, or exploitation, will be immediately suspended from employment and will leave the employment property and not return to the property until the investigation by the facility and law enforcement is complete and the incident is resolved. The alleged perpetrator may return to the property prior to resolution if constantly supervised by the Administrator during an investigatory interview.

Reporting

1. The Administrator or designee will report any incident of reasonable suspicion of crimes committed against an elder of this facility.
   a. Reports will be submitted to (Name of local law enforcement agency)
   b. This facility has coordinated with (Name of local law enforcement agency) to determine what actions are considered crimes in this political subdivision. Through collaborative meetings with administrative staff of this facility and (Name of local law enforcement agency), it has been determined that reports of reasonably suspicious crimes will occur as follows:
      i. Suspicion of the following crimes will be called in to (Name of local law enforcement agency) within two (2) hours:
         1. Serious Bodily Injury-If the events that cause the reasonable suspicion result in serious bodily injury to an elder, the reporting individual will report the suspicion immediately but not later than 2 hours after forming the suspicion to the Administrator and (Name of local law enforcement agency).
         2. Theft in excess of $________.__
         3. Sexual assault/rape
         4. Etc., etc., etc.
      ii. Suspicion of the following crimes will be called in to (Name of local law enforcement agency) within 24 hours:
         1. If the events that cause the reasonable suspicion do not result in serious bodily injury to an elder, the reporting individual will report the suspicion not later than twenty-four (24) hours after forming the suspicion to (Name of local law enforcement agency).
         2. Theft under $________.__
         3. Neglectful care by facility staff
         4. Etc., etc., etc.,
2. The toll-free hot line number for reporting abuse to the Kansas Department of Aging and Disability Services is conspicuously posted in multiple key locations throughout the facility and provided to elders and family at the time of admission and at the time of each care plan conference.
   a. The notice will include a statement that an employee may file a complaint with the Kansas Department of Aging and Disability Services against the facility if retaliation against a reporting employee occurs in addition to information with respect to the manner of filing a complaint/grievance/suspicion of abuse/neglect or exploitation.

3. This facility is committed to a policy that the facility will not retaliate against any individual who lawfully reports a reasonable suspicion of a crime. The facility will not discharge, demote, suspend, threaten, harass, or deny a promotion or other employment-related benefit to an employee, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee, or file a complaint or a report against a nurse or other employee with the appropriate state professional disciplinary agency because of lawful acts done by the nurse or employee.

4. All employees and volunteers are educated during new-employee orientation and annually concerning their responsibility to immediately report or cause a report to be made to the State of Kansas any abuse or neglect they witness, are aware of or suspect.

5. All employees and volunteers are educated at new-employee orientation and annually concerning their responsibility to immediately report any abuse, neglect, or exploitation they witness, are aware of, or suspect to the Administrator.

6. The DON, Administrator or other designated investigating individual will begin their own internal investigation and notify the State of Kansas agency within twenty-four (24) hours of identifying the concern of possible abuse, neglect or exploitation and will fully cooperate with the investigating agency.

7. The Director of Human Resources will report to the Kansas Nurse Aide Registry or licensing authorities any knowledge of any actions by a court of law which would indicate an employee is unfit for service.
   a. Human Resources and/or DON will report any knowledge of actions by a court of law against an employee, which would indicate unfitness for service as a certified nurse aide or other facility staff to the Kansas nurse aide registry, Kansas Board of Nursing or the Kansas Board of Behavioral Sciences.

8. This facility will notify the public served about how to contact facility management to report concerns about elder safety and quality of care.

9. Any elder, family member or staff member who reports abuse, neglect or exploitation will receive a response from the investigating individual within five working days. This report must include the resolution of the complaint.

10. The risk management committee and Continuous Quality Assurance Committee will analyze occurrences to determine changes to policies and procedures to prevent further occurrences.

11. The results of all investigations will be reported to the Kansas Department on Aging and Disability Services by the Administrator in accordance with law and regulation.
Elder Abuse Investigation Report Form

Name of Elder ______________________________ Room Number ______

Date Incident Occurred ____________________ Time _______

Date Incident Reported______________________ Time _______

Reported By ______________________________ Position______________

Type of Abuse  ___Verbal  ___Physical  ___Sexual  ___Exploitation

Other (describe) __________________________________________________________________________

Injuries requiring medical attention ___yes ___no

If yes, describe: __________________________________________________________________________

Does the clinical record indicate any previous or unexplained injuries/incidents?

___yes ___no

If yes, describe: __________________________________________________________________________

Name(s) of witness(es) to the incident: __________________________________________________________________________

_____________________________________________________________________________________

_____________________________________________________________________________________

Name of the perpetrator(s), if known

_____________________________________________________________________________________

_____________________________________________________________________________________

Relationship of the perpetrator(s)  ___ employee ___family member

___ visitor  ___other

Summary of interview with person(s) reporting the incident:

_____________________________________________________________________________________

_____________________________________________________________________________________

_____________________________________________________________________________________

_____________________________________________________________________________________

Summary of interview with witness(es):

_____________________________________________________________________________________

_____________________________________________________________________________________

_____________________________________________________________________________________

_____________________________________________________________________________________

Summary of interview with staff members having contact with the elder during the period of the incident: (attach notarized written

_____________________________________________________________________________________

_____________________________________________________________________________________

_____________________________________________________________________________________

_____________________________________________________________________________________
Summary of interview with elder’s roommate (if applicable)

Summary of interview with elder’s family members/visitors:

Summary of investigator’s findings:

Did the findings indicate that the abuse occurred?  ___ yes  ___ no (If “no” please explain)

Corrective action taken:

Did the elder and/or representative participate in determining the appropriate corrective action that was taken?  ___yes  ___ no (If “no” please explain)

Additional Comments:
MISSING ITEMS

STANDARD

The Missing Items Report is used when attempting to locate any elder’s, visitor’s or other’s belonging(s) determined to be missing or allegedly stolen.

POLICY

1. Nursing personnel is responsible for completing the elder’s Inventory Sheet on admission, when items are delivered to or removed from a elder’s room and updated at least annually.

2. Nursing personnel is responsible for filing the Missing Items Report and any other appropriate reports regarding missing item(s) with the Administrator immediately.
   a. The Administrator will begin an immediate investigation of the missing item.
   b. In the event the Administrator is not present, he/she will assign preliminary investigation processes to the licensed nurse on the appropriate neighborhood.

3. Any item found that is not identified is returned to the Administrator if the owner cannot be determined.

PROCEDURES

1. When an item is reported missing by an elder, family member or staff member, the charge nurse of the unit will initiate a search of the unit for the item. In the case of missing clothing, the Custodial Supervisor will be notified by the Neighborhood Nurse, and contact will be made by the Custodial Supervisor to the elder or family member involved.

2. If the missing item(s) cannot be located, the inventory listing in the clinical record will be checked to determine if the item was reported.

3. The Neighborhood Nurse is responsible for notifying the Administrator immediately if the item is not found at the time of the initial search. If the Administrator is not in the facility, he/she may delegate the preliminary investigating processes to the Neighborhood Nurse.

4. Nursing personnel are responsible for reporting and filing the Missing Items Report and any other appropriate reports regarding missing items with the Administrator prior to the end of the shift.
   a. Witness statements will be completed by each person assigned to the neighborhood during the 24-hour period prior to the discovery.

5. If the location of the missing item cannot be reasonably determined within twenty-four (24) hours, the Administrator will file a report with the Kansas Department on Aging and Disability Hotline.

   5. The Administrator will notify (Name of local law enforcement agency) as directed by the agency during collaborative meetings and as designed in the Reporting section of this policy.
GRIEVANCE/CONCERN POLICY

STANDARD
All elders, their responsible party or surrogate, staff members, and visitors are encouraged to voice concerns, grievances and recommendations for changes in services and policies to facility staff and/or others without fear of reprisal or discrimination. Concerns are documented on the Concern Form

POLICY
1. Oversight of the grievance/concern program is the responsibility of the Licensed Social Worker.
2. Grievances and recommendations for changes are voiced through the grievance/concern program in an orderly and timely process.
3. A Concern Form for documentation of grievances and/or concerns is available from the Social Workers, the Administrator, the Administrative Assistant, or any unit charge nurse.

PROCEDURES
1. Completed Concern Forms are located in the Social Work office. The Social Worker will review all forms and distribute them to the appropriate department manager for investigation and follow-up.
2. Following investigation and resolution, the form will be returned to the Social Worker and kept on file.
3. If the problem is not satisfactorily resolved, the Administrator will follow up with further investigation and will take appropriate corrective action as indicated.
4. Information obtained is shared with the department managers of any discipline involved with the concern.
5. The elder, family, and/or staff member is provided with information regarding outside sources of assistance such as the Kansas Ombudsman, legal services, and Kansas Adult Protective Services programs if the complaint is not resolved to the person’s satisfaction.
6. Elders and their families are informed of the mechanism for handling complaints and the Concern Form on Admission during the review of Elder Rights.
7. The Social Worker will maintain a log of all concerns submitted.
8. The Social Worker will submit a summary of activities monthly to the Administrator and the Continuous Quality Improvement Committee.