Creating a Culture of “Zero Tolerance” for Abuse, Neglect, & Exploitation in Your Home

It’s Up to You…and it doesn’t matter who you are or what you do!
Purpose and Objectives

- Participants will be able to verbalize the components or their home’s culture and how to develop a culture of “zero tolerance”.
- Participants will be able to verbalize the scope of ANE citations in Kansas.
- Participants will be able to list the 7 required components of an ANE policy.
- Participants will be able to verbalize strategic interventions to create a home’s zero tolerance culture for abuse, neglect & exploitation.
Culture: Your Home’s Environment for People at Work

- People in every workplace talk about organizational “culture”
  - Mysterious word that characterizes the qualities of a work environment
- Culture is the environment that surrounds you at work all of the time
- Culture shapes your work enjoyment, work relationships, & work processes
- Made up of values, beliefs, underlying assumptions, attitudes and behaviors shared by a group of people
  - The group arrives at a set of generally unspoken & unwritten rules for working together
Central Concepts About Culture

- Culture is represented in your home’s
  - Language
  - Decision making
  - Symbols
  - Stories and legends
  - Daily work practices
Central Concepts About Culture

- Culture is learned...either through rewards or negative consequences that follow their behavior.
- Culture is learned through interactions with other employees.
  - Through YOUR conversations with a new employee, you communicate the elements of culture you’d like to see continued.
  - If no communication occurs, employees form their own ideas of the culture, often with observations & interactions with other employees.
- People shape the culture.
  - New employees need to meet the appropriate people who are setting & meeting the expectations for the home’s culture.
Central Concepts About Culture

- Culture is negotiated…except when it comes to ANE
- Culture is difficult to change because it requires people to change behaviors and it’s hard to “unlearn” old ways of doing things
  - Persistence
  - Discipline
  - Employee involvement
  - Understanding
  - Organization development of consistent training
- Work culture is often interpreted differently by diverse employees
- Tell your neighbor & us about your “culture” of zero tolerance for ANE
ANE in Kansas

Annual re-surveys in 2015
- 2.3% of facilities have been tagged with F223 (Free From Abuse/Involuntary Seclusion)
- 1.7% of facilities have been tagged with F224 (Prohibit Mistreatment/Neglect/Misappropriation)
- 19.0% of facilities have been tagged with F225 (Investigate/Report Allegations/Individuals)
- 7.5% of facilities have been tagged with F226 (Development/Implement Abuse/Neglect, Etc Policies)

Complaint surveys in 2015
- 3.0% of facilities have been tagged with F223
- 0.8% of facilities have been tagged with F224
- 17.3% of facilities have been tagged with F225
- 2.3% of facilities have been tagged with F226
Statutory Definitions

- Abuse means *willful* infliction of injury, unreasonable confinement, intimidation, or punishment with resulting in physical harm, pain or mental anguish. (includes deprivation by a caretaker/staff of goods or services that are necessary to attain or maintain physical, mental, psychosocial well-being.
  - Willful means the individual intended the action itself that he/she knew or should have known could cause physical harm, pain, or mental anguish
  - Even though a resident has cognitive impairment, he/she could still commit a willful act
  - There may be instances when an resident’s willful intent cannot be determined
- Verbal abuse means use of oral, written or gestured language that willfully includes disparaging/derogatory terms to residents or family members within hearing distance regardless of ability to comprehend or disability
Statutory Definitions

- Infliction of physical or mental harm including hitting, slapping, pinching, kicking, instilling fear or intimidation or humiliation or embarrassment

- Any sexual act with a resident when the resident does not consent or when the other person knows or should know that the resident is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship including sexual abuse, sexual harassment, sexual coercion or sexual assault

- Unreasonable use of physical restraint, isolation or medication that harms or is likely to harm a resident

- Unreasonable use of a physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician’s order or as a substitute for treatment except where such use is in the furtherance of the health & safety of the resident or another resident
Involuntary Seclusion

- **Involuntary seclusion** is separation of a Resident from other Residents or from her/his room or confinement to her/his room (with or without roommates) against the Resident’s will, or the will of the Resident’s legal representative (CMS).

- **NOTE:** Emergency or short term monitored separation from other Residents will not be considered involuntary seclusion and 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 needs.
Statutory Definitions

- A threat or menacing conduct directed toward a resident that results or might reasonably be expected to result in fear or emotional or mental distress to a resident including humiliation, harassment, threats of punishment or deprivation.

- Fiduciary abuse is a situation in which any person who is the caretaker of, or who stands in a position of trust to a resident takes, secretes or appropriates the elder’s money or property to any use or purpose not in the due & lawful execution of the person’s trust.

- Omission or deprivation by a caretaker or another person of goods or services which are necessary to avoid physical or mental harm or illness.

- Verbal abuse: use or oral, written or
Exploitation- Misappropriation of resident 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.
Statutory Definitions

**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

*Failure to provide proper or necessary medical care, nutrition or other care necessary for an elder’s well-being*
Injuries of Unknown Origin

- To be reportable: Injuries of Unknown Origin must meet the following two criteria: The key is determination of Root Cause
  - 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
  - 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 injuries over time...in other words, investigation reveals no reasonable explanation for the injury
Injuries of Unknown Origin

- Major injuries of unknown origin (fractures, burns, suspicious contusions, head injuries, etc.) for which the facility is unable to determine the cause and could possibly be the result of abuse or neglect shall (MUST) be reported.

- All other injuries not meeting the two conditions listed should be investigated by the facility and documentation of the investigation retained by the facility.
Components of Abuse Policy

- **Screening**
  - Legislation established the requirement for criminal background checks for all employees of adult care homes and home health agencies effective July 1, 1998. Now referred to as the Criminal Records Check.
  - The facility shall not employ any individual who has been identified on a state nurse aide registry as having abused, neglected, or exploited any resident in an adult care home.
  - Best practice to check all licensed nurses for licensure verification.
Components of Abuse Policy

- Training (at the least...the very least...annually but remember how to build a culture of zero tolerance)
  - Resident Rights
  - ANE
    - Hand-In-Hand
    - Dementia training
    - Reporting obligations
    - Physical signs of abuse, neglect or exploitation
Components of Abuse Policy

- Prevention
  - Monitoring new employees
  - Counseling for staff for job-related or personal stress
  - Adequate knowledgeable, consistent staffing scheduled
  - Annual in-services on stress management
Components of Abuse Policy

- **Identification**
  - Personal property inventories on admission and at least annually & maintain in timely manner
  - Appropriate procedures for resident funds
  - Full body assessments on admission & at least weekly
  - Competency tests on signs of ANE
  - Monthly analysis of all incidents to determine trends in location, timing, units of occurrences, days of occurrences for QAPI
Components of Abuse Policy

- **Protection**
  - Immediate measures shall be taken to prevent further ANE while the investigation is in progress
  - Post Resident Rights
  - Post reporting contacts for State Ombudsman and KDADS complaint hotline…in VISIBLE, ACCESSIBLE place
  - Any alleged perpetrator must be immediately suspended from employment & will leave the facility property until the investigation is completed (doesn’t mean they are fired…but must protect ALL elders in facility until investigation completed)
  - Don’t make excuses…personal problems, worked a double, new employee, long-term employee with no previous history of ANE…
Components of Abuse Policy

- **Investigation**
  - Allegations reported IMMEDIATELY to Administrator/designee
  - Reporter and any other pertinent contacts
  - Witness statements
    - What happened
    - Where
    - Who present
    - Description of environment at time of incident
    - Time frame
- **Analysis of findings**
  - List of findings including details about investigation & findings
  - Summary of conclusions of investigation including determination of root cause
    - Should show you made the decision whether the allegation(s) were substantiated, unsubstantiated or unable to verify
    - What measures have been implemented to ensure incident doesn’t recur
    - Include information about in-service or other trainings, new policies & procedures
    - Include information about what is being done facility-wide to protect all current & future elders
    - Include information about what was done to resolve the incident, such as reimbursement of elder
    - Include information about the final disposition of the elder & the perpetrator
- **Recommendations for changes**
  - Be sure to give yourself credit for everything you did to protect the elder; remember changing a staff member’s unit assignment is not appropriate
Components of Abuse Policy

- **Reporting**
  - Health care professionals who have REASONABLE CAUSE to believe that a resident is being or has been abused, neglected or exploited
  - OR is in a condition which is the result of such abuse/neglect/exploitation
  - OR is in need of protective services
- **KDADS**
  - NO retaliation
  - Within 24 hours of report of incident (24 hours means 24 hours, not 1 business day)
  - Investigation completed & submitted within 5 business days
  - Minimum information on initial report
    - Victim and name of reporter
    - Alleged perpetrator
    - Statement describing allegation(s) in detail
    - Date of discovery in facility
- **Local law enforcement per policy**
  - Within 2 hours:
    - Serious bodily harm
    - Theft within prescribed amount
    - Sexual assault/rape
  - Within 24 hours
    - Theft under prescribed amount
    - Neglectful care by facility staff per agreement with agency
“Suspected” ANE

- Federal-”reasonable suspicion”
- State- “reasonable cause”

The question is: “Would an objective person in the same position have a reasonable basis upon which to suspect abuse, neglect, or financial exploitation?”
Mandated Reporters

- A mandated reporter who has reasonable cause to believe that a resident is being or has been abused, neglected or exploited or in a condition which is the result of such ANE or is in need of protective services, shall report immediately such information to the Kansas Dept. for Aging and Disability Services.
- Failure to make a report is a Class B Misdemeanor
Who Do You Report To?

- Law enforcement (Elder Justice Act)
- KDADS (Regulations)
- Ombudsman (Good practice)
- Adult Protective Services (if applicable)
- Licensing Boards (BACHA), (Kansas State Board of Nursing), (Board of Healing Arts)
Developing a Process

- Protect FIRST…ALWAYS
- Conduct preliminary investigation
  - Make SURE protective measures were implemented for affected residents AND all other residents…always overprotect rather than underprotect
  - Assess accuracy & credibility of report
  - Gather witness statements immediately for timely accuracy
- Report
Recommendations for Creating a Culture of Zero ANE Tolerance

- Primary Prevention Measures
  - Provide education about what ANE looks like to staff, elders, family members…they need to hear from leadership, in person
  - Educate direct care partners on what misconduct is & signs of ANE
  - Comprehensive & on-going direct care partner training for dementia
  - Background screening & thorough reference checks
  - Unannounced visits at different times of day
  - Cultivate a sense of trust with care partners, elders, & family members
  - Model the culture you want

- Secondary Prevention Measures
  - Comprehensive & on-going direct care partner training for recognizing signs of ANE
  - Full cooperation with police & state agencies
  - Build a relationship with Ombudsman
  - Be vigilant regarding staff stress and burnout
Thank You

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