North Carolina Department of Health and Human Services
2001 Mail Service Center • Raleigh, North Carolina 27699-2001
Tel 919-733-4534 • Fax 919-715-4645

Beverly Eaves Perdue, Governor

Lanier M. Cansler, Secretary

MEMORANDUM

TO: Facility Directors

FROM: Lanier M. Cansler

DATE: February 4, 2009

RE: Zero Tolerance for Client Abuse/Neglect/Exploitation or Failure to Comply with Mandatory Reporting Requirements

The work that our facilities do is so important in the lives of many of North Carolina's most vulnerable citizens. People who come to our state facilities for services have the right to expect effective treatment in an environment that treats clients respectfully and humanely and which diligently protects their personal safety.

Most employees in our facilities understand this responsibility and strive daily to meet it. The purpose of this memorandum is to ensure that every employee and contractor understands this responsibility and the consequences of failing to fulfill it.

Employee or contractor abuse or neglect of clients entrusted to their care will not be tolerated. Similarly, there will be no tolerance for a supervisor who fails to take appropriate disciplinary action when learning that an employee or contractor has abused or neglected a client.

I recognize that abuse can take many different forms. Abuse includes conduct such as harsh or unkind words spoken in the presence of a client up to conduct that intentionally causes physical injury to a client. And the same is true for neglect. Generally speaking, neglect is the failure to provide the care necessary to maintain a client's mental/physical condition. Accordingly, neglect includes unacceptable conduct such as a deviation from the plan of care up to conduct that shows a shocking disregard for the client's welfare which results in harm. Regardless of the type of abuse or neglect, such conduct is not acceptable and the discipline selected must clearly convey our intolerance. Dismissal is expected in cases where the abuse or neglect results in physical harm to the client. Dismissal may also be appropriate in cases where there is no physical harm.

It is imperative that we earn the public's confidence in our facilities. One way to do that is to expect and demand appropriate care and treatment of all clients and to hold those employees and contractors accountable who fail to provide such care and treatment or who fail to appropriately supervise and discipline those who fail to do so.

Additionally, facilities must promptly comply with all reporting requirements regarding deaths and abuse/neglect/exploitation of people served. Several of the reporting requirements are set forth below:

1. Pursuant to G.S. § 122C-31(g), "every State facility shall report the death of any client of the facility, regardless of the manner of death, to the medical examiner of the county in which the body of the deceased is found."
2. Pursuant to G.S. § 122C-31(a), facilities shall notify DHSR immediately upon the death of any client of the facility that occurs within seven (7) days of physical restraint or seclusion of the client, and shall notify DHSR within three (3) days of the death of any client of the facility resulting from violence, accident, suicide, or homicide.
3. Pursuant to G.S. § 122C-31(b), DHSR, on behalf of the Secretary, shall notify Disability Rights of NC (the designated State protection and advocacy agency required under federal law) upon receipt of notification from any facility as outlined in No. 2 above.

The above is not an exclusive list of reporting requirements. Additional reporting requirements may be found at G.S. § 143B-146.15 (residential schools reporting certain acts), G.S. § 7B-301 (duty to report juvenile abuse, neglect, dependency or death due to maltreatment), G.S. § 108A-102 (duty to report abuse, neglect or exploitation of disabled adults), G.S. § 122C-66 (duty to report accidental injuries of clients and incidents of employees/volunteers knowingly causing pain or injury to client) as well as in facility and Departmental policies. Also, remember to comply with all reporting requirements imposed by accrediting bodies and the Centers for Medicare and Medicaid Services.

Any DHHS employee who is found to have violated any of the Department's abuse, neglect and exploitation policies or any of the requirements regarding reporting, will be disciplined – up to and including dismissal – for unacceptable personal conduct or grossly inefficient job performance as defined in the State Personnel Manual. Any contractor who violates these policies will be subject to comparable disciplinary action.

Please ensure that every member of your staff including contractors receives this memo and stress the importance of compliance with this memorandum and the consequences for failing to comply.

cc: Allen Feezor
Leza Wainwright
Jim Osberg
Kathy Gruer
Emery Milliken