

## **64 PREVENTING MEMBER ABUSE, NEGLECT AND EXPLOITATION**

REVISION DATE: 3/22/2023, 9/21/2022

EFFECTIVE DATE: July 14, 2021

REFERENCES: State of Arizona Executive Order 2019-03 relating to Enhanced Protections for Individuals with Disabilities; AHCCCS Minimum Subcontract Provisions Number 29; A.R.S. §46-451 and 41-1492.10; CFR §165.2 (p); Division Operations Policy 6002-G.

### **PURPOSE**

To establish posting of signage requirements and training requirements for Qualified Vendor staff and Division Members on identifying, reporting, and preventing Member Abuse, Neglect, and Exploitation.

### **SCOPE**

This policy applies to Qualified Vendors and their staff, whether employed or contracted, who provide day treatment and residential services to Members of the Division of Developmental Disabilities (Division).

Residential services include all group homes (group home, nursing supported group home, and community protection group home) and all developmental homes.

### **DEFINITIONS**

1. "Abuse" means the infliction of, or allowing another individual to inflict, or cause, physical pain or injury, impairment of bodily

function, disfigurement or serious emotional damage which may be evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior. Such Abuse may be caused by acts or omissions of an individual having responsibility for the care, custody or control of a client receiving behavioral health services or community services. Abuse shall also include sexual misconduct, assault, molestation, incest, or prostitution of, or with, a client under the care of personnel of a mental health agency. A.A.C. R9-21-101(B).

- a. "Abuse (of a child)" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement, or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist and is caused by the acts or omissions of an individual who has the care, custody, and control of a child. As specified in A.R.S. §8-201(2), Abuse includes:

- i. Inflicting or allowing sexual Abuse, sexual conduct with a minor, sexual assault, molestation of a child, commercial sexual Exploitation of a minor, sexual Exploitation of a minor, incest, or child sex trafficking as those acts are described in the Arizona Revised Statutes, A.R.S. Title 13, Chapter 14.
  - ii. Physical injury that results from permitting a child to enter or remain in any structure or vehicle in which volatile, toxic, or flammable chemicals are found, or equipment is possessed by any person for the purpose of manufacturing a dangerous drug as defined in A.R.S. 13-3401.
  - iii. Unreasonable confinement of a child.
- b. "Abuse (of a Vulnerable Adult)" means the intentional infliction of physical harm, injury caused by negligent acts or omissions, unreasonable confinement, sexual Abuse or sexual assault, and Emotional Abuse as specified in A.R.S.

§46-451(A)(1).

2. “Emotional Abuse” means a pattern of ridiculing or demeaning a Member; making derogatory remarks, verbally harassing, or threatening to inflict physical or emotional harm on a Member.
3. “Exploitation” means the illegal or improper use of a Member or the Member’s resources for another’s profit or advantage as specified in A.R.S. §46-451(A)(5).
4. “Member” means an individual who is receiving services from the Division of Developmental Disabilities (Division).
5. “Neglect” means a pattern of conduct without the individual’s informed consent resulting in deprivation of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health as specified in A.R.S. §46-451(A)(7), and includes:
  - a. Intentional failure to report health problems or changes in health condition to immediate supervisor or nurse.
  - b. Sleeping on duty or abandoning workstation.

- c. Intentional failure to carry out a prescribed treatment plan for a Member.
6. “Retaliation” means an adverse action taken against an individual for raising a concern about a possible violation or allegation of a potential act of Abuse, Neglect, or Exploitation; or participating in the investigation or other matters related to said act. Staff are expected to report concerns about possible violations or allegations of a potential act of Abuse, Neglect, or Exploitation as soon as they become aware of possible violations. Discipline or termination for staff failure to report or intervene is not considered Retaliation under this policy.
7. “Vulnerable Adult” means an individual who is 18 years of age or older and who is unable to protect himself/herself from Abuse, Neglect, or Exploitation by others because of a physical or mental impairment as specified in A.R.S. § 46-451. Vulnerable Adult includes an incapacitated person as specified in A.R.S. §14-5101.
8. “Whistleblower” means an individual, or two or more individuals acting jointly, who reports Abuse, Neglect, or Exploitation of Members to someone in a position to rectify the wrongdoing. Whistleblowers are protected from Retaliation under federal Whistleblower laws.

## **POLICY**

The Division is committed to providing a safe environment for its most vulnerable Members. As part of that commitment the Division requires Qualified Vendors (vendors) of day treatment and residential settings to post signage in areas accessible to all staff, Division Members, families, and visitors, illustrating how to identify and report Member Abuse, Neglect, and Exploitation, anonymously or otherwise. The Division also requires vendors to provide training to staff and to offer training to Members.

#### **A. SIGNAGE**

1. Vendors are required to post the DES/DDD approved sign, “Everyone Has the Right to be Safe,” in the service setting’s telephone location and/or near posted emergency numbers. The signage is provided by the Division and can be found on the DES Website, in the Document Center, available in English and Spanish. There are two versions: One for individuals under 18 years of age (child) and one for individuals 18 years of age or older (adult). The vendor must post child or adult signage appropriate for the age of the Members receiving service in the setting.

2. Vendors are responsible for providing interpretation or translation of the signs into other non-prevalent languages at the request of the Member or responsible person.
3. Signage should be maintained in good condition and be easily readable.

## **B. STAFF TRAINING**

1. Vendors shall provide staff training on identifying and reporting Member Abuse, Neglect, and Exploitation as follows:
  - a. Newly hired staff shall receive instructor-led training within 90 days of the hire date, and
  - b. All staff shall receive annual training which may be delivered through computer-based training.

**NOTE:** Staff hired on or after the effective date of this policy must be trained within 90 days of their hire date. Staff hired before the effective date of this policy must be trained within 180 days of the effective date of this policy using instructor-led training.

2. Vendors may use the DES/DDD published curriculum, “Recognizing and Reporting Abuse, Neglect and Exploitation of Vulnerable Populations,” available on the Division’s training webpage, or use alternative curriculum with minimum components below:
  - a. Definitions of Abuse (physical, emotional, programmatic), Neglect and Exploitation (including social media and photography).
  - b. Recognizing the physical, behavioral, and environmental signs of maltreatment.
  - c. List the common characteristics of perpetrators.
  - d. Identify the disability, environmental and cultural factors that increase vulnerability and how to decrease them.
  - e. Identify the disability, environmental and cultural factors that increase vulnerability and how to decrease them.
  - f. Defining and modeling boundaries with personal space.
  - g. Maintaining professional relationships when providing



- intimate care.
  - h. Modeling how to say “no” to unwanted touching.
  - i. Rules for necessary touch and understanding how individuals may give permission.
  - j. List the methods for reporting maltreatment to protective agencies.
  - k. Identify key differences between police, Adult Protective Services, and Department of Child Safety.
  - l. Whistleblower protections for reporting and protection against Retaliation.
3. Conduct annual testing for staff responses to potential acts of Exploitive, Abusive, and Neglectful behavior to verify their understanding of the reporting requirements. This requirement can be met by establishing and reviewing case studies or scenarios of potential Exploitive, Abusive, and Neglectful behavior with staff and documenting their responses.
  4. Maintain records of all staff training offered and delivered under

this policy. Using the following roster format:

- a. Last Name
  - b. First name
  - c. DOB
  - d. Staff Fingerprint clearance number or Fingerprint application number
  - e. Vendor name
  - f. Vendor Assists ID
  - g. Trainer name
  - h. Date training completed
5. Issue a training certificate to each staff trained, signed, and dated by the trainer, and maintain a copy in vendor files.

### **C. MEMBER TRAINING**

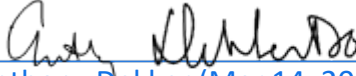
1. Vendors must offer Division Members training within six months of a new Member beginning day treatment or residential services, and annually thereafter, on the topic of identifying and reporting Member Abuse, Neglect, and Exploitation.
2. Vendors must use the "Awareness and Action" training materials provided by the Division on the Division's training website.

Members are not required to take training offered but should be encouraged to do so.

3. Vendors must maintain records of all Member training offered and delivered under this policy and include the following:
  - a. Member Name,
  - b. Date training offered, and
  - c. A roster of Members that received training, including:
    - i. Last Name
    - ii. First name
    - iii. DOB
    - iv. Member Assist ID
    - v. Vendor Name
    - vi. Vendor Assists ID
    - vii. Trainer name
    - viii. Date training completed
    - ix. Time training completed
  - d. Issue a training certificate to each Member trained, signed by

the trainer, and dated. Provide a copy to the Member and maintain a copy in vendor files.

4. Member training shall be instructor led.
5. Training shall be incorporated within routine service delivery.
  - a. When Members are dually served in day treatment and residential services, the day treatment service vendor shall be responsible to offer and provide Member's training.
  - b. Residential vendors shall offer and provide training to Members who do not participate in day treatment services.

Signature of Chief Medical Officer:   
[Anthony Dekker \(Mar 14, 2023 10:05 PDT\)](#)  
Anthony Dekker, D.O.