Abuse Prevention and Investigative Tools

(Applicable regulations and guidelines can be found in the State Operations Manual *Appendix J - Guidance to Surveyors: Intermediate Care Facilities for Persons with Intellectual Disabilities* and *Appendix Q: Guidelines for Determining Immediate Jeopardy).*[1,2]

I. As part of preventing abuse, neglect, and mistreatment, facilities must:

- Develop, implement, and monitor policies and procedures that prohibit abuse, neglect, and mistreatment.
- Provide staff training on what constitutes abuse, neglect, mistreatment and the reporting requirements.

II. In all cases of alleged abuse, neglect, and mistreatment, the role of the facility is to:

- Intervene in the situation.
- Report the situation to proper authorities.
- Investigate the allegation.
- Prevent further abuse while the investigation is in process.
- Have documented evidence the facility:
    1. Intervened
    2. Reported
    3. Prevented further abuse
    4. Investigated
    5. Took corrective action to prevent reoccurrence

III. Investigative Tools

When developing facility policy and procedures, consultation with local law enforcement regarding notification procedures and evidence handling is recommended.

In cases where there is suspected or known sexual assault/abuse, serious injury, or theft law enforcement should be notified prior to notification of other sources. In all cases, physical evidence should not be handled until law enforcement arrives.

If bruising is present, proper notification of the injury should be written at the time of discovery, and pictures taken if possible. It is important to document what action the facility took to prevent further alleged abuse and to protect the individual.

IV. Reporting Requirements

Federal Regulation	What it means…
W153 states "The facility must ensure that all allegations of mistreatment, neglect, or abuse, as well as injuries of unknown source, are reported immediately to the administrator or to other officials in accordance with State law through established procedures."	The facility is responsible for immediately reporting all allegations to the administrator of the facility, to child and/or adult protection agencies, and to law enforcement if applicable, any injuries of unknown origin and any allegations of mistreatment to an individual residing in the facility regardless of who is the perpetrator (e.g., facility staff, parents, legal guardians, volunteer staff from outside agencies serving the individual, neighbors, or other individuals, etc.).

W148 states "Notify promptly the client's parents or guardian of any significant incidents, or changes in the client's condition including, but not limited to, serious illness, accident, death, abuse, or unauthorized absence."	"Significant" incidents, or changes, in the individual's condition refer to any type of occurrence or event, which is perceived to have some level of importance to the individual, family, or guardian. Examples include, but are not limited to, allegations of mistreatment, psychological trauma experienced by the individual, loss or change of a program service or staff person, entry or placement in new programs or agencies, day-to-day events on which family members express interest to be informed, etc.

V. Definitions

Federal (Appendix J)
Abuse (W127) - "Threat," as used in this guideline, is any condition/situation which could cause or result in severe, temporary, or permanent injury or harm to the mental or physical condition of individuals, or in their death. "Abuse" refers to the ill-treatment, violation, revilement, malignment, exploitation and/or otherwise disregard of an individual, whether purposeful, or due to carelessness, inattentiveness, or omission of the perpetrator. Additionally, Appendix Q defines abuse as "The willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish." "Physical abuse" refers to any physical motion or action, (e.g., hitting, slapping, punching, kicking, pinching, etc.) by which bodily harm or trauma occurs. It includes use of corporal punishment as well as the use of any restrictive, intrusive procedure to control inappropriate behavior for purposes of punishment. Observe individuals to see if they are bruised, cut, burned (cigarettes, etc.). "Verbal abuse" refers to any use of oral, written, or gestured language by which abuse occurs. This includes pejorative and derogatory terms to describe persons with disabilities. "Psychological abuse" includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation, sexual coercion, intimidation, whereby individuals suffer psychological harm or trauma.
Neglect (W149) – "Neglect" means failure to provide goods or services necessary to avoid physical or psychological harm. Additionally, Appendix Q defines neglect as the "Failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness."

Mistreatment (W149) –

"Mistreatment" as used in this standard, includes behavior or facility practices that result in any type of individual exploitation such as financial, sexual, or criminal.

VI. Specific Issues Related to Reporting

- Elopement (refer to Appendix Q's definition of neglect).

VII. Conduct Affecting Individuals

- What should be reported?
  * All allegations of abuse, neglect, mistreatment, and all injuries of unknown source.

- Who to report to?
  * Administrator, CP/AP, parent/guardian(s), and nursing personnel and law enforcement if applicable.

- Time frames for reporting:
  * Immediately.

- What to include in your report:
  * Initial report:
    1. Initial phone call.
    2. Name of victim/individual.
    3. Name of staff person who allegedly abused/neglected the individual.
    4. Date, time, and location of alleged abuse/neglect.
    5. Specific information regarding the allegation.
    6. Names of any witnesses to the incident.

  * Investigation Report:
    1. Who was interviewed?
    2. Content of interview.
    3. Copy of written statements obtained from witnesses and alleged perpetrator with name, date, and signature if possible.
    4. Individual/victim diagnosis, ADL capabilities and information regarding the ability of the individual/victim to be interviewed.
    5. Individual/victim reaction to incident if able to obtain.
    6. Any circumstances surrounding the incident.
    7. Who was notified (i.e., parent/guardian, physician, family, etc.). When was notification made and by who.
    8. Information regarding any medical care that was necessary as a result of the incident.
    9. What steps the facility took to intervene and measures taken to prevent reoccurrence and protect the individual(s).
    10. Nursing notes from the day before, the day of and the day after the incident, if applicable.

11. The individual's program plan and behavior plan if pertinent.
12. Pertinent staff personnel file information.

- **<u>Points to remember:</u>**
  *** ALL allegations of abuse, neglect, mistreatment, and all injuries of unknown source MUST be reported immediately to all appropriate authorities and/or agencies.**
  *** The facility has a responsibility to protect individuals from abuse, neglect, and mistreatment.**
  *** The facility has a responsibility to identify, intervene in the abuse and protect the individual(s), and take measures to prevent further occurrences of abuse, neglect, and mistreatment.**
  *** The facility or system reviews specific incidents for "lessons learned," forming a feedback loop for necessary policy changes which gives the facility the capacity to prevent abuse.**
  *** Investigations may be used to help determine if the facility is in compliance with the regulations to protect individuals from harm.**

VIII. Injuries of Unknown Source (the source of the injury was not observed by any person and/or the source of the injury could not be explained by the individual).

- Intervene in the situation (the type of injury will determine the intervention).
- Report the situation to proper authorities.
- Investigate the allegation.
- Prevent further incidents while the investigation is in process.
- Have documented evidence that the facility:
  1. Intervened
  2. Reported
  3. Prevented further incidents
  4. Investigated
  5. Took corrective action to prevent reoccurrence

The following probes are offered to assist facilities in their internal investigation of injuries of unknown source. Please note they are not inclusive and not required to be used.

<u>For Injuries of Unknown Source:</u>

- What did the individual say caused the injury?
- Is the individual alert, oriented, confused, cooperative, and/or combative/resistive?
- Where is the location of the injury?
- Does the individual transfer self or need assistance? If assisted, how many staff are required or is a mechanical lift used.
- Does the individual toilet himself or need assistance?
- What is the individual's mobility status (i.e., self, one person assist, two person assist, walker, wheelchair, cane, other adaptive equipment)?
- What is the individual's fingernail and toenail status?
- What is the skin status of the individual?
- Were there any previous skin tears/bruises on the individual?

- What is the hydration status of the individual?
- What medication is the individual taking that might cause bruising?
- Were interviews conducted with the assigned caregiver(s) for the shift the injury noted and previous shift?
- Were interviews conducted with other individuals?
- Was adaptive equipment assessed and evaluated to rule out causation?
- What is the fingernail status of the caregiver(s)?
- What was the last in-service date of caregivers on transfers/lifting and dealing with combative individuals?
- How are caregivers evaluated and monitored?
- Observe assigned caregiver(s) for the shift of injury and previous shift for repositioning, transferring, toileting, and transportation technique.
- Observe individuals who self-assist for transferring, toileting, and mobility technique in the environments they visit (home, worksite, day program, community center, etc.).

[1] *State Operations Manual Appendix J - Guidance to Surveyors: Intermediate Care Facilities for Persons With Mental Retardation.* Retrieved from http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107ap_j_intermcare.pdf

[2] *Appendix Q - Guidelines for Determining Immediate Jeopardy - (Rev. 1, 05-21-04).* Retrieved from http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_q_immedjeopardy.pdf