

## Departmental Instruction No. 33

### Reporting of Abuse of Clients

#### 33 - 1 Purpose

To establish policies, procedures and responsibilities for reporting and responding to allegations of abuse of clients in state mental health and mental retardation facilities.

#### 33 - 2 Definitions

The following definition applies to this instruction.

##### Abuse

- physical acts such as, but not limited to:
  - choking      hair pulling      hitting      striking
  - kicking      pinching      pushing
  - scratching      slapping      spitting
- sexual activity or any type of inappropriate touching such as, but not limited to touching, stroking or fondling of breasts, genitals or buttocks, directly or through clothing, of a client.
- coercion, threats or intimidation that are statements or actions that would evoke fear in a reasonable person or that could reasonably be expected to evoke fear in the client.
- neglect in care that is the failure to provide:
  - care
  - goods
  - services
  - treatmentnecessary to the health, safety or welfare of a client.
- statements or actions that would humiliate, demean or exploit a client.
- condoning or permitting the abuse of a client, including client to client conflict, that may result in physical, emotional, or psychological harm.

U.S. v. Virginia



MR-VA-002-010

### 33 - 3 Procedures - Facility Director

*Any employee, volunteer, contract employee, consultants, visitor or relative who has knowledge or reason to believe that a client may have been subjected to abuse or other inappropriate behavior shall report such information IMMEDIATELY to the Facility Director. While it is recognized that this is not the normal flow of information and most staff members do not routinely report directly to the Facility Director, an allegation of possible patient abuse is so serious that any information regarding it should be given directly to the Facility Director so that immediate action can be taken to safeguard clients. The report of the alleged abuse shall describe the incident as fully as possible, giving the names of the persons involved, the time, date and location of the incident, and the names of any witnesses.*

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Upon Receipt of  
an Allegation

The Director shall:

- immediately take steps to protect the safety and welfare of the client/s.
- immediately initiate action to protect any physical evidence.
- immediately notify the Advocate of the allegation and provide all the information obtained from the report.
- conduct a preliminary assessment in accordance with Departmental Instruction No. 114, *Generic Investigation Guidelines*.
- assure that the client's authorized representative is notified about any alleged abuse and informed that an investigation has been initiated. If the client does not have an authorized representative, obtain the client's permission to notify the family.
- confer with the Advocate within 24 hours of the report of the allegation.
- determine whether there is a reason to suspect that abuse has occurred.

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Upon a  
Determination  
There is Reason  
to Suspect Abuse  
Occurred

The Director shall -

- immediately initiate an administrative investigation of the incident.

- immediately notify the local Department of Social Services in accordance with § 63.1-55.3 and § 63.1-248.3 of the *Code of Virginia* and the Interdepartmental Agreement between the Department of Social Services and the Department.
  - in all cases of suspected criminal activity such as sexual abuse, immediately contact local law enforcement authorities and/or State Police.
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**If an Employee Has Been Identified as the Suspected Abuser**

The Director shall -

- charge the employee with alleged abuse.
- immediately suspend the employee pending final disposition of the case.
- inform the employee of the charges and require him or her to cooperate with the administrative investigators.

Suspensions shall be in accordance with the Employee Standards of Conduct and Performance.

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**If the Director Determines that Abuse Has Occurred**

The Director shall -

- meet and inform the employee of the finding and issue a Group III written notice under the Employee Standards of Conduct and Performance policy.

Such notice normally results in termination, however the Director has the discretion to mitigate the disciplinary action to an appropriate sanction other than termination.

- take any action necessary to prevent future occurrences.
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**If Other Inappropriate Acts Are Discovered in the Course of Investigation**

The Director shall take appropriate administrative action under the Employee Standards of Conduct and Performance.

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**At Conclusion of  
Investigation,  
Regardless of  
Outcome**

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**The Director shall -**

- **notify the client's authorized representative and the Advocate of the results of the investigation, the determination and the action taken.**
- **report all allegations made under this instruction, the results of any subsequent investigation, the determination, and the resulting action to the Associate Commissioner and the State Human Rights Director.**

*Facilities who treat minors must notify the Licensure Office.*

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### **33 - 4 Procedures - Advocate**

**The Advocate shall -**

- **meet with the client and explain the role of the Advocate and the abuse investigation process.**
  - **represent the client during the investigation.**
  - **monitor the investigative procedures.**
  - **review the written investigative report.**
  - **conduct an independent investigation and submit a report of findings to the Director for review and consideration in making the determination of the disposition of the case, if deemed necessary.**
  - **discuss the decision of the Director with the client and advise the client of the right to pursue the matter through the Human Rights Review Process, if the client is dissatisfied with the Director's decision.**
  - **consult with the Director about the implementation of recommendations developed as a result of the investigation.**
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### 33 - 5 References

- *Code of Virginia*, §§ 63.1-55.3 and 63.1-248.3.
- *Code of Virginia*, § 37.1 - 84.1.
- Employee Standards of Conduct and Performance.
- Departmental Instruction No. 114, "*Generic Investigation Guidelines*."

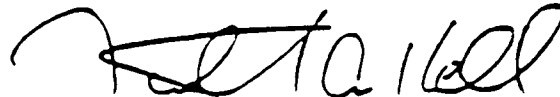
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### 33 - 6 Distribution

A copy of this Departmental Instruction shall be given to each employee to be reviewed during the initial orientation. Employees' written acknowledgement of their understanding of this Instruction shall be placed in their personnel file.

A copy of this Instruction shall also be given to each volunteer, contractor, contract employee or consultant who will have direct contact with clients.

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Timothy A. Kelly, Ph.D.  
Commissioner

This revised Instruction replaces Departmental Instruction No. 33, "Reporting of Abuse of Patients or Residents," issued November 15, 1991.

**EFFECTIVE DATE:** October 20, 1994