



POLICIES AND PROCEDURES

SUBJECT: PATIENT SAFETY: SEXUAL ABUSE AND/OR INAPPROPRIATE BEHAVIOR TOWARD A PATIENT

POLICY NO: 321.000

PURPOSE:

To establish a process for reporting and investigating complaints involving alleged sexual abuse and/or inappropriate behavior toward a patient.

To prohibit all forms of abuse, exploitation, neglect (as a form of abuse) and harassment from staff, other patients or visitors.

POLICY:

Each patient in a Department of Health Services (DHS) facility has the right to be free from verbal, mental, physical, and sexual abuse, exploitation, neglect and harassment. Each DHS facility will evaluate all allegations, observations, and suspected cases of abuse, exploitation, neglect, and harassment that occur within the facility and report such incidents in accordance with the provisions of this policy and guidance.

Sexual contact between a workforce member and a patient is:

- strictly prohibited;
- unprofessional conduct; and
- will constitute sexual misconduct and/or abuse.

Examples of inappropriate sexual conduct include but are not limited to:

- intercourse,
- touching the patient's body with sexual intent,
- inappropriately watching the patient undress/dress,
- making inappropriate comments,
- conducting physical exams not needed, not within the scope of treatment or not based on the patient's medical complaint,
- conducting treatment/exams outside the scope of the health care worker's license, registration, certificate, or permit,
- making phone calls or communications not of a patient care or business nature, and
- any demeaning or undignified treatment.

APPROVED BY:
REVIEW
DATES:

EFFECTIVE DATE: September 1, 2010

SUPERSEDES:

DEPARTMENT OF HEALTH SERVICES COUNTY OF LOS ANGELES

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Sexual conduct that occurs concurrent with the patient-physician or other healthcare provider relationship constitutes sexual misconduct. If a physician or healthcare provider has reason to believe that non-sexual contact with a patient may be perceived as or may lead to sexual contact, then he or she should avoid the non-sexual contact. At a minimum, a physician's or healthcare provider's ethical duties include terminating the physician or healthcare provider-patient relationship before initiating a dating, romantic, or sexual relationship with a patient. Sexual or romantic relationships with former patients are unethical if the physician or healthcare provider uses or exploits trust, knowledge, emotions, or influence derived from the previous professional relationship.

Unwanted or nonconsensual sexual conduct (with or without force) involving a patient and health care worker, another patient, contract staff, unknown perpetrator or spouse/significant other, while being treated or occurring on the premises of a DHS facility may constitute a criminal act punishable by law.

GUIDELINES:

Patient Complaints/Grievances

Each patient, his/her family member, or legal representative has the right to file a complaint or grievance, without fear of retaliation, with the patient advocate, patient relations, or other designated section of the hospital and to have timely review and notification of resolution. Each DHS facility shall provide the patient, his/her family member, and/or legal representative with information on how to file a patient complaint/grievance.

Each complaint and the resolution must be logged and tracked, including those that are resolved within 24 hours of the complaint. A central location/system for tracking complaints should be established in order to facilitate review and follow-up.

The facility patient advocate or other responsible reporting party must report patient abuse incidents to the facility Human Resources (HR) Administrator or designated staff. Cases involving patient sexual abuse on hospital grounds may be reportable to the State under the adverse event reporting law and should be evaluated immediately in accordance with DHS Policies 311 and 311.202.

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Workforce Member Reporting Responsibilities

Any workforce member who witnesses or reasonably suspects that a patient was or is being subjected to inappropriate sexual conduct and/or sexual abuse shall report it to his/her supervisor and to the facility Los Angeles County Sheriff's Department. The reporting party shall report the suspected abuse using a Security Incident Report (attached).

The Department is prohibited from taking disciplinary action against a workforce member for making a good faith report. However, any workforce member who deliberately makes a false accusation will be subject to discipline. Moreover, reporting a violation does not protect individuals from appropriate disciplinary action regarding their own misconduct.

Complaint/Grievance Process

The supervisor/manager shall immediately report, within 24 hours, complaints and allegations of sexual abuse, exploitation, neglect, or harassment to the facility HR Administrator/designated staff. Facility HR Administrator/designated staff will assess the complaint, in consultation with DHS HR Performance Management and/or Organizational Management, and within twenty-four (24) hours, determine whether the investigation can be handled internally or referred to the facility Los Angeles County Sheriff's Department. Referrals to the Los Angeles County Sheriff's Department must be reported using a Security Incident Report.

The facility Patient Advocate or other designated individual shall be responsible for ensuring the patient complaint/grievance process is observed. This individual will be responsible for sending the complainant a letter acknowledging receipt of the complaint within seven (7) calendar days. Resolution of complaints should be completed within 30 calendar days of receiving the complaint. The patient or complainant shall receive a letter regarding the status of the investigation within 30 calendar days. If resolution cannot be completed within 30 calendar days, the patient/complainant shall continue to receive timely updates regarding the investigation through resolution. The Patient Advocate/designee shall coordinate his/her response and follow-up with the facility HR Administrator/designated staff, DHS HR Performance Management and/or Organizational Management and noting resolution of the complaint/grievance in the tracking system.

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Investigation

During an investigation of patient sexual abuse, exploitation, neglect, or harassment, the workforce member or other person shall be removed from providing care, treatment and/or services to the patient and/or all patient contact, as appropriate.

Corrective Actions

A workforce member determined to have violated this policy shall be subject to appropriate corrective action which may lead up to termination. The workforce member may also be subject to criminal and/or civil prosecution and reporting to the appropriate licensing, certification, registration, or permit board/agency. Non-County workforce members will be subject to termination of assignment and placed on the "Do Not Send" database.

DEFINITIONS:

Abuse

With respect to this policy, abuse is defined as the willful infliction of injury, unreasonable confinement, intimidation, or punishment, with resulting physical harm, pain, or mental anguish. This includes staff neglect or indifference to infliction of injury or intimidation of one patient by another. Neglect, for the purpose of this requirement, is considered a form of abuse and is defined as the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness

Inappropriate Conduct

Inappropriate conduct of a sexual nature includes, but is not limited to: conduct of a sexual nature which may be verbal, visual, computer generated (e.g., e-mail), written or physical. It need not include the touching of another person to be inappropriate. Inappropriate sexual conduct also includes consensual sex and is not permitted in the workplace.

AUTHORITY:

The Joint Commission Hospital and Ambulatory Care Standards (RI 01.06.03, RI 01.07.01, RI 01.07.03, PC 01.02.09)
Centers for Medicare and Medicaid Services (CMS) Standard A-0145, 42 CFR §482.13 (c)(3)
California Business and Professions Code Sections 725-733, and 2234
Los Angeles County Civil Service Rule 18.01

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REFERENCES:

American Medical Association Policy E-8.14 Sexual Misconduct in the Practice of Medicine
Department of Human Resources, Policies, Procedures, and Guidelines (PPG) No. 1042,
Countywide Policy and Disciplinary Guidelines on Inappropriate Employee Conduct of a
Sexual Nature Toward or in the Presence of Members of the Public

DHS Policies:

- 311 Incidents Involving Potential Claims Against the County
- 311.202 Adverse Event Reporting
- 747.300 Workforce Behavioral Expectations
- 749 Sexual Harassment
- 792 Threat Management "Zero Tolerance" Policy

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