BEACON
Specialized Living

Progressive Action Form

Name of Facility/Home: Hartford Date: 2/27/2021

Employee Name: DeSean Brown Position: DSP

Person Filling Out Form: ☑ Department Head/Director ☐ ROD ☐ Home Manager ☐ Level 6

Nature of Violation: Based on the seriousness of the offense indicated below, any of the following could result in immediate suspension.

Recipient Rights / Licensing Investigation # _____

- ☐ Absenteeism
- ☐ Tardiness
- ☐ Insubordination
- ☐ Violation of time sheet procedures
- ☑ Disregard of company policies
- ☐ Sleeping on the job
- ☐ Leaving work without approval
- ☐ Not following safety procedures
- ☐ Inappropriate dress for job
- ☐ Refusing work assignment
- ☐ Not following work schedule
- ☐ Insubordination to management
- ☐ Failure to assist resident/agency
- ☐ Misuse or abuse of company property
- ☐ Theft of any kind
- ☑ Violation of drug and substance policy
- ☐ Violation of data processing security agreement
- ☐ Other: _____

Details of Incident: Briefly describe what happened below.

Date: 2/27/2021 Time: 4:00PM Place: Hartford

People Involved: Desean Brown and 2 residents

If Medical Error(s): Type: _____ Level: _____ Occurrence: ☐ 1st ☐ 2nd ☐ 3rd

If Absenteeism: Occurrence: ☐ 1st ☐ 2nd ☐ 3rd in the last year

If Tardiness: Occurrence: ☐ 1st ☐ 2nd ☐ 3rd in the last year

Number of Other Progressive Actions in the last year: _____

_____ Discussion Only X Verbal _____ Written _____ Suspension

Please Explain What Occurred:

On 2/27/2021 you contacted your assistant home manager and explained a situation involving marijuana. Desean you knowingly had drugs in your unlocked car and the residents were able to obtain it. Per Beacon Policies you are never to bring drugs or alcohol on Beacon Properties. I have attached the policies.

Action Taken by (if applicable): _____

Kimberly Howard
Preparer's Signature

2/27/2021
Date Given to Manager

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FOR MANAGER USE ONLY:

Employee Statement:

Action Taken by Manager: ☐ Verbal ☑ Written ☐ Suspension ☐ Termination

I understand that this Disciplinary Record is part of my Employee File and may be divulged to the State of Michigan Human Services Licensing Division and/or Office of Recipient Rights at any time relative to their inquiries or investigation. I also have been notified of and supplied with information regarding the Bullard-Plawecki Right to Know Act.

Employee Signature _____ Date _____

Manager Signature Kimberly Howard Date 2/27/2021

_____ Employee's initials if employee refused to sign

Policy #: HR-001
Date Originated: 9/8/03
Date Revised: 12/4/18

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Progressive Action Policy

Purpose: To implement progressive actions when an employee(s) violates a rule, policy, a regulation, or performs unsatisfactorily, as necessary to ensure a health and safe environment for the Residents to receive care, treatment and services.

Policy: In each instance, the progressive action taken is to be consistent, and in proportion to the seriousness of the violation. In addition, progressive action is to be administered privately, out of sight and hearing of the employee's co-workers. Progressive action will be administered by the employee's Manager as soon as it is practical. However, a violation which is serious in nature is to be corrected by any Manager immediately.

Prior to taking progressive action, the supervisor normally should review the violation, giving full consideration to the following:

1. Consult with the Human Resources Director to assist in review of the violation.
2. Does management know all the facts accurately?
3. Is the rule which has been violated reasonable?
4. Did the employee know the rule or should (s)he reasonably have known it?
5. Has the rule been strictly enforced in the past? If not, what recent notice to employees warned of a crackdown on violations of certain rules?
6. In this instance, it is a reasonable rule that is being applied?
7. Is this employee personally guilty of the violation or only guilty by association with another?
8. Can the employee's guilt be proved by direct, objective evidence, or is the evidence circumstantial or hearsay?
9. Does the employee have a reasonable excuse for the infraction of this rule?
10. What is the employee's record of past violations, warnings, disciplinary action, etc.?
11. What is his/her length of service?
12. Is the employee receiving the same treatment others received for the same offense?
13. Does the punishment fit the offense?
14. If a supervisor is pressing the discharge action, is he level-headed, fair and impartial, and without malice toward the employee involved?

The use of these considerations does not negate employees' at-will employment status. It is our hope that the use of these considerations will promote consistency in the application of disciplinary actions.

Policy #: HR-001
Date Originated: 8/8/03
Date Revised: 12/4/18

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Specialized Living

Progressive Action Policy

Procedure: Four types of progressive actions are recognized:

1. Verbal warning;
2. Written warning;
3. Suspension;
4. Termination.

Warning notices will be placed in the applicable employee's personnel file; should further violations occur, such warnings will remain as a basis for progressive disciplinary action for a period of 12 months.

Nothing in this policy requires the use of progressive discipline in all instances; the Employer may impose any level of disciplinary action at its discretion, but it will use this listing of progressive disciplinary actions as a general guideline in most situations.

Expiration/Cancellation

Progressive actions, regardless of type or severity, will be cancelled after a one-year period as it applies to promotions and the level system. All subsequent progressive actions will in turn expire after their individual one-year period. Progressive actions should not be officially removed from an employee's record, as this expiration period only applies to promotion and the level system.

Policy #: HR-030
Date Originated: 5/17/11
Date Revised: 12/4/18

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Drug and Substance Screening Policy

Purpose: The organization recognizes its legal obligation and responsibility to assure all employees a safe and healthy work environment and to provide all residents a safe residential setting. In our business, we cannot afford to employ individuals who jeopardize the trust and confidence we place in them by drug or alcohol abuse. Such employee behavior cannot be allowed to affect our position in an extremely competitive and regulated market, nor can it be allowed to jeopardize the health and safety of fellow workers or residents.

Employees who use illegal drugs or abuse other controlled substances or alcohol tend to be less productive, less reliable and prone to greater absenteeism resulting in the potential for increased costs, accidents, delays and risks in the organization's business. Employees have the right to work with and residents have the right to be served by persons free from the effects of drugs and alcohol. The organization is committed to providing such a workplace.

Policy:

Employees will be subject to disciplinary action, including termination, for violations of this Policy at the organization's sole discretion.

- Each employee will report to work free from impairment by alcohol, and free from the use of illegal drugs or narcotics. Employees are prohibited from entering any company property or work site while under the influence of alcohol or illegal drugs.
- Use, consumption, possession, or presence in one's body, sale or distribution of alcohol or any illegal drug/narcotic or controlled substance on any of the organization's premises or work site, on working time or in any company vehicles is strictly prohibited.
- Employees using LEGAL drugs are responsible for being aware of any adverse effects such drugs may have on their ability to safely and efficiently perform their duties. The use of any LEGAL drugs that may have such effects must be reported in writing to the Director of Human Resources or the employee's supervisor, who will then determine the employee's fitness for duty.
- The possession, manufacture, sale, transfer or purchase of any illegal drug/narcotic, controlled substance or alcoholic beverages on company time or property or while performing Company or customer business will result in immediate termination, and will be reported to law enforcement officials.

Definitions:

1. "Illegal Substance" means any illegal or controlled drug or other substance which 1) is not legally obtainable, or 2) which is legally obtainable but has not been legally obtained. The term includes prescription drugs which have not been properly

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Drug and Substance Screening Policy

prescribed by a licensed physician or are not being used for prescribed purposes or in a prescribed manner. It also includes marijuana, even if the employee has a valid medical marijuana registry card.

2. "Legal Drug" means any prescribed or over-the-counter medication which has been legally obtained and is being used for its intended purpose and in accordance with the prescription, if any.
3. "Under the Influence" means that the worker has in his/her body an amount of alcohol, illegal substance or improperly obtained or used legal drug at or above the detection level set for that substance by the testing agency. A determination of impairment may be made by analysis of breath, hair, blood, urine, or other bodily fluids, or by personal observation and assessment.
4. "Work Site" means, in addition to any company building office or other premises:
    - The company's vehicles and private vehicles while on company time or premises (including parking lots) or being used on organization business;
    - Any place in which an employee is engaged in representing or performing services for company suppliers.

Application of Policy:

1. **Consent**
    - Prior to being tested as described in this policy, an applicant and/or employee may be asked to sign a consent and release form provided by the organization or the testing agency. An employee who fails or refuses to consent to and participate in the testing procedure will be subject to not being hired or termination.
2. **Employee Testing**
    - Employees will be required to undergo alcohol, drug, and/or narcotic testing when:
        - Reasonable Cause Testing. An employee who is reasonably suspected of using alcohol or a prohibited drug will be administered a drug/alcohol test, and will be removed from work until a negative test result is obtained. If the drug/alcohol test is negative and the employee had been removed from work pending the test results, the employee will be paid for the regularly scheduled hours he would have worked. The Company will provide the employee transportation to and from the testing collection site. An employee is reasonably suspected of using alcohol or a prohibited drug when a supervisor can substantiate specific behavioral, performance, or contemporaneous physical indicators of possible drug use or when an employee has either an

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excessive amount of absenteeism or a questionable pattern of absenteeism as determined by the organization.

- Post Accident Testing. An employee who is involved in an accident may be required to submit to a drug/alcohol test, if the accident results in a MIOSHA recordable injury (generally an injury requiring more than basic first aid), property damage that the organization reasonably believes to be in excess of $1,000 or any accident in which the employee is operating a motor vehicle. The organization will provide the employee transportation to and from the testing collection site. The employee may or may not be removed from work pending the test results, depending on the specific circumstances. If an employee is removed from work and the result is negative, the employee will be paid for the regularly scheduled hours he would have worked. All employees injured will need to go to the local medical treatment designee immediately, and have a drug screen conducted and see a company appointed doctor as soon as possible. If an employee refuses medical treatment, this must be noted on the First Report of Injury which must be signed by the employee and a Treatment Refusal form must be signed.
- Return to Work. An employee testing positive or who fails or refuses to participate in a test may be discharged or may be permitted to return to work, at the organization discretion. To return to work following a positive drug/alcohol test, an employee must fully complete the treatment program prescribed by a treatment counselor or doctor at a facility approved by the organization. Failure to comply with the treatment program, including follow-up requirements, will result in immediate discharge. Further, to return to work following a positive test, the employee must pass a second test administered by an agency selected or approved by the organization, which must be taken and passed within forty-five (45) days of the initial positive test.
- An employee who has a positive test result and is returned to work may be administered unannounced drug/alcohol tests for a period of one (1) year following the initial positive test. A second positive test within such one (1) year period, or a refusal or failure to take a test will result in the employee's discharge from employment.

3. **General Testing**
    - No substance testing will be done without the written consent of the employee. However, an employee who refuses or fails to submit to a

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substance test under any of the circumstances described above will be subject to immediate termination. All testing will be conducted by a reliable testing agency or company selected by the organization. All substance test results shall be strictly confidential and will not be disclosed outside the organization for any reason, except by legal requirement or court order, without the employee's written authorization.

4. **Searches and Inspections**
    - In order to effectively enforce its Alcohol and Drug Policy and to provide for the safety and security of employees and residents, the organization reserves the right to question and search any person entering any of its or its customers' work sites. All packages, purses, lunchboxes, brief cases and other personal belongings or containers brought onto the organization's premises are subject to inspection at any time, as are offices, desks, lockers, employees' vehicles and Company-owned vehicles assigned to employees, based on reasonable suspicion. These procedures are equally applicable to all employees, regardless of position. Failure to submit to them or cooperate in their application may result in disciplinary action up to and including immediate termination. Searches of the organization's facilities and property can be conducted at any time, based on reasonable suspicion. If such a search is conducted, the employee will be given the opportunity to be present.
5. **Disciplinary Action**
    - Violations of this Policy can result in severe disciplinary action, including termination, due to the seriousness of such violations. The refusal or failure to submit to a test, or test results which report a level of alcohol, illegal drugs or narcotics, applying the cutoff/detection levels set by the testing agency, may be the basis for immediate termination.
    - In addition to disciplinary action, the organization may, at its sole discretion, refer the employee to a treatment and counseling program for alcohol and/or drug abuse. Employees referred to such a program by the organization or who enter such a program voluntarily, must immediately cease any alcohol and/or drug abuse and conform to all terms and conditions of the Rehabilitation Program if they are to be allowed to continue in their employment.
    - An employee in a Substance Abuse Rehabilitation Program must enter into and abide by all the terms and conditions set forth in a "JOB JEOPARDY AGREEMENT" prepared by the organization and signed by the employee in order to continue the employment relationship. The Job Jeopardy Agreement will require that termination of employment may result from any violation of

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this Policy, failure to complete the rehabilitation program and aftercare treatment, relapse, non-compliance with any of the conditions of the Job Jeopardy Agreement including refusal or failure to submit to a test at the organization's request, or a positive result. Additional provisions may be included in a Job Jeopardy Agreement.

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Confidentiality, Abuse, Neglect and Mandatory Reporting Requirements Policy

Policy: This packet is designed to give you, our new employee, adequate tools with which to serve the needs of the people who live in our facilities. Please study this information carefully and be sure to see your supervisor with any questions that you may have.

Procedure:

I. Violation of Confidentiality Rights

The Home Manager is generally responsible for decisions about the release of confidential, Resident health, and personal information. Direct Care Staff often must make immediate decisions about whether information about a Resident can be released and to whom. Don't let anyone pressure you. Even if someone gets upset because you don't give out the information they feel they are entitled to receive, your first responsibility is to guard Resident Rights concerning confidentiality. Remember, our Organization has specific rules to ensure that staff members follow confidentiality guidelines. If you have questions about authorization as to what can be released and to whom, check with your immediate supervisor.

Ask your supervisor about who is authorized to release information about a Resident. Ask what kind of information can be released. Ask to see the authorization that the Resident (or his or her designated representative, if applicable) has signed specifying what information can be released and to whom, and where it is found in the Resident's record. Know the persons or entities that have been authorized to receive information about a Resident before you release any information. When in doubt, check immediately with your supervisor or refer the person or entity to your supervisor. Staff members may not always be aware that they are violating the Resident's confidentiality. Here are some ways confidentiality and privacy are violated unknowingly:

1. Talking about a resident outside of the workplace.
2. Referring, by name, to recipients when discussing work with family or friends.
3. Giving information about a Resident over the phone to persons who say they are relatives.
4. Taking photographs or videotapes of Residents without permission.
5. Listening in on a Resident's telephone calls.
6. Discussing information in a Resident's record with staff from another residential community, or with other mental health or service professionals who have no "need to know" and are not authorized to receive the information.
7. Referring to a Resident by full name when charting in another Resident's record or on an Incident Report.

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8. Referring to Resident (John) by first and last name when discussing another Resident (Bob) with Bob's family or teachers.
9. Discussing another Resident's private information, activity, behavior, etc., with a fellow staff person within earshot of another Resident.

- There are certainly many more ways confidentiality and privacy may be violated. It is extremely important that we are vigilant in guarding and respecting the privacy of each of our Residents.
- Respecting confidentiality means you cannot discuss what happened with any Resident when not at work, or with people who are not authorized to receive information about a particular Resident, or about a Resident in front of another Resident while at work. The examples listed above can occur unintentionally or through carelessness and may seem to have little consequence. However, you must make sure that you do not get careless. While you may discuss an "incident" if people outside your work group are present, you cannot use names or any other means of identifying the Resident(s) involved.

A Note of Caution: Even without mentioning names, there are identifiers that would alert a person (without a "need to know: status) as to the identity of the person you are speaking of. Make sure that there is no way an unauthorized person can identify a Resident through your conversation.

**If a resident wishes to speak with a staff about a personal matter or two staff need to speak about a residents personal issues, they must do so in private only. Private is defined as behind closed doors where no other residents can hear. To do so where other residents can hear you is a HIPPA violation as well as an HCBS violation. **

Resident Information Can Only be Disclosed:

1. When the Resident (or his or her legal guardian, if applicable) agrees and the person requesting the information shows a legitimate need for the information;
2. To Mental Health or other public agencies when there is a strong change that the Resident or others will be seriously harmed if no action is taken;
3. Without a Resident's consent (or that of his or her legal guardian, if applicable), information about the Resident can only be given to the provider of mental health services when the information is necessary for the provision of care, treatment and/or services;

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4. As necessary to agencies such as Social Security Administration or the Family Independence Agency for various services;
5. By court order, or when necessary to comply with law;
6. To a prosecuting attorney when necessary for him or her to participate in proceedings governed by the Mental Health Code;
7. To a prosecuting attorney to allow the recipient to participate in proceedings governed by the Mental Health Code;
8. To the Resident's attorney when the Resident (or his or her legal guardian, if applicable) has given consent;
9. To the Office of the Attorney General;
10. For research or accreditation, and only when the Resident will not be harmed by the disclosure, and the identity of the Resident can be protected;
11. To a surviving spouse. If there is no spouse, then to the Resident's closest relative so those individuals can apply for and receive benefits;

Informed Consent

Informed consent means not only that a Resident (or legal guardian, if applicable) has the opportunity to discuss and agree or not agree to release information about themselves or the services they are receiving. It also means that the person receiving services gives a release voluntarily, with full understanding and knowledge of what that release means. It means that:

1. The Resident (or legal guardian, if applicable) is not pressured in any way to give consent;
2. The Resident (or legal guardian, if applicable) is able to understand what he or she is agreeing to release;
3. The Resident (or legal guardian, if applicable) understands the risks, benefits, and consequences of agreeing, or not agreeing, to approve the release of information about themselves or the services they are receiving.

Note: Informed consent must be given by the Resident (or a legal guardian, if applicable) when he or she agrees to have information about his or her treatment released to persons or entities outside the Organization. A person who has a guardian is not capable of giving informed consent.

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Confidentiality, Abuse, Neglect and Mandatory Reporting Requirements Policy

II. Abuse and Neglect

After reading this section, you will be able to:

- Understand the definitions of abuse and neglect;
- Recognize situations where abuse or neglect is occurring.
    - There are different classes of Abuse and Neglect that are based upon the action(s) of the employee and the severity of the injury to the Resident. NO CLASS OF ABUSE OR NEGLECT IS ACCEPTABLE! NO FORM OF ABUSE OR NEGLECT WILL BE TOLERATED!
    - The definition of Abuse, and some of the terms used in that definition are important for you to understand.

1. **Abuse:** Non-accidental physical or emotional harm of the provocation of another to inflict physical or emotional harm, or sexual abuse of a Resident by a person employed by an Organization providing Residential mental health services under contract to a County Community Mental Health agency, or by a person employed in a community Mental Health Services program. Note: This is a general definition of abuse.
2. **Emotional Harm:** Impaired psychological functioning, growth, or development of a significant nature, as determined by a psychiatrist or psychologist.
3. **Non-Serious Physical Harm:** Physical damage suffered by a Resident, which a physician or Registered Nurse determines could not have cause the death of the Resident, an impairment of his or her bodily function(s), or the permanent disfigurement of a recipient.
4. **Serious Physical Harm:** Physical damage suffered by a recipient, which a physician or Registered Nurse determines cause, or could have caused, the death of a recipient, or an impairment of his or her bodily function(s), or the permanent disfigurement of a Resident.
5. **Sexual Abuse:** Any sexual contact between a Resident, an employee, a contract employee, a volunteer, or any other person authorized to provide care of supervision to a Resident.
6. **Sexual Contact:** The intentional touching or penetration of a Resident's intimate parts (genitals, buttocks, breasts, groin, inner thigh, or rectum), or the intentional touching of the clothing, which covers those intimate parts – if that action can be reasonably seen as being for the purpose of arousal or gratification.
7. **The following examples may be considered abuse:**
    - Throwing large, heavy, sharp, or pointed objects at a Resident;
    - Choking a Resident;

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- Use of weapons on a Resident;
- Any sexual contact with a Resident (i.e., intercourse, oral sex, or touching of intimate parts);
- Hitting, punching or slapping a Resident;
- Pinching, kicking, or biting a Resident or pulling a Resident's hair;
- Washing a Resident's mouth out with soap, Tabasco Sauce, or other similar substance;
- Forcing a Resident to run, sit, stand, or kneel if not specified in a treatment plan;
- Pushing, shoving or shaking a Resident;
- Unnecessary roughness, or using more force than needed to manage an aggressive Resident;
- Using an approved physical management technique when it is not needed or called for;
- Giving a Resident "the finger" or making other derogatory gestures;
- Swearing at, or making sarcastic remarks to, a Resident;
- Spitting at, or on, a Resident;
- Threatening a Resident with harm or deprivation of necessities;
- Teasing or making fun of a Resident, in a harassing or mocking manner;
- Preventing a Resident from (or retaliating against a Resident for) answering questions from an authorized official.

8. **Neglect:** An act, or failure to act, by a person employed by the Mental Health Department, a facility, or a Community Mental Health Services program, or a person employed by an entity under contract to a community Mental Health Service, which denies the standard of care due a Resident of mental health services.
9. **The following examples may be considered to be neglect:**
    - Allowing a Resident to bang his or her head;
    - Permitting a Resident to attempt suicide;
    - Permitting a Resident to burn himself or herself with a cigarette;
    - Failing to intervene on behalf of a Resident who is being abused by another person;
    - Depriving a Resident of food or fluids unless specified in the treatment plan;
    - Ignoring a Resident, unless as a planned response;
    - Allowing a Resident to go out in attire inappropriate for the weather;
    - Letting a Resident continue a behavior that will bring retaliation from other Residents;
    - Sleeping while on duty;

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- Watching television, and not attending to the Residents' needs;
- Staying away from a duty area without authorization;
- Not seeking help or medical attention for a Resident when needed;
- Leaving Residents unattended in a van or car;
- Failing to change briefs (adult diapers), dressings, or responding to similar care needs;
- Permitting a Resident to bite himself or herself;
- Permitting a Resident to starve himself or herself;
- Leaving medication cabinets unlocked;
- Not buckling the seatbelts of Residents;
- Not securing the wheelchairs of Residents;
- Leaving the home and/or Residents alone, unattended;
- Leaving toxic or dangerous household supplies or medications out and/or open;
- Failure to report abuse or neglect of a Resident.

REMEMBER: Protecting the resident is your first and most important responsibility!

III. Reporting Abuse or Neglect Procedures and Consequences

After reading this section, you will be able to:

- Understand staff responsibility to report suspected abuse or neglect;
- Know what action to take when abuse or neglect occurs;
- Understand staff responsibility to protect and advocate for Resident rights.

Under the Mental Health Code, all mental health staff and employees who work in residential care settings must file a report of any suspected incident of abuse or neglect, any injury to a Resident, or any unusual incident. You are not expected to determine the level of classification of an incident (i.e., serious or non-serious injury). You are expected to report the events that occurred. The determination of whether or not an injury is serious is the responsibility of the Recipient Rights Officer/Advisor.

At the time of shift change, the Staff leaving should tell you about any physical injuries that happened on their shift, or earlier shifts. They should have documented these in the Resident's progress notes. During your first hour on duty, check to see that anything reported to you verbally was also recorded in the Resident's chart. Observe the people in your care for

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signs of changes in their condition. Look for bruises, bumps, and limping or other unexplained behavior. If you nothing anything that was not explained or charted:

1. Report any injuries or unusual behavior immediately to the Home Manager;
2. Immediately take action to protect, comfort and get necessary treatment for any injured person in your care;
3. Tell the Home Manager or on-call designee immediately;
4. Report the incident on the Incident Report Form. Include any indications that abuse or neglect may have been involved. Give the report to the Home Manager as soon as possible, but not later than the end of the shift on which the incident occurred.

You must immediately report any incidents of possible abuse or neglect, and all other unusual events or behaviors of individuals in your care.

1. Depending on the offense, several organizations might investigate abuse or neglect charges. In addition to the provided, the DCH Office of Recipient Rights or the local Community Mental Health Rights Officer/Advisor will investigate and report findings to the community residential setting's provider and to the responsible Community Mental Health Board or the State Department of Community Health.
2. If a person may have been abused, neglected, or exploited, staff from Adult Protective Services may also investigate. If the community residential setting may have violated State standards, or if the community residential setting seems unsuited to meet an individual's needs, the Family Independence Agency, Licensing Division, may become involved.
3. Finally, the State Police or local law enforcement agency might investigate if there is reason to believe a criminal act has occurred. You are expected to answer questions about work-related matters asked by the Home Manager, the Case Manager, the State Police, DHC, CMH and APS authorities conducting reviews or investigations. If you feel you may be involved in some way, you have a right:
    - To talk to an attorney before giving answers to others; and
    - To have an attorney or personal representative present during police questioning.
4. The decision about what happens to a staff person who has committed abuse or neglect rests with the employer. Each community residential setting should have policies and procedures for dealing with rights violations. These should emphasize the seriousness of improper actions. Since procedures vary among community residential settings, check with your Home Manager, or look in your personnel manual and policies.

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IV. The Michigan Whistleblowers' Protection Act

1. Public Act No. 469 – the Whistleblowers' Protection Act of 1981 – says employers must not discriminate against employees who report human rights violations. It is illegal for your employer to fire, threaten, or discriminate against you regarding your pay, terms, location, or privileges of employment because you, or a person acting on your behalf, reports or is about to report a violation, or suspected violation, of federal, state, or local laws, rules of regulations.
2. The Organization is accredited by The Joint Commission. An employee or other individual who provides care, treatment, or services may report safety or quality-of-care concerns to The Joint Commission without any disciplinary or punitive action from the Organization.
3. It is also illegal for your employer to fire, threaten, or discriminate against you regarding your pay, terms, location, or privileges of employment because you take part in a public hearing, investigation, inquiry, or court action.
4. Limitations of Public Act No. 469: The Act does not lessen your rights or the rights of your employer under any collective bargaining agreement. The Act does not require your employer to pay you for participating in a public hearing, investigation, inquiry, or court action. The Act does not protect you if you make a report you know is false.
5. Enforcement of Public Act 469: If you believe your employer has violated this Act, you may sue in circuit court. If you feel your employer is in violation, you must file suit within 90 days of the date you say the violation took place.
6. Penalties under Public Act 469: Persons found in violation of this Act may be subject to a fine of up to $500.00. If your employer has violated this Act by firing you, the court can order that you get your job back, along with payment of lost wages, fringe benefits, seniority rights, damages, or a combination of these. If you win, the court may also order your employer to pay all, or a portion of, the lawsuit costs, including reasonable attorney and witness fees.

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- Use of weapons on a Resident;
- Any sexual contact with a Resident (i.e., intercourse, oral sex, or touching of intimate parts);
- Hitting, punching or slapping a Resident;
- Pinching, kicking, or biting a Resident or pulling a Resident's hair;
- Washing a Resident's mouth out with soap, Tabasco Sauce, or other similar substance;
- Forcing a Resident to run, sit, stand, or kneel if not specified in a treatment plan;
- Pushing, shoving or shaking a Resident;
- Unnecessary roughness, or using more force than needed to manage an aggressive Resident;
- Using an approved physical management technique when it is not needed or called for;
- Giving a Resident "the finger" or making other derogatory gestures;
- Swearing at, or making sarcastic remarks to, a Resident;
- Spitting at, or on, a Resident;
- Threatening a Resident with harm or deprivation of necessities;
- Teasing or making fun of a Resident, in a harassing or mocking manner;
- Preventing a Resident from (or retaliating against a Resident for) answering questions from an authorized official.

8. **Neglect:** An act, or failure to act, by a person employed by the Mental Health Department, a facility, or a Community Mental Health Services program, or a person employed by an entity under contract to a community Mental Health Service, which denies the standard of care due a Resident of mental health services.
9. **The following examples may be considered to be neglect:**
   - Allowing a Resident to bang his or her head;
   - Permitting a Resident to attempt suicide;
   - Permitting a Resident to burn himself or herself with a cigarette;
   - Failing to intervene on behalf of a Resident who is being abused by another person;
   - Depriving a Resident of food or fluids unless specified in the treatment plan;
   - Ignoring a Resident, unless as a planned response;
   - Allowing a Resident to go out in attire inappropriate for the weather;
   - Letting a Resident continue a behavior that will bring retaliation from other Residents;
   - Sleeping while on duty;

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- Watching television, and not attending to the Residents' needs;
- Staying away from a duty area without authorization;
- Not seeking help or medical attention for a Resident when needed;
- Leaving Residents unattended in a van or car;
- Failing to change briefs (adult diapers), dressings, or responding to similar care needs;
- Permitting a Resident to bite himself or herself;
- Permitting a Resident to starve himself or herself;
- Leaving medication cabinets unlocked;
- Not buckling the seatbelts of Residents;
- Not securing the wheelchairs of Residents;
- Leaving the home and/or Residents alone, unattended;
- Leaving toxic or dangerous household supplies or medications out and/or open;
- Failure to report abuse or neglect of a Resident.

REMEMBER: Protecting the resident is your first and most important responsibility!

III. Reporting Abuse or Neglect Procedures and Consequences

After reading this section, you will be able to:

- Understand staff responsibility to report suspected abuse or neglect;
- Know what action to take when abuse or neglect occurs;
- Understand staff responsibility to protect and advocate for Resident rights.

Under the Mental Health Code, all mental health staff and employees who work in residential care settings must file a report of any suspected incident of abuse or neglect, any injury to a Resident, or any unusual incident. You are not expected to determine the level of classification of an incident (i.e., serious or non-serious injury). You are expected to report the events that occurred. The determination of whether or not an injury is serious is the responsibility of the Recipient Rights Officer/Advisor.

At the time of shift change, the Staff leaving should tell you about any physical injuries that happened on their shift, or earlier shifts. They should have documented these in the Resident's progress notes. During your first hour on duty, check to see that anything reported to you verbally was also recorded in the Resident's chart. Observe the people in your care for

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signs of changes in their condition. Look for bruises, bumps, and limping or other unexplained behavior. If you nothing anything that was not explained or charted:

1. Report any injuries or unusual behavior immediately to the Home Manager;
2. Immediately take action to protect, comfort and get necessary treatment for any injured person in your care;
3. Tell the Home Manager or on-call designee immediately;
4. Report the incident on the Incident Report Form. Include any indications that abuse or neglect may have been involved. Give the report to the Home Manager as soon as possible, but not later than the end of the shift on which the incident occurred.

You must immediately report any incidents of possible abuse or neglect, and all other unusual events or behaviors of individuals in your care.

1. Depending on the offense, several organizations might investigate abuse or neglect charges. In addition to the provided, the DCH Office of Recipient Rights or the local Community Mental Health Rights Officer/Advisor will investigate and report findings to the community residential setting's provider and to the responsible Community Mental Health Board or the State Department of Community Health.
2. If a person may have been abused, neglected, or exploited, staff from Adult Protective Services may also investigate. If the community residential setting may have violated State standards, or if the community residential setting seems unsuited to meet an individual's needs, the Family Independence Agency, Licensing Division, may become involved.
3. Finally, the State Police or local law enforcement agency might investigate if there is reason to believe a criminal act has occurred. You are expected to answer questions about work-related matters asked by the Home Manager, the Case Manager, the State Police, DHC, CMH and APS authorities conducting reviews or investigations. If you feel you may be involved in some way, you have a right:
    - To talk to an attorney before giving answers to others; and
    - To have an attorney or personal representative present during police questioning.
4. The decision about what happens to a staff person who has committed abuse or neglect rests with the employer. Each community residential setting should have policies and procedures for dealing with rights violations. These should emphasize the seriousness of improper actions. Since procedures vary among community residential settings, check with your Home Manager, or look in your personnel manual and policies.

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IV. The Michigan Whistleblowers' Protection Act

1. Public Act No. 469 – the Whistleblowers' Protection Act of 1981 – says employers must not discriminate against employees who report human rights violations. It is illegal for your employer to fire, threaten, or discriminate against you regarding your pay, terms, location, or privileges of employment because you, or a person acting on your behalf, reports or is about to report a violation, or suspected violation, of federal, state, or local laws, rules of regulations.
2. The Organization is accredited by The Joint Commission. An employee or other individual who provides care, treatment, or services may report safety or quality-of-care concerns to The Joint Commission without any disciplinary or punitive action from the Organization.
3. It is also illegal for your employer to fire, threaten, or discriminate against you regarding your pay, terms, location, or privileges of employment because you take part in a public hearing, investigation, inquiry, or court action.
4. Limitations of Public Act No. 469: The Act does not lessen your rights or the rights of your employer under any collective bargaining agreement. The Act does not require your employer to pay you for participating in a public hearing, investigation, inquiry, or court action. The Act does not protect you if you make a report you know is false.
5. Enforcement of Public Act 469: If you believe your employer has violated this Act, you may sue in circuit court. If you feel your employer is in violation, you must file suit within 90 days of the date you say the violation took place.
6. Penalties under Public Act 469: Persons found in violation of this Act may be subject to a fine of up to $500.00. If your employer has violated this Act by firing you, the court can order that you get your job back, along with payment of lost wages, fringe benefits, seniority rights, damages, or a combination of these. If you win, the court may also order your employer to pay all, or a portion of, the lawsuit costs, including reasonable attorney and witness fees.