

Vermont Psychiatric Care Hospital Policy and Procedure
Mandatory Reporting
Effective: July 2014

POLICY

The Vermont Psychiatric Care Hospital (VPCH) will provide treatment to all hospitalized persons in a safe environment. The hospital and its professional personnel have a responsibility and duty to protect the safety of all hospitalized persons and others as part of the clinical care offered during hospitalization. VPCH will not tolerate abuse, neglect, or exploitation of any hospitalized person by any person. Every incident of suspected mistreatment will be reported as required by State and Federal law. VPCH will not retaliate against any person for making a good faith report of hospitalized persons' mistreatment.

DEFINITIONS

Abuse:

- Any treatment of hospitalized persons which places life, health, or welfare in jeopardy or which is likely to result in impairment of health;
- Any conduct committed with an intent or reckless disregard that such conduct is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to hospitalized persons;
- Intentionally subjecting hospitalized persons to behavior which should reasonably be expected to result in intimidation, fear, humiliation, degradation, agitation, disorientation, or other forms of serious emotional distress;
- Any sexual activity with hospitalized persons by personnel, volunteer, consultant/contractor;
- Unnecessary or unlawful confinement or unnecessary or unlawful restraint of hospitalized persons; OR
- Administration, or threatened administration, of a drug, substance, or preparation to hospitalized persons for a purpose other than legitimate and lawful medical or therapeutic treatment.

Sexual Abuse/Assault: Nonconsensual sexual contact of any type with an individual. Sexual abuse includes, but is not limited to the following:

- Unwanted intimate touching of any kind, especially of the breasts, buttocks, or perineal area.
- All types of sexual assault or battery, such as rape, sodomy, and coerced nudity (partial or complete)
- Forced observation of masturbation and/or sexually explicit images, including pornography, texts, or social media.
- Taking sexually explicit photographs and/or audio/video recordings of an individual and maintaining and/or distributing them (for example, posting on social media); this would include, but is not limited to, nudity, fondling, and/or intercourse involving an individual.
- Generally, sexual contact is nonconsensual in the following situations:

- When the individual lacks the cognitive or legal ability to consent even though appearing to want the contact to occur.
- When the individual does not want the contact to occur.

Neglect: Purposeful or reckless failure or omission by a caregiver to:

- Provide care or arrange for goods or services necessary to maintain the health or safety of hospitalized persons, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, unless personnel is acting pursuant to the wishes of hospitalized persons or their representative, or a properly executed terminal care document or advanced directive.
- Make a reasonable effort, in accordance with the authority granted personnel, to protect hospitalized persons from abuse, neglect or exploitation by others.
- Carry out a plan of care for hospitalized persons when such failure results in or could reasonably be expected to result in physical or psychological harm or a substantial risk of death to hospitalized persons, unless personnel is acting pursuant to the wishes of hospitalized persons or their representative, or a properly executed terminal care document or advanced directive.
- Report significant changes in the health status of hospitalized persons to a provider, nurse, or immediate supervisor; OR
- Neglect may be repeated conduct or a single incident which has resulted in or could be expected to result in physical or psychological harm as a result of any of the above.

Exploitation:

- Willfully using, withholding, transferring, or disposing of funds or property of hospitalized persons without or in excess of legal authority for the wrongful profit or advantage of another.
- Acquiring possession or control of or an interest in funds or property of hospitalized persons using undue influence, harassment, duress, or fraud.
- The act of forcing or compelling hospitalized persons against their will to perform services for the profit or advantage of another.
- Any sexual activity with hospitalized persons.

PROCEDURE

Reports of Abuse, Neglect, or Exploitation

What to report:

- Any person, including any personnel, volunteer, or consultant/contractor of VPCH, who knows of or has received information of or has reason to suspect that any hospitalized persons has been abused, neglected or exploited by any person shall ensure that a report is filed with Adult Protective Services (APS) as soon as possible and no later than 48 hours as described below. When a report is made to APS, personnel shall notify the VPCH CEO or designee, and the Chief Nursing Executive (CNE) or designee.
- If the alleged perpetrator of the suspected abuse, neglect, or exploitation is VPCH personnel, volunteer, or consultant/contractor of the VPCH shall ensure that a report is filed with Adult Protective Services (APS) as soon as possible and no later than 48 hours

as described below. If such a report is made, the information shall also immediately be provided to the Commissioner of Mental Health or designee. In such a case, the Commissioner or designee shall immediately take whatever other steps are necessary to ensure the safety of hospitalized persons.

How to report:

- Report all suspected abuse to Adult Protective Services (APS) as soon as possible but no later than 48 hours. Preferably, mandatory reports shall first be made to APS in the Division of Licensing and Protection of the Department of Aging and Independent Living online. Reports may also be made via telephone (1-800-564-1612), on forms provided by APS, or otherwise in writing. The report shall contain the names and addresses of the reporter as well as the names and addresses of the hospitalized persons, the age of the hospitalized persons, the nature of their illness, the nature and extent of the hospitalized persons' abuse, neglect or exploitation together with any other information that the reporter believes may be helpful in establishing the cause of any injuries or reasons for the abuse, neglect, or exploitation as well as information that may be helpful in protecting the hospitalized persons from further abuse.

Cooperation with Adult Protective Services: All personnel, volunteers, and consultants/contractors shall cooperate as necessary with APS officials or other appropriate officials, including law enforcement, relating to any investigations of hospitalized persons mistreatment.

Notification of the report: If the report is not made by or about the CEO or the CNE or their designee, the reporter shall ensure the CNE and the CEO, or their designees, are immediately provided with copies of the report. The reporter may contact the Admissions Office if they need assistance contacting the CEO or the CNE or their designees. The reporter shall also ensure that an adverse event report relating to the suspected abuse is made in the VPCH event reporting system. Events must be reported in a timely manner in order to meet the required reporting timeframes.

Immunity from liability for reporting: No employer or supervisor may discharge, demote, transfer, reduce pay, benefits, or work privileges, prepare a negative work evaluation or take any other action detrimental to any personnel who files a good faith report in accordance with the provisions of this policy. In addition, no individual, hospitalized persons, family member or visitor shall be subject to any form of retaliation for making a good faith report of abuse, neglect, or exploitation.

Failure to report: Any VPCH personnel that fails to report or delays in reporting any suspected abuse, neglect, or exploitation may be subject to disciplinary action up to and including dismissal from employment.

Notice of the VPCH Mandatory Reporting Policy:

VPCH Personnel: VPCH personnel must sign a statement that indicates that they have read, understand, and agree to follow the VPCH Mandatory Reporting Policy and Procedure. The statement shall be kept in each employee's education file.

Volunteers and Consultants/Contractors: Prior to providing any volunteer or contractual services that may involve any contact with hospitalized persons, volunteers and contractors must sign a statement indicating that they have read, understand, and agree to follow the this policy.

Internal Response

Chief Nursing Executive Responsibility: Immediately upon making a report or upon receiving notice that a report of abuse, neglect or exploitation has been filed with Adult Protective Services (APS), the CNE or designee shall take the following steps:

- **Hospitalized persons safety:** Evaluate the safety of the hospitalized persons who is the subject of the report and act as necessary to protect the hospitalized persons from harm.
- **Provider Assessment:** When indicated, arrange for a provider to examine, and assess the hospitalized persons that may have been victim of mistreatment for any impact of the suspected mistreatment. The provider shall prepare a written statement of findings and include a copy of the report in the hospitalized person's medical record.
- **Remove/reassign personnel:** Consult with the CEO or designee regarding the need to immediately remove or reassign personnel.
- **File copies of report:** Provide a copy of the report to the DMH Quality Chief, the VPCH Director of Quality, and the VPCH Chief Medical Officer, or their designees.

Chief Executive Officer Responsibility: As soon as possible after making a report or receiving notice that a report of abuse, neglect, or exploitation has been made, the CEO or designee shall:

- **Hospitalized persons safety:** Evaluate the safety of the hospitalized persons who is the subject of the report and act as necessary to protect the hospitalized persons from harm.
- **Determine whether there is reason to believe that a criminal act occurred:** If the CEO, or designee, determines that there is any reason to believe that a criminal act has occurred, they shall:
 1. Ensure that the scene of event has been secured until the full investigation is initiated. Securing the scene shall include, but is not limited to:
 - safeguarding all potential evidence from possible contamination
 - responding to any issues that may involve blood borne pathogens
 - securing relevant documentation
 - referral of hospitalized persons involved in allegations of sexual abuse or sexual assault to an off-campus emergency room for examination
 2. Remove any allegedly responsible personnel, with permission from the Commissioner of DMH or designee, from duty pending completion of the investigation in accordance with personnel procedures.
 3. Notify APS, State Police, Attorney General's Office or any other responsible outside investigative body.
 4. Report any alleged criminal incidents to the Commissioner of Mental Health.


- **Remove/reassign personnel:** After consultation with the CNE, or designee, and based on an assessment that the allegation may have merit, and with the permission of the Commissioner of DMH or designee, temporarily remove/reassign any personnel involved in any allegation from contact with the hospitalized persons that may have been the victim of mistreatment until the investigation by APS has concluded.
- **Other disciplinary action:** Determine whether other disciplinary action is warranted and proceed pursuant to personnel procedures.

Systems Review and Response:

- **Track status of reports of abuse:** After receiving a copy of a report of suspected abuse, neglect, or exploitation, the Director of Quality and Chief Executive Officer (CEO) or their designees will track the status of the investigation and disposition of the report and maintain documentation relative to each report.
- **Review of Substantiated Reports:** When a report of abuse, neglect or exploitation is determined by APS to be substantiated, the CEO and the Director of Quality or their designees shall conduct a critical incident report and/or root cause analysis. Consideration shall be given to any ongoing internal investigation and Human Resources processes prior to inviting stakeholders to participate in this review.
 1. Review information available related to the incident of abuse, neglect, or exploitation, including reports, statements, and other evidence.
 2. Consider and analyze potential causes and factors that may have contributed to the event.
 3. Identify communication methods and other work processes that may have prevented the event, had they been in place; and
 4. Make recommendations regarding policy, procedural, educational, or other management or operational changes that might prevent a similar incident from occurring in the future.
- **Ongoing Review:** The VPCH Quality department will, on an ongoing basis, monitor reports of abuse, neglect, and exploitation for trends and/or patterns. Should patterns/trends be identified, the VPCH Executive Leadership team will review, analyze, and strategize to aptly address.

References:

Joint Commission Perspectives®, October 2022, Volume 42, Issue 10

Approved by	Signature	Date
Emily Hawes, Commissioner, Vermont Department of Mental Health	 <p>DocuSigned by: Emily Hawes C50275615A62462...</p>	12/5/2024