

R380. Health and Human Services, Administration.

R380-80. Provider Code of Conduct and Client Rights.

R380-80-1. Authority and Purpose.

- (1) This rule is authorized by Section 26B-1-202.
- (2) The purpose of this rule is to:
 - (a) protect clients from abuse, neglect, mistreatment, and exploitation; and
 - (b) clarify the expectation of conduct for department providers, their staff, and volunteers who interact with clients.

R380-80-2. Definitions.

- (1) "Abuse" means the same as the term is defined in Section 26B-6-201 for vulnerable adults or Section 80-1-102 for children.
- (2) "Client" means an individual who receives or has received services from a provider.
- (3) "Critical incident" means the same as the term defined in Rule R380-600.
- (4) "Department" means the Department of Health and Human Services or any of its divisions, offices, or agencies.
- (5) "Exploitation" includes:
 - (a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the gain of some person other than the client, including spending a client's funds for the benefit of another;
 - (b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is inconsistent with therapeutic practices;
 - (c) engaging or involving a client in any sexual conduct;
 - (d) sexual abuse of a minor as described in Section 76-5b-201; or
 - (e) sexual exploitation of a vulnerable adult as described in Section 76-5b-202 and Subsection 76-5-111(2).
- (6) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages, or is made for personal or provider gain. Fraud includes the offenses identified as fraud in Title 76, Chapter 6, Offenses Against Property.
- (7) "Harm" means physical or emotional pain, damage, or injury.
- (8) "Mistreatment" means conduct that results in emotional or physical harm.
- (9) "Neglect" means abandonment or the failure to provide necessary care, including nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm, and neglect also means the same as the term is defined in Sections 26B-6-201 for a vulnerable adult; 76-5-110 for a child with a disability; and 80-1-102 for a child.
- (10) "Penalty" means an action taken by the department against a provider which may include to place a condition on, suspend, deny, or revoke a license or certificate due to the program or facility's non-compliance with statute, administrative rule, or requirement.
- (11) "Provider" means:
 - (a) a license or certificate holder;
 - (b) the legally responsible individual or individuals providing services regulated by the department;
 - (c) any individual or business entity that contracts or subcontracts with the department to provide services to clients;
 - (d) any professionally licensed or certified individuals who provide services to clients under the supervision or direction of an individual or business entity; or
 - (e) any human services program as defined in Section 26B-2-101.
- (12)(a) "Restraint" means physically restricting a person's freedom of movement, physical activity, or normal access to their body, including by chemical and mechanical means.
 - (b) "Restraint" does not include an escort used to lead, guide, or direct a client.
- (13) "Seclusion" means the same as defined in Section 26B-2-101.
- (14) "Staff" means provider employees, managers, directors, supervisors, administrators, agents, volunteers, owners, and contractors.

R380-80-3. Provider's Compliance with Conduct Requirements Imposed by Law, Contract, or Other Policies.

- (1) In addition to complying with this rule, Provider Code of Conduct and Client Rights, the provider shall comply and be responsible for their own staff's compliance with each applicable federal, state, and local law, and each policy and administrative rule required by the department or by other state and federal agencies that regulate or oversee the provider's programs.
- (2) If a department, state, or federal entity requires a policy or rule that is more specific or restrictive than this rule, the provider shall comply with the more specific or restrictive policy or rule.

R380-80-4. Providers' Duty to Help Protect Clients.

- (1) The provider shall protect each client from abuse, neglect, exploitation, and mistreatment.
- (2) Each individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services intake in the Division of Child and Family Services or law enforcement.

(3) Each individual who witnesses or suspects that a disabled or elder adult has been subjected to abuse, neglect, or exploitation shall immediately report to the Adult Protective Services intake office in the Division of Aging and Adult Services or law enforcement.

(4) Each provider shall make each report and documentation about abuse, neglect, exploitation, and mistreatment available to appropriate department personnel, and law enforcement upon request.

(5) Each provider shall cooperate fully in any investigation conducted by the department, law enforcement, or other regulatory or monitoring agencies.

(6) Each provider shall document and report each critical incident to the Office of Licensing and the client's case worker assigned to the client or support coordinator.

(7) If a client dies while receiving services from or under the care of the provider, the provider shall notify the supervising department division or office immediately and shall cooperate with any investigation.

R380-80-5. Provider Code of Conduct.

(1) The provider shall ensure that staff and volunteers are supervised, qualified, and trained to:

- (a) meet the needs of the clients as required by rule; and
- (b) follow any applicable laws, policies, procedures, and rules.

(2) Each provider shall accurately represent services offered, policies, and procedures to clients, guardians, prospective clients, and the public.

(3) Each provider shall create, maintain, and comply with applicable written policies and safe practices that address the appropriate treatment of clients.

(4) Each provider shall protect clients from abuse, neglect, harm, exploitation, mistreatment, fraud, and any action that may compromise the health and safety of clients through acts or omissions and shall instruct and encourage others to do the same.

(5) Each provider shall refrain from using or permitting the use of corporal punishment and shall only utilize restraint as an intervention to protect individuals from self-harm, from harming others, or from damaging property.

(6) Each provider serving clients under the Division of Services for People with Disabilities shall comply with the rules on restraint as described in Rule R539-4.

(7) Each provider shall maintain the health and safety of clients.

(8) Each provider may not be under the influence or use alcoholic beverages or controlled substances without medical prescription while serving clients.

(9) Each provider serving people with disabilities shall only use aversive procedures after review and approval of the provider human rights committee or the Human Rights Committee as defined in Section R539-3-4.

(10) Each provider shall provide services and supervision that is commensurate with the skills, abilities, behaviors, and needs of each client.

(11) Each provider shall give each staff a copy of this rule, Provider Code of Conduct and Client Rights as part of their initial employment.

(12) Each provider shall sign and ensure each staff signs off on reading, understanding, and agreeing to follow this rule, Provider Code of Conduct and Client Rights before working with clients.

(13) Each provider shall inform clients of each right listed in Section R380-80-6.

(14) Each provider shall maintain a copy of the client's rights, signed by each client or client's guardian in each client record.

(15) Each provider shall prominently display a poster in each facility that notifies clients of their rights.

R380-80-6. Client Rights.

(1) The provider shall ensure that each client has the right to:

- (a) be informed of their rights;
- (b) be treated with dignity, respect, and fairness;
- (c) be free from potential harm or acts of violence;
- (d) be free from discrimination;
- (e) be free from abuse, neglect, mistreatment, exploitation, and fraud;
- (f) have equal access to food, shelter, and health services;
- (g) be free from retaliation for reporting any violation to their rights;
- (h) privacy of current and closed records; and
- (i) communicate and visit with family, attorney, clergy, physician, counselor, or case manager or worker assigned to client, unless therapeutically contraindicated or court restricted.

(2) The provider shall inform each client of policies and procedures that affect client or guardian's ability to make informed decisions regarding client care including:

- (a) program expectations, requirements, mandatory or voluntary aspects of the program;
- (b) consequences for non-compliance;
- (c) reasons for involuntary termination from the program and criteria for re-admission;
- (d) program service fees and billing; and
- (e) safety and characteristics of the physical environment where services will be provided.

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