SAMPLE FACILITY

POLICY and PROCEDURE

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| ***Title: Sexual and Non-Sexual Resident Relationships*** |
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**Policy**: The facility shall ensure that all residents are afforded their right to a dignified existence, self-determination, respect, full recognition of their individuality, consideration and privacy in treatment and care for personal needs and communication and access to persons and services inside and outside the facility. The facility shall protect the rights of each resident and shall encourage and assist each resident in the fullest possible exercise of these rights as related to intimate and sexual relationships with peers.

**Definitions:**

**Non-Sexual Physical Contact with Residents** is an acceptable public display of affection such as hand holding, hugging, and kissing, assuming such contact is consistent with each resident’s preferences would not constitute sexual abuse.

**Sexual Physical Contact** requires privacy to ensure that dignity of each person and includes: fondling of breasts or genitalia, mouth kissing, sexual intercourse, and rubbing bodies together

**Sexual contact is nonconsensual** if:

* The resident appears to want the contact to occur, but lacks the cognitive ability to consent
* The resident does not want the contact to occur

Sexual abuse occurs when **one** or both of the residents engaging in sexual activity do not have the capacity to consent.

**Capacity and Consent**

Residents have the right to engage in consensual sexual activity. However, anytime the facility has reason to suspect that a resident may not have the capacity to consent to sexual activity, the facility must ensure the resident is evaluated for capacity to consent. Residents without the capacity to consent to sexual activity may not engage in sexual activity

**Sexual Abuse**

“Sexual abuse” is non-consensual sexual contact of any type with a resident 42 CFR 483.5.

Policy:

1. Staff will be educated on orientation and annually on:
* Sexual Abuse as defined by CMS
* Resident’s right to engage in consensual sexual activity
* Residents right to have the non-sexual relationships with peers.
1. Staff that observe or suspect that a resident is having sexual and/or non-sexual relationship must immediately report this to the IDT to determine if each of the residents has the ability to consent.
2. The IDT will meet with each resident that is seen displaying affection for a peer and identify their desire for the relationship, their ability to consent to intimate or sexual relationships, the need to notify representatives of the relationship.
3. Each resident will have an individualized plan of care developed to address their relationship with peer containing specific guidelines for the staff to follow to ensure resident safety and dignity.
4. **Residents that express a desire to have sexual relations with each other will require the following interventions:**
* Psychiatrist to determine the resident’s capacity to consent to sexual activity
* Notification of Representative as indicated
* Education on contraception and provision of devices as indicated
* Education on sexually transmissible diseases
* Education to report to Social Work if there is a desire to end the relationship
* Rehab referral to review safe transfers and bed mobility to prevent injury during sexual activity
* Provision of privacy and identified space if private room is not available.
1. **Residents that express a desire to have a non- sexual relation with each other will require the following interventions:**
* Identify if both residents are in agreement with the expressions of affection,
* Identify if the resident representative needs to be notified
* Specify the types of affection: hand holding, hugging kissing
* Staff education
* Resident education
1. **When a resident who is living with dementia or is cognitively impaired** displays attraction and/or affection towards another resident, the IDT is responsible to ensure that each resident is protected and that his/her dignity is maintained
* Identify if each resident is accepting of the attraction and affectionate gestures
* Inform each resident’s representative of the relationship
* Develop a care plan addressing the relationship to include the types of affection, and areas where the residents may display this affection
* Educate the staff regarding the accepted and unaccepted forms of affection that may be displayed between the residents.
* Identify any additional monitoring that may be needed to ensure safety and dignity of each resident
1. Staff members that observe residents that are **not** Care Planned for Sexual Physical Contact must take immediate actions to protect the resident(s). The staff member must ask the residents to stop and call for assistance. The staff member **must stay** with the resident until RNS arrives on the scene. The IDT will investigate and make the determination if the residents are capable of consenting to this type of relationship and then implement the steps listed in #5 above.
2. Residents that display sexual behaviors towards peers’ visitors, and/or staff must be identified and care planned for with interventions to ensure adequate supervision is provided to prevent incidents. *(Refer to Policy Behavior Management.)*

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