Core Competency: Consumer Rights, Ethics, and Confidentiality

Goal: Participants will be given an opportunity to increase their knowledge of consumer rights and confidentiality. Participants will be an opportunity to increase their knowledge of the different types of potential abuse and how to maintain personal and professional boundaries on the job.

Learning Objectives - *By the end of this activity, participants will be able to:*

- Describe the rights of consumers and the role of a health care proxy
- Explain how the policy of confidentiality and HIPPA protect a consumer’s right to privacy
- Explain the different types of abuse that may be committed against persons with disabilities and the direct care workers role in protecting the consumer
- Describe special issues a direct care worker may find in the workplace and the strategies to overcome these issues
Legal Documents about Decision-Making

Health Care Proxy

A “health care proxy” is a legal document that allows a consumer to choose someone to make medical decisions for him or her, if the consumer is not able to make those decisions.

The “health care agent” (the person appointed in the proxy document) has to be at least 18 years old. The agent CANNOT be an employee of a health care facility UNLESS that person is also related to the consumer by blood, marriage, or adoption.

The health care agent can only make decisions for the consumer if a doctor determines that the consumer is not able to do so. The agent can make any health care decisions that the consumer would make, if the consumer were able to.

See this website for the actual health care proxy application form.
http://www.massmed.org/AM/Template.cfm?Section=Home6&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=36596

Do Not Resuscitate (DNR)

If a consumer does not want medical workers to use CPR (cardiopulmonary resuscitation) to try to save his or her life, the consumer can get a DNR order from his or her doctor. The DNR order can be canceled if the consumer changes his or her mind. The DNR might also expire.

A DNR usually applies only to hospitals or nursing facilities. If a consumer in home care does not want CPR to be used to save his or her life, the consumer must complete a Comfort Care/DNR Order Verification form. Then the form must be kept in a place where emergency responders (EMT) can see it—or worn in a bracelet or necklace.

Comfort Care/DNR Order

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9 Resources for Seniors in Massachusetts, at http://www.massresources.org/senior-faqs.html
10 http://www.mass.gov/eohhs/provider/guidelines-resources/clinical-treatment/comfort-care/
Confidentiality and HIPAA (Health Insurance Portability and Accountability Act)

HIPAA is a law that requires all of a consumer’s personal and medical information to be kept confidential, or private. This means that you only share information about your consumer with your employer or supervisor. The consumer must give either verbal or written permission to discuss information with family members.

Abuse, Neglect, and Financial Exploitation

Abuse: Someone does something or says something that hurts another person.

Who are the abusers and who gets abused?
Three ways abuse can happen in long term support services:
- Direct-care workers abuse consumers
- Family or friends abuse consumers
- Consumers or family abuse direct-care workers

Why does abuse happen?
- Strain of trying to meet the physical and emotional needs of others
- Lack of support
- Unresolved or ongoing stress
**Physical Abuse**

**Signs of Physical Abuse:**
- Bruises, swelling
- Skin tears, scratches, cuts
- Burns
- Arm or leg out of place or broken
- Change in walking
- Change in behavior
- Unexplained depression
- Unusual fear
- Withdrawal
- Denial of signs or excuses

**Emotional Abuse:** *sometimes also called psychological abuse or mental abuse*

**Examples of Emotional Abuse:**
- Yelling or screaming
- Threatening to punish someone
- Making fun of someone
- Treating them like a child
- Talking about someone as if they weren’t there
- Leaving someone in a bed or in a chair, without any way to get up or get out
- Not allowing him/her to participate in activities
- Ignoring questions or comments
- Being silent (giving a “cold shoulder”) or refusing to talk
- Humiliating someone by leaving them naked or exposed with no privacy

**Signs of Emotional Abuse:**
- Sudden change in behavior
- Unusual fear or suspicions
- Refusal to talk
- Denial of signs
- Unexplained depression
- Withdrawal
- Lack of interest in anything
- Change in activity level
Sexual Abuse

Examples of Sexual Abuse:

- Direct Care Worker knowingly or willingly touching the “private parts of a consumer during bathing or providing other direct care (more than what is necessary to do the ADL)
- Any sexual activity that happens when one person does not want it
- Consumer or consumer’s family member demanding sexual contact with a Direct Care Worker
- Direct Care Worker having sexual contact with a consumer who has a mental disability or who is unable to say no

Signs of Sexual Abuse:

- Scratches, tears, redness, or swelling around the genitals
- Discomfort in sitting or walking
- Abnormal discharge from the penis or vagina
- Withdrawal, depression
- Unexplained signs of fear or discomfort associated with specific people
**Neglect**

Someone does NOT do something they were supposed to do, and it hurts another person.

**Active Neglect** is when someone does NOT do something for someone *on purpose*; they *know* it will hurt the other person.

**Examples of Active Neglect include:**
- Not giving food or water to a person, on purpose
- Keeping medications away from a consumer who needs them
- Not assisting with an ADL, when you know the person needs help
- Not taking a person to the toilet, when you know they need to go
- Not changing or cleaning a person who has had an accident
- Ignoring calls for assistance

**Passive Neglect** is when someone does NOT do something for someone, but they did *not know* it would hurt the other person.

**Examples of Passive Neglect include repeatedly:**
- Telling a person you will be back in 5 minutes, and then forgetting to come back
- Leaving a person on the toilet and forgetting to come back
- Forgetting to help someone with an ADL
- Not following all the safety rules
- Forgetting to clean, or cleaning improperly
- Forgetting to feed a person

**Signs of Neglect (Active and Passive):**
- Weight loss
- The consumer smells bad, has matted hair, is wearing soiled or stained clothing
- Skin breakdown, particularly in the perineum
- Dirty or unsafe living conditions
- Withdrawal or unexplained depression
- Sudden changes in behavior
- Anger, demanding behavior from the consumer
Exploitation
Taking advantage of someone or a situation, usually for personal gain

Financial exploitation: Taking money without permission or not returning the proper change after shopping

Examples of Exploitation:
- “Borrowing” money from a person without permission
- Stealing
- Using a person’s things without permission
- Eating someone’s food without permission
- Tricking a someone to sign documents that transfer money, property, or other valuables to another person

Signs of Exploitation:
- Missing clothes
- Missing valuables, including money
- Missing food
- Reports of theft by the consumer
- Bills not paid
Anyone can report abuse.

If you, or someone you know, is being abused or in danger of being abused, you should report it. Some people are required by law to report abuse, but anyone who believes someone is suffering or has died as a result of abuse can and should report the abuse.

Massachusetts laws require doctors, nurses, podiatrists, dentists, social workers, police and other emergency responders, elder outreach workers, directors of home health agencies, and certain other workers to report elder abuse. If any of these mandated reporters knows of elder abuse and doesn't report it, that person can be fined.

Reporting abuse can be difficult:

What could happen if the abuse, neglect, or exploitation isn’t reported?

- It could get worse:
  - The consumer could be hurt badly.
  - The consumer could die.
- The person abusing, neglecting, or exploiting could do it to other consumers.
- If the abuse, neglect, or financial exploitation is discovered later, the direct care worker who didn’t report it could be accused of wrongdoing and fined up to $1,000.11


http://www.massresources.org/elder-protective-services.html

11http://www.mass.gov/?pageID=dppctermin&L=2&L0=Home&L1=Reporting+Abuse+%26+Neglect&sid=Idppc&b=terminalcontent&f=reporting_mandated_reporters&csid=Idppc
Reporting Abuse, Neglect, or Financial Exploitation: When to report

- A “reasonable cause to believe” of abuse, neglect, or exploitation is enough to file a report; proof is not needed
- If there is no abuse, but the report was made in good faith, the person who reported it will not be punished.

Every agency employer and MassHealth has a written policy for reporting abuse. This is usually explained during new employee orientation. Follow your employer’s policies for reporting.


Disabled Persons Protection Commission (DPPC) investigates cases of abuse/neglect of disabled persons aged 18 through 59 by a PCA or other caregiver. 617-426-9009 or www.mass.gov/dppc

DO report what you saw—“I heard a sound like a slap and saw the daughter run from my consumer’s room. When I checked my consumer, the side of her face was all red.”
When to Report Abuse, Neglect, or Financial Exploitation

When do I have to think about reporting potential Abuse or Neglect Issues?

☑️ When I am working in a home where I witness verbal abuse toward another person
☑️ When I see or someone tells me that s/he has been physically hurt by another person.
☑️ When I am prevented from providing care.
☑️ When I suspect someone may be neglecting the care of one of my consumers.
☑️ When someone tells me that someone has touched them or made unwanted sexual advances.
☑️ When a consumer has a medical issue and needs treatment
☑️ When a consumer tells me that she/he is frightened of someone else
☑️ When I am the victim

Your Employer depends on your professional communication about situations you come across as you are doing your work.

Direct Care Workers should communicate what s/he witnessed or suspect to members of the team

If you see consumers who may be putting themselves at risk by their own behavior, please report the concerns to your supervisor or PCA employer.

Your relationships with consumers you serve are important to assist them in remaining home in a safe environment.
Defining Professional and Personal Boundaries

*Professional and personal boundaries* help create a helpful connection for both consumer and worker. They also help the worker to avoid being either under-involved or over-involved in the consumer’s life.

![Diagram showing under-involved, helpful, and over-involved](image)

*Professional boundaries* are limits and responsibilities set by your job and are within your role as a Direct Care Worker. These are defined by professional ethics and consumer rights.

*Personal boundaries* are physical, mental, and emotional limits set by the Direct Care Worker as a person. The boundaries you set protect you from being used, manipulated, or violated by your employer.

Respecting boundaries requires:
- Thinking about your actions before you do them
- Asking questions about your employer’s professional boundaries
- Performing your duties and following ethical principles
Ethical Behavior

As a Direct Care Worker, you work with consumers who are physically and emotionally vulnerable. You also have access to very personal and private information about your consumers and their families. This means that you have power in your relationship with the consumer. This power requires you to always remember to follow ethical standards, and work within clear professional and personal boundaries. When you do this, your actions are in the best interest of the consumer and yourself.

Here are some examples of ethical behaviors of Direct Care Workers. Although every consumer situation and relationship is unique, these guidelines can help you respect professional and personal boundaries in your work with consumers.

- You do not get involved in the consumer’s personal relationships.
- You do not share your own personal life with your consumer.
- You do not visit or spend time outside of your scheduled work hours with the consumer or consumer’s family.
- When you assist with personal care tasks, you explain to your consumer what you are doing and why you are doing it.
- You never touch your consumer in a sexual way.
- You have the right not to be touched in a sexual way by a consumer or someone in the consumer’s family. If it happens, you clearly ask them to stop. If it continues, you report it to your employer.
- You avoid saying anything that would offend your consumer. You also avoid saying things that might send a sexual message.
- You do not receive gifts, money, or loans from your consumer.
- You do not give gifts, money, or loans from your consumer.
- You do not do tasks that are outside your training or your job description. This is to keep your consumer safe.
- If a professional or personal boundary is unclear, you ask your employer about it.
- You report any suspected abuse, neglect, or exploitation of your consumer.
- You do not discuss your consumer or consumer’s family outside of work.