To Protect & Serve the Patient & Family: Texas regulation

March 2012

Department of Aging & Disability Services

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Objectives: Protection from Abuse, Neglect & Exploitation

- Identify regulations for reporting of abuse, neglect and exploitation (ANE)
- Recall timeframes for reporting of ANE
- List at least five of the ten required preliminary elements on provider investigation form
Client Rights & Agency Responsibilities

• 40 TAC 97.282 Client Conduct and Responsibility and Client Rights

• Adopt and enforce a written policy governing client conduct and responsibility and client rights

• Include a grievance mechanism under which a client can participate without fear of reprisal
Reportable Incident or Grievance

- Reportable incidents = Abuse, neglect, exploitation
- Complaints and grievances made by a client, a client's family or guardian, or a client's health care provider
  - treatment or care that was furnished by the agency
  - treatment or care that the agency failed to furnish
  - a lack of respect for the client's property

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Client Complaints

• DADS Regulatory Services Annual Report

• Top 10 Most Frequent Complaint Intake Reasons

- Resident Rights/Client Protection
- Neglect
- Administration/Care/Services
- Misappropriation/Exploitation
- Abuse, Verbal/Mental
- Proficiency of Staff
- Compliance with Federal, State and Local Laws
- Clinical Records

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Abuse, Neglect & Exploitation

- 40 TAC 97.249 Self-Reported Incidents of Abuse, Neglect and Exploitation
- Cause to believe – agency knows, suspects or receives an allegation
- 40 TAC 97.250 Agency Investigations
Abuse, Neglect & Exploitation

- **Discover** initial facts
- **Protect** the client(s)
- **Report** (Initial calls to DADS/DFPS)
- **Gather** policies, procedures, staff
- **Investigate** the incident
- **Report** findings and facts
- **Document** everything
Investigations of ANE

• Report immediately
• Less than 24 hours
Investigations of ANE

- Gather preliminary information
  - DADS form 3613 Report of Investigation
  - Other forms and formats used by the agency
  - Agency policy and procedures
  - Complaint or report
  - Patient or client’s chart/record
Agency Investigations of ANE

• Timely submission of DADS Form 3613
  ○ 10 calendar days
• Timely completion of investigation
  ○ 30 calendar days
Provider Investigation Form

- DADS Form 3613
  www.dads.state.tx.us/forms/3613
- 3613 Form Instructions
  www.dads.state.tx.us/handbooks/inst/F3613/
- Provider Letter #06-12
Agency Investigations of ANE

- Incident date
- The alleged victim
- The alleged perpetrator
- Any witnesses
- The allegation

- Any injury or adverse affect
- Any assessments made
- Any treatment required
- The investigation summary
- Any action taken

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Investigation Findings

- **Confirmed:** allegation is supported by a preponderance of the evidence
- **Unconfirmed:** reasonable to conclude the allegation did not occur or is unlikely
- **Inconclusive:** insufficient evidence to support or refute the allegation
- **Unfounded:** allegation is untrue or patently without factual basis
When Medicare Hospice Conditions and State Regulations Differ

- Read both carefully
- Meet the higher standard
- Ask if you have questions
- Look for rule amendments
- Participate in the rulemaking process
Exercise: Compare & Contrast

- 97.249 Self-reported incidents of abuse, neglect and exploitation
- 418.52(b)(4)(iv) Standard: Exercise of rights and respect for property and person
Exercise: Compare & Contrast

- 97.249
- Immediately report to DADS and DFPS
- Report no later than 24 hours to DADS and DFPS
- Employees, volunteers and contractors
- Abuse, Neglect and Exploitation
- Injuries of unknown origin not mentioned
- Ten calendar days to investigate
  - ANE from report to DADS
  - Complaints: Initiate 10 days from receipt
  - Complete investigation 30 days from receipt
- 418.52(b)(4)(iv)
- Immediately report to the hospice administrator
- Report verified violations to the State Survey and Certification Agency
- Employees and contractors to administrator
- Investigate all alleged violations: anyone furnishing services
- Mistreatment, Neglect, Abuse (verbal, mental, sexual, physical)
- Physical abuse includes injuries of unknown origin
- Five working days to investigate all violations from the date the person became aware
Exercise: Take Time to Practice

Incident Received

- Discover initial facts
- Protect the client(s)
- Report (Initial calls to DADS/DFPS)
- Gather policies, procedures, staff/contractors
- Investigate the incident
- Report findings and facts
- Document everything
Who to Contact: Policy & Rule Interpretations

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