

## **Office of Human Rights Peer-to-Peer Reportable Incidents 6/15/2017**

As you have heard the Office of Human Rights is conducting a retrospective review of closed ID/DD abuse/neglect investigations from state fiscal year 2016 as a way to ensure that provider investigations are being conducted in compliance with the human rights regulations. The end goal is to improve outcomes and investigative results reported by providers to the Office of Human Rights. As anticipated, this review has begun to identify regional and statewide trends and highlight areas where training and resources are needed. For example: providers continue to struggle with when to report and how to investigate incidents of peer to peer aggression.

### **The following is guidance from the Office of Human Rights regarding the standard for reporting and investigation of peer to peer incidents**

Providers are asked to report and investigate peer-to-peer conflicts/ incidents to determine if their staff members have violated, under the provisions of the Human Rights Regulations, 12 VAC 35-115-50, Dignity, Section B2 and D1, 2 and 3.

When a provider investigates peer to peer acts of aggression and/or conflicts, they are looking to determine whether or not staff provided adequate supervision, followed internal policies and procedures and/or acted to prevent the individual from being harmed while in the program. If the program determines, through their internal investigation, that the staff was neglectful and such acts or omissions resulted in the individual being rendered harm, then the program should take corrective actions in accordance with their human rights policies and procedures.

Below are examples of peer-to-peer conflicts and/or reportable incidents that providers are asked to report to the OHR and investigate in accordance with the above mentioned sections of the regulations:

- Incidents where a resident attacks another resident using physical force, such as punches, which actually connect to another individual's body.
- Allegations of sexual assault, and or other non-consensual sexual acting out (touching of another individual's private areas), both consensual and non-consensual sexual acts by minors.
- Verbal threats where the aggressor(s) has the means to carry out this act. For example, a peer states, "I am going to kill you," and the individual has a knife, or another object in his or her possession that will aid them in carrying out the threat. Generally, providers do not report threats where there is no visible means for the individual to carry out their actions. There could, however, be a situation that could lead to a very serious act of aggression from a mere threat. We ask the provider look into each of these activities and take the appropriate actions internally to assure the safety of each individual involved. Should the provider determine, through the internal investigation, that there has been neglect on the part of the staff, then they are asked to contact the OHR and provide the follow-up information deemed appropriate.
- Pushing and shoving is not generally reported unless it results in an injury, or when the alleged victim feels threatened or intimidated by the aggressor. Obviously, this determination can be very subjective.
- Incidents of spitting are not routinely reported to the OHR. If however, an individual has been diagnosed (known by provider) with a communicable disease such as AIDS and/or Hepatitis and uses this type of act to harm another peer, then we ask the provider to report.

- Any time a peer and/or AR alleges that staff was negligent in allowing another peer to harm or abuse them, it is considered reportable.

As you can see by the types of incidents we are asking providers to report, such as pushing, shoving, spitting, and threats, all can be open for interpretation. And due to the sheer number of incidents that occur on a day-to-day basis, we must allow some discretion in terms of determining which of these incidents will be considered reportable. This guidance should be used as a measuring stick to help in making this determination. When a program is in doubt, it should call the OHR. We can discuss whether or not a particular incident should be reported and investigated.