

Caregivers are Key to Preventing Misconduct



FACILITATOR GUIDE

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Overview



Staff in healthcare settings are key to protecting elderly and vulnerable people in their care. They often know best and notice first changes in a client's condition. Direct care staff are the eyes and ears for providers. Sometimes, they may see actions by others that "just don't feel right."

In Wisconsin, employees and contractors of healthcare providers regulated by the Division of Quality Assurance (DQA) are held to very high standards which are outlined in state and federal regulations. These laws and rules are in place to protect those receiving care in any regulated healthcare setting from abuse, neglect, and misappropriation. To succeed in your position, it's important for you to understand the meaning of those words. And that is what this training is all about – ensuring that your work is key to supporting and protecting those in your care.

Keep these words from a former First Lady in mind as you pursue your career with pride, compassion, and determination:

I like to say that there are only four kinds of people in the world:
Those who have been caregivers,
Those who are currently caregivers,
Those who will be caregivers and
Those who will need caregivers.

Roslyn Carter¹

Thank you for choosing a career in caregiving! Enjoy the training!

[This training recognizes that facilitators and attendees may represent any DQA-regulated health or residential care provider and may use different terms to refer to their provider type; to the individuals receiving care, treatment, or services; and to the individuals providing care, treatment, or services.]

- *For this training, the term "provider" or "provider type" is used to refer to any DQA-regulated provider, entity, or facility.*
- *The terms "client" or "resident" are used to represent any person receiving care, treatment and/or services from any provider.*
- *While most allegations will be allegations of misconduct by caregivers, the terms "employee or contractor" or "staff" will be used to represent any individual employed by or under contract with the provider if the individual is under control of the provider.*

¹ From the written testimony of former First Lady Rosalynn Carter before the Senate Special Committee on Aging May 26, 2011

Facilitators may wish to change the language to be appropriate to the setting in which they are presenting this information.]

Misconduct Learning Points

As a result of this workshop, participants will:

- Understand the definitions of misconduct
- Recognize signs of possible misconduct
- Review duty to report misconduct

Introduction to Preventing Misconduct



The State of Wisconsin's Background Check and Misconduct Investigation Program protects people receiving care and treatment services in our state, including those provided in treatment facilities, assisted living settings, the home, and the community.

Overall, the program requires that providers conduct background checks on employees and contractors, as well as investigate and report allegations of misconduct to the Department of Health Services.

Let's take a moment to review some key thoughts on preventing misconduct.

[Ask participants to look over the 8 thoughts. Don't read it to them. Then ask which thought means the most to them or might be most helpful. Allow responses.]

1. Focus on prevention. Detection is good, but too late.
2. Training and open communication are the keys to prevention. Make sure everyone understands what "misconduct" means.
3. Create an atmosphere that encourages communication between managers and staff.
4. Communication starts at the top. Managers must be approachable and very visible.
5. An employee or contractor with no support system is more likely to mistreat a client.
6. Create a team whose focus is the well-being of both clients and employees and contractors.
7. Direct care staff are the key to the success of your provider type. Invest in them with training and support.
8. Make sure all staff understand their duty to report anything that just doesn't feel right to them. Say it over and over.

Source: Dr. Ted Bunck

While investigating and reporting misconduct are important, awareness and prevention are even more critical...and that's where you come in.

You are the front-line staff who interact daily with those in your care. You truly hold the keys to preventing misconduct and safeguarding residents and clients.

But what exactly does "misconduct" mean? Today we will take some time to explore the definitions included in that term, along with some examples of what can go wrong.

Our goal today is to recognize how your knowledge, empathy, and awareness are KEY to preventing misconduct by supporting your colleagues, protecting clients from harm, and recognizing the red flags.



Definitions of Misconduct



Some providers are state licensed; some are federally certified; and many are both. Providers may be required to follow state law requirements and/or federal regulations related to investigating and reporting allegations of misconduct. Our focus today is less on the formal definitions and more on examples of behavior that may meet the definition.

For purposes of this workshop, misconduct means:

- Abuse
- Neglect
- Misappropriation
- And could include Injuries of Unknown Source

Let's take some time to walk through the definition of each of these, break them down to the simplest meaning, and discuss some actual case examples.

[Distribute copies of the Simplified Definitions handout. Give participants a moment to review it.]

Abuse

The statutory definition of abuse includes four ways that a person can be found to have abused a client:

1. An act or repeated acts that are against policy and procedure, not part of the client's care plan and *done intentionally to cause harm* which
 - either caused or could be expected to cause pain, injury, or death
 - disregarded the client's rights or the caregiver's duties or
 - caused or could be expected to cause mental or emotional damage

This section of the definition describes incidents that involve intentional physical abuse such as hitting, slapping, pinching, kicking, etc.

Client Demetrius does not want to get out of bed for breakfast and slaps at Employee Susan as she wakes him up. Susan slaps Demetrius across the face and yells at him to get out of bed and get dressed.

2. An act or acts of sexual intercourse or sexual contact by a caregiver and involving a client.

Sexual abuse can include harassment, inappropriate touching, and assault.

Caregiver Felicity walks into Resident Karen's room and finds Caregiver Stan with his hand between Karen's legs. Stan quickly removes his hand; states he was checking Karen for incontinence and leaves the room. Felicity knows that Stan is not assigned to Karen this shift so does not understand why Stan would be checking on her.

3. The forcible administration of medication to or therapy.

Forcing a client to take medication against their will is abuse.

Client Ben is non-verbal and often shakes his head when it time to take his medication. Caregiver Gwen forcibly holds Ben's head still, forces a pill into his mouth and refuses to let go until Ben swallows the pill.

And lastly,

4. A course of conduct or repeated acts by a caregiver which serve no legitimate purpose and done with intent to harass, intimidate, humiliate, threaten, or frighten a client.

This can include verbal abuse such as threats of harm or saying things to intentionally frighten a client.

Caregiver Karl tells Client Jim that he will “beat his butt” if he doesn’t eat his dinner. Karl also threatens that he will hurt Jim if Jim tells anyone what he said to him.

It can also include emotional abuse such as humiliation, harassment, intimidation with threats of punishment or depriving care or possessions.

Client Kim is crying when Caregiver Gayle enters the room. Gayle asks Kim what’s wrong. At first Kim won’t tell Gayle why she is crying. Eventually she shares that Caregiver Bridgett told Kim that she was going to take her favorite blanket away if Kim pushed the call light again.

Neglect

The definition of neglect is an **intentional omission or course of conduct** by a caregiver that is against policy and procedure, not part of the client’s treatment plan which:

- either caused or could be expected to cause pain, injury, or death
- disregarded the client’s rights or the caregiver’s duties or
- caused or could be expected to cause mental or emotional damage

You’ll notice that the first definition of abuse and this definition of neglect seem similar which is often confusing. While both abuse and neglect include an intentional act or failure to act, only abuse includes the intent to harm a person.

In other words, **abuse** is intentionally hurting someone (such as hitting them) while **neglect** is intentionally doing something that may hurt someone (such as not using a gait belt when it is required).

Other possible examples of neglect include:

- Transferring a client alone when they are a 2-person transfer
- Failure to perform range of motion exercises
- Turning off a call light or removing it from a client's reach
- Skipping work in a client's home without notifying your employer
- Disregarding hydration orders
- Failure to complete Intake/Output (I/O) as needed
- Failure to deliver or administer medication or treatments

So, while both the act and the harm are intentional for abuse, the act alone is intentional for neglect.

Caregiver Rosa knows that Client William's care plan requires a 2-person transfer with a gait belt, but no other caregiver is available to assist now so rather than wait for help, she decides to transfer William from the bed to the toilet by herself. As Rosa moves William toward the bathroom, his feet slide out from under him, and he falls to his knees.

Misappropriation

Misappropriation of property can mean several different things related to taking the property, information, or money of a client.

1. The intentional taking, carrying away, using, transferring, concealing, or retaining possession of a client's movable property without their consent and with the intent to keep it.

This is likely what most people think of when we say misappropriation...essentially stealing a client's property.

Personal Care Worker Carl knows that Client Vanessa has dementia and likely won't notice that her iPad is missing so he takes it for himself.

2. Obtaining property of a client by intentionally deceiving the client with a false representation, made with the intent to defraud, and which does defraud the person.

Here the misappropriation is related to a caregiver getting property from a client by telling the client something that isn't true in order to obtain it.

Home Health Aide April tells Client José that her car broke down. Since she knows José is not driving anymore, she asks him if she can have his car. April tells José that if he doesn't give it to her, she won't be able to help him anymore. José says that April can have his car. He is afraid that if he doesn't, he won't get the care he needs.

3. By virtue of a caregiver's employment, having possession of money or other funds of a client and intentionally using or retaining possession of the money without the owner's consent, and with the intent to convert it to their own use.

Misappropriation meeting this section of the definition involves a caregiver using their position to access a client's funds for their own use.

Employee Paulette works in the facility office and has access to the client's accounts. Paulette notices that Client Danielle never spends her monthly allotment. Paulette begins withdrawing an extra \$10 every month and keeps it for herself.

4. Intentionally using or attempting to use personal identifying information or financial transaction card to obtain credit, money, goods, services, or anything else of value without the authorization or consent of the client.

Using a client's identity, debit card or credit card without consent is misappropriation.

Client Damien gives his credit card to Caregiver Mia to purchase some groceries for him. Since Mia is going to the store for Damien, she decides to purchase some items for herself with his credit card as well.

Injuries of Unknown Source

An injury is considered an injury of unknown source when both of the following are true:

The source of the injury was not observed by anyone, or the source of the injury cannot be explained by the resident

-And-

The injury is suspicious because of:

- the extent of the injury or
- the location of the injury or
- the number of injuries at one particular time or
- the incidence of injuries over time.

So, what does that mean exactly? It is an injury that no one witnessed, and the resident cannot explain that is serious in nature, such as a broken bone or bruising in unusual places.

Client Meredith has a large bruise on her inner thigh. Meredith does not know how she got the bruise and there is no documentation in her chart regarding the bruising.

[Remind participants to report or document an injury when they see it happen, so it does not become an injury of unknown source.]

How to Respond When Something Doesn't Feel Right

It's always a good idea to be prepared in advance of a difficult situation.

1. If it feels safe to do so, try to intervene in the situation that doesn't feel right to you.

CNA Sara hears shouting coming from Resident Bill's room. She walks in and observes LPN Janet yelling at Bill, "I'm going to slap you if you don't hold still! I'm just trying to put in your eye drops, you stupid old man."

Sara knows Janet well and feels safe trying to calm the situation and prevent injury to Ben.

2. Use a calm voice. No accusations.

Sara says, "Hey, Janet, can I give you a hand? I know you have extra residents today." "Fine," says Janet and storms out of the room.

3. Check on the resident.

Sara asks Bill if he's ok. He nods and allows Sara to put in his eye drops.

4. Report the incident immediately to the person designated in your provider's reporting guidelines. Immediately means as soon as possible.

According to her training, Sara knows that she is to report the incident immediately to Supervisor Brenda. She doesn't want to get Janet in trouble, but her first duty is to Bill. Sara isn't sure whether Janet's behavior is misconduct but it doesn't feel right to her so she calls Brenda right away.

In this incident, things went pretty smoothly. Sara was able to get Janet to stop harassing Bill and administer his eye drops. Because Sara's employer had trained her on reporting requirements, she knew exactly who to contact immediately.

But what if things didn't go as smoothly?

[Ask participants for some responses. Help them out with responses below if needed.]

If you were Sara, what would you do if Janet refuses your help and continues to threaten Bill?

[Possible Responses:

- If you feel safe, ask Janet to leave the room or take a break.*
- If Janet refuses and continues to threaten Ben, get help.]*

What if Bill continues to refuse his medication or remains upset and angry?

[Possible Responses:

- Use calming words: I'm sorry that happened. Are you ok? Can I help with your eye drops?*
- If Bill continues to refuse, back off. (Bill has the right to refuse.)*
- Re-approach later after Bill has calmed.]*

What if your provider has no reporting guidelines?

[If your provider has specific reporting requirements, share them here.]

You are learning today that you must report immediately to someone in charge, even if they are not on the premises. Protect the resident and yourself. Caregivers can be penalized for not reporting an incident.

Activity: Recognizing the Red Flags of Misconduct



Let's take the information that we've covered and apply it to some specific situations.

In each example, you may assume that you (or your group) either heard about or witnessed the incident. Discuss what occurred and what you would do in each example.

Example #1: Allegation of Physical Abuse

On October 31st, Nurse Aide Cassandra witnesses Nurse Aide Elizabeth hit Resident Jonathon. Cassandra tells Elizabeth to leave the room but does not report the incident to LPN Wayne until the next day, November 1st. Both staff members are suspended immediately. Cassandra is allowed to return after receiving one-on-one training regarding abuse reporting.

[Possible questions/observations:]

- *Cassandra did the right thing by telling Elizabeth to leave the room.*
- *Did she confirm that Resident Jonathon was ok?*
- *Why did both staff get suspended?*
- *She should have reported the incident right away?*
- *What would you have done if you were Cassandra?]*

Example #2: Allegation of Verbal/Emotional Abuse

Two staff, Brian and Julia, are providing cares for Client Alfonzo. Julia is annoyed with having to provide cares to Alfonzo because of his size. While turning him, she says "Are you forgetting how big you are", and "Do you want your butt cleaned or not." Brian knows he should say something to Julia but is afraid of her. She gets angrier when Alfonzo starts to cry, throws the bed remote across the room and storms out. Brian completes Alfonzo's cares then reports the incident to his supervisor.

[Possible questions/observations:]

- *What did Brian do right?*
- *Did he comfort Alfonzo in any way or just complete the cares and leave?*
- *What could he have done differently?*
- *What would you have done if you were Brian?]*

Example #3: Allegation of Neglect

Client Joseph reports to you that his other Home Health Care Aide, Susan, had not been to his apartment in over a week. Joseph is to receive services 3 times a week which include assistance with showers and medication set up/monitoring. Joseph states he feels that Susan is mad at him. The previous week Susan only came to his apartment twice but wanted Joseph to sign off that she worked 3 days that week. Joseph states he did not take his meds this week because the aide did not set them up for him.

[Possible questions/observations:

- What would you do first when Joseph tells you that Susan hasn't been coming?*
- Check Joseph's care plan. Is he supposed to receive assistance with showering and medication setup and monitoring?*
- Check Joseph's medications. Are there extra medications that show Joseph did not receive his medications as scheduled?*
- Immediately call your supervisor.]*

Example #4: Allegation of Misappropriation

You offer to assist RN Jacqueline with the medication pass. You request the key to the narcotic medications from her. Jacqueline initially refuses to give you the key but eventually gives it to you. You notice that Resident Amanda has only received one of her medications, hydrocodone, and that seems odd. You ask Amanda if she had gotten any of her medications yet, and Amanda says she hasn't. You immediately report the situation to your manager.

[Possible questions/observations:

- Do you know that Jacqueline did anything wrong at this point?*
- Do not accuse your co-worker of anything.*
- What matters is that something seems off so you should report it.*
- It's the facility's duty to investigate, not yours.]*

Example #5: Injury of Unknown Source

On March 19th, Activity Director Carol is helping several clients who regularly come to the activity center to weave and do needlework. Carol notices that one of her regulars, Mabelle, has a large bruise on her arm. Carol thinks the bruise is shaped something like a handprint. Carol asks Mabelle how she got the bruise. Mabelle looks at the bruise curiously and says she doesn't remember. Mabelle has struggled recently with memory issues and Carol fears that Mabelle has been abused but can't remember the incident. Carol worries about the bruise, thinks about it over the weekend, and reports it on March 22nd.

[Possible questions/observations:

- The bruise could be from medications or an accident but you don't know that.*
- The bruise wasn't observed, can't be explained and does look like a handprint so it is suspicious.*
- It appears that it might meet the definition of an injury of unknown source.*
- Remind Carol to report immediately when something doesn't feel right.*
- What would you do in this situation?]*

Knowing Your Responsibilities



As an employee or contractor, it is your ethical responsibility to ensure the safety and well-being of clients and residents. If you suspect that any individual is harming a client or witness an incident, don't help the person avoid facing the consequences.

Report your suspicions or the incident to your supervisor right away. Well-meaning caregivers who cover up or protect a co-worker are enabling that person's behavior and not acting in the best interest of the client. It may be hard to report someone to a supervisor, but not reporting endangers you, your job and those in your care.

[Does your facility take any action against a caregiver who fails to report an incident? If so, refer to it here.]

If you suspect misconduct,

- Immediately take action to ensure the safety of the client.
- Inform your supervisor (or another designated person) about the incident as soon as possible.

Your supervisor may ask you questions about the incident including:

WHO?

Provide information about the person(s) suspected of harming the client. Include the name, position, or title at time of incident, and gender of all persons suspected of harming the client.

Provide information about people with specific knowledge of the incident. Include all persons with specific knowledge of the incident. Include the person's name, gender, address, and telephone number, if known. Include the person's position or relationship to the affected client.

Individuals Involved. Include all persons who are connected in any way with the incident:

- Resident, client, patient
- Suspect or accused person
- Witness(es)
- Any others with first-hand knowledge

WHEN?

Explain when the incident occurred. Include the month, day, year, and time of the incident (*example: 08/25/2022, 10:30 AM*). If you do not know the exact day, provide an approximate date, such as the week of March 1, or the month of March, or between March 1 and April 15. If you give approximate dates, explain how you determined the dates.

WHAT?

Briefly describe the incident in a precise and accurate manner. Document observable facts regarding the incident in as much detail as possible. Your supervisor may request supporting documents.

WHERE?

Identify the specific location where the incident happened. If the incident happened at a location other than the entity, indicate the specific address of that location.

Location. Document physical findings using diagrams, sketches, or photographs, as appropriate to include:

- Specific location of room, using room numbers, wings
- Specific location of objects in the space

EFFECT?

Describe the effect of the incident on the client or the client's reaction to the incident. If a client has been physically injured, describe the injury, size of bruise, etc. Describe any indication or expressions of pain, anger, frustration, humiliation, fright, etc., by the client during or after the incident.

Above all, you're encouraged to report anything to a supervisor or manager that just doesn't feel right to you. As they say, if you see something, say something.

[Ask participants:

Why might a victim not want to report?

Possible responses:

Embarrassment

Fear of retaliation

Fear that they will not get the cares they need

Fear that they won't be believed

Why might staff not want to report?

Possible responses:

Embarrassment

Fear of retaliation

The perpetrator is their boss/supervisor

Fear of losing co-worker friends/Being seen as a "snitch"]

Reporting Misconduct



Reporting requirements and procedures are not all the same for DQA-regulated providers. Reporting requirements for nursing homes are different from those for all other DQA-regulated providers.

Every provider must ensure that all employees, clients, clients' family members, contractors, volunteers, and non-client residents are knowledgeable about the provider's misconduct reporting procedures and requirements. Staff must be trained to immediately report to the appropriate person all allegations of misconduct allegedly committed by anyone.

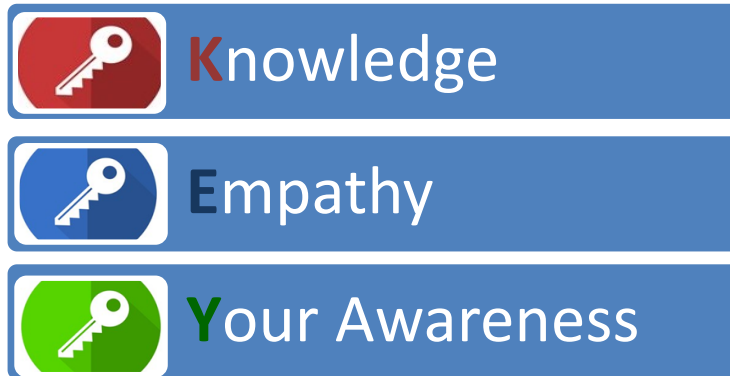
As an employee or contractor, reporting to DQA is not your responsibility; however, it is your responsibility to follow your facility's procedures for reporting any suspicion or allegation of misconduct.

[Refer to your provider's specific reporting guidelines here.]

Wrap-Up

Preventing and detecting misconduct is a critical step in providing safe and effective care to clients in health and residential care settings.

When we started this training today, we said our goal was to recognize how your knowledge, empathy and awareness as a caregiver are key to preventing misconduct and protecting those in your care.



Before we end today, we'd like to take a few minutes to watch a brief video that illustrates how you prevent misconduct and recognizes the hard work and dedication exemplified by caregivers like you every day.

[Watch Caregiver Tribute Video] <https://youtu.be/iRuF29xLuvw>

Misconduct Learning Points

As a result of this workshop, participants will:

- Understand the definitions of misconduct
- Recognize signs of possible misconduct
- Review duty to report misconduct

Social Media and Misconduct

[This part of the training can be presented along with the previous section. It can also be used as a separate session. Your choice, as time permits! If you are training this separately from the first section, ask participants to review the Simplified Definitions before you get started.]

This session is intended to bring awareness to employees/contractors working in Department of Health Services (DHS) regulated healthcare facilities about the potential for misconduct and the violation of resident rights through the use of personal cell phones.

Social Media Learning Points

Let's review the main learning points:

- Understand that using a personal cell phone in the workplace can lead to violations of resident rights and potential misconduct
- Identify ways to help prevent misconduct from occurring in the workplace related to the use of personal cell phones
- Learn ways to properly use your personal cell phone in the workplace

[Optional: Prior to beginning this session, prominently place the poster ‘Snapping Pics Puts Your Job at Risk’ in the training area. <https://www.dhs.wisconsin.gov/publications/p01964.pdf>]

The Impact of Social Media



Over the course of a couple of decades, social media platforms such as Facebook, Twitter, YouTube, Snap Chat, TikTok and text messaging has changed the way we interact and communicate with family, friends, loved ones, and society at large. Many of these changes have been very positive. Social media allows us to communicate easily by sharing information and opinions, and to instantly share pictures and videos with anyone.

At times, social media has been used improperly and has led to negative consequences for individuals. We'll talk specifically about how using personal cell phones and social media may have a negative impact for you as an employee/contractor.

Using Your Cell Phone Can Lead to Misconduct



Did you know that using your cell phone at work could lead to misconduct? Taking a picture or a video of a client may seem innocent but doing so is a violation of resident rights and could lead to an allegation or finding of misconduct, or even criminal charges and convictions. Wisconsin state statutes and administrative rules for DQA-regulated healthcare providers identify resident and patient rights to privacy in care, treatment, and accommodations.

Residents have the right not to be recorded, filmed, or photographed without written consent. Providers are required to post resident rights in a prominent location in the facility. Knowing these rights can help prevent misconduct from happening.

[Take a minute to ask participants where resident rights are posted in your facility. Ask if they have other suggested locations for posting rights.]

In recent years, the Office of Caregiver Quality (OCQ) has received an increasing number of misconduct reports related to staff using their personal cell phones to share information and personal photos or videos of clients. Examples include:

- Posting a photo or video to social media that includes personal and identifying characteristics of a client
- Sending or posting a photo on social media that includes any parts of a client's body
- Having an image or video of a client on your social media storage or on your camera storage without the client's written consent or knowledge
- Taking a video or photo on your phone of another employee/contractor mistreating or degrading a client and not reporting it to your direct supervisor

Activity: Caregiver Misconduct – Using Handheld Devices Video



Let's watch this video showing an employee, Kara as she is working at Social Valley facility and comes across a client who is sleeping in his chair in his room. Watch to see what happens next!

[Start the video. You may play the video using this link: <https://vimeo.com/showcase/8639904/video/545997838> but it is recommended that you download the video to your computer prior to the training in case of internet connectivity problems.

After the video, ask the participants:

- 1. Why do you think Kara wanted to take a picture of the client?
Suggested responses: She thought the client looked endearing/peaceful as he slept in his chair. Other thoughts?*
- 2. How do you think Kara's co-worker got the picture of the client?
Suggested responses: Kara sent him the picture. Kara posted the picture to Facebook. Kara took a snapchat of the client and sent it to her friends.*
- 3. How do you think Kara's co-worker felt going to the Administrator with the picture?
Suggested responses: Scared. Felt he might be betraying Kara's friendship, He knew it was wrong and needed to protect this client and other's from having their pictures taken without their knowledge or consent.*
- 4. Do you think Kara's co-worker did the right thing by showing the Administrator the picture? Why?*

Emphasize with participants that they have a responsibility to protect resident rights and report potential misconduct of other employees/contractors.

Follow up by showing the Snapping Pics Puts Your Job at Risk Infographic located at: <https://vimeo.com/showcase/8639904/video/545997832>

Handout the brochure "Snapping Pics Puts Your Job at Risk which can be downloaded and printed from <https://www.dhs.wisconsin.gov/publications/p01933.pdf>]

Provider Policy

[It is strongly recommended that providers have a written policy that defines the accepted, appropriate use and the unaccepted, inappropriate use of personal cell phones and other such devices in the workplace. This policy may be included as part of the provider's orientation materials, on-going staff training, human resource policies or procedure manuals and may incorporate the following:]

Your provider may have a policy in place regarding the use of social media. Good rules to remember are:

- Personal devices are never to be used to record images of clients. If such images are needed for purposes of care or training, they should be obtained by authorized individuals only and use only the equipment specified in the policy.
- Indicate that any authorized photographs or images are the sole property of the provider and that the distribution of these photographs or other images to any person outside the provider's setting without written authorization for a permissible use is prohibited.
- Define the areas within the provider setting and the circumstances in which personal cell phones may be used, i.e., on breaks or lunch in the break room or outside, etc. Specify the consequences for failure to abide by the provider's policy.
- Inform clients (or designated responsible agent) and family/visitors about privacy considerations and the use of personal cameras and cell phones.
- Ensure that all employees/contractors, students, and volunteers are aware of and trained on the provider's written policy on the use of personal cell phones.

[Take a moment to share your provider's policy on the use of personal cell phones in the workplace. If your provider does not have a policy currently, ask participants for suggestions on what the policy should include.]

Activity: Is This an Example of Potential Misconduct?



Consider the examples based on the information you have learned regarding using your personal cell phone in the workplace. As you review these examples, consider the following:

1. Could the use of the cell phone be considered potential misconduct?
2. Is this something that should be reported to the supervisor?
3. Using the policy guidelines above, is the use of the cell phone against the provider policy?

[Note: This facilitator guide contains suggested responses to each example. There may be additional thoughts and discussion brought forward by the participants.]

Example #1 – Two staff, Sara and Beth, are working in an Adult Family Home. Client David has a collection of Spider-Man memorabilia that he is very proud of. Sara takes a poster of Spider-Man from David's room and tells him she is going to take it home with her. David becomes very upset and tries to get the poster back from Sara. Beth uses her phone to record Sara running around the house with the poster while David runs after her, crying, as he tries to get his poster back. Both Sara and Beth are laughing at David as he is being recorded.

- 1. Yes. Sara and Beth are taunting David as they record him. Their actions violate David's resident rights and may meet the definition of misconduct.*
- 2. Yes. Let's assume that Sara and/or Beth send this video to another co-worker. This co-worker has the responsibility to report this video to the supervisor so that David is not subjected to further abuse.*
- 3. Yes. Sara and Beth have violated the policy that personal devices are never to be used to record images of clients.]*

Example #2 – A family gathers at an RCAC to celebrate the 90th birthday of their loved one, Rosella. The family reserves the private dining room to have a luncheon and cake for Rosella and her family members. Family members take pictures of Rosella during the celebration. The family posts pictures of the birthday celebration on their personal social media to share with other family and friends.

- [1. No. The family members taking pictures are not considered employees/contractors of the facility and are not under the control of the provider. Also, the family is not taking pictures of any other clients within the facility.*
- 2. No. This situation does not need to be reported to the supervisor. Most likely the supervisor is aware that the family will be taking photos of the celebration.*
- 3. No. The family has been informed of the provider's policy about privacy considerations and the use of personal cameras and cell phones.]*

Example #3 – Alice is 77 years old and resides in a nursing home. Alice recently finished a painting she had been working on for several months. The painting was beautiful, and Alice was very proud of it. Alice has a personal cell phone. She wants to send a picture of her painting to her daughter, but she doesn't know how to use the camera feature. Alice asks Mary, the Activity Director, to take a picture of her painting and send it to her daughter. Mary is happy to help and uses Alice's phone to send the picture to her daughter.

- [1. No. Mary is not using her personal phone to capture any images of a client. Per Alice's request, Mary is using Alice's phone to send a picture to her daughter.*
- 2. It would be a good idea for Mary to tell her supervisor that Alice asked her to take a picture of the painting to send to her daughter in case there is any question regarding Alice's request later.*
- 3. No. Mary did not violate the provider policy as she did not take any unauthorized photographs or send them to any unauthorized source.]*

Example #4 – Nurse Aide Samantha took a photo of an elderly female client, Dorothy, seated on the toilet, and uploaded the photo to Facebook. Samantha stated she wanted her friends to see what she had to "put up with" at work.

- [1. Yes. Samantha took a picture of Dorothy in violation of Dorothy's right to physical privacy, as well as disregard for her dignity and respect. Samantha's actions may meet the definition of misconduct.*
- 2. Yes. Samantha's supervisor needs to be informed of the posting on Samantha's Facebook page.*
- 3. Yes. Samantha has violated the policy that personal devices are never to be used to record images of clients and using their personal cell phones.*

If you have a larger number of participants, break the participants into groups. Assign an example or two to each group and ask them to consider the following for each of the examples. Ask the group to assign a reporter to share the group's thoughts. If you have a small group, assign an example or two to each individual. Record the responses on a Flip Chart or White Board.]

What Happens When an Incident Occurs?

- After learning of an incident that could be potential misconduct by an employee/contractor using their personal cell phones inappropriately, the provider must take whatever measures are required to ensure the clients are protected from additional misconduct.
- The provider will immediately fill out a misconduct incident report, perform an internal investigation into the incident, and may notify police. The provider is required to forward their findings to OCQ.
- If OCQ finds from review of the provider's misconduct report that further investigation is needed, an investigation will be conducted by an OCQ investigator.
- After completing its investigation, OCQ will prepare a written decision and notify the accused. If it is determined that misconduct occurred, a substantiated finding under the person's name will be placed on the Wisconsin Misconduct Registry.
- When placed on the Wisconsin Misconduct Registry, you can no longer work as a caregiver in a Department of Health Services regulated healthcare facility in Wisconsin.

How to Correctly Use Your Personal Cell Phone at Work



Now that we've talked about resident rights violations and potential misconduct, reviewed provider policies and learned what happens when an incident occurs, let's identify ways you can appropriately use your personal cell phone at work and how the potential for misconduct can be prevented.

- Learn and follow the provider's policies on the use of personal cell phones in the workplace.
- Understand that using a personal cell phone in the workplace can lead to violations of resident rights and potential misconduct.
- Turn off or lock up your personal cell phone while in the workplace and use it only when allowed by the provider's policy (i.e., lunch breaks).
- Do not take photos or videos of clients.
- Assume anything you put on social media can be seen by anyone. Even snapchats that disappear from your phone can be recovered.
- Remember that once you hit "send", you cannot take it back!

Social Media Learning Points

Let's review the main learning points:

- Understand that using a personal cell phone in the workplace can lead to violations of resident rights and potential misconduct
- Identify ways to help prevent misconduct from occurring in the workplace related to the use of personal cell phones
- Learn ways to properly use your personal cell phone in the workplace

In an effort to improve awareness regarding resident rights and misconduct in Wisconsin, DQA has implemented an awareness campaign through use of brochures, posters, and videos. Some of the information and resources contained in this training, including the videos were developed as part of this project, and can be accessed by going to: <https://www.dhs.wisconsin.gov/caregiver/social-media.htm>.

Training Materials Checklist

For this training, you will need:

- Laptop computer (recommended)
- MS PowerPoint (PPT Viewer can be downloaded for free at Microsoft.com)
- LCD Projector (recommended)
- Screen for viewing the PPT (recommended)
- Internet access (highly recommended)
- Printed Participant Guides (one for each student recommended)
- Pens or pencils
- Caregiver Misconduct: Simplified Definitions handout
- Caregiver Tribute Video (can be downloaded at <https://www.youtube.com/watch?v=iRuF29xLuvw>)
- Evaluation (optional)
- Attendance certificate (recommended)

Note: It is strongly recommended that the PPT be viewed using an LCD projector. If that option is not available, the PPT may be downloaded and printed as a handout.