



MENTAL RETARDATION SERVICES

RESPITE CONTRACTOR TRAINING PACKET

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DEFINITIONS

Consumer/Client	The person with Mental Retardation or Related Condition such as Autism who is receiving services through MHMRTC
Contractor	The person who signs the contract with MHMRTC for respite (this is you).
Respite Provider	The person(s) hired by a contractor to provide respite services.
DADS	The Texas Department of Aging and Disability Services. This state agency is responsible for funding and monitoring services for people with mental retardation and related conditions. They also monitor the local MRA's.
LAR	Legally Authorized Representative. A person who has been authorized by a court of law to make decisions on behalf of the consumer. May also be called a guardian or Power of Attorney.
Legal Adult	Anyone 18 years or older who has not had a guardian appointed by a court-of-law
MHMRTC	Mental Health Mental Retardation of Tarrant County (this is us)
MRA	Mental Retardation Authority. The agency responsible for providing and monitoring services at the local level. MHMRTC is the MRA for Tarrant County
TDFPS	The Texas Department of Family and Protective Services. This state agency is responsible for investigating any allegations of abuse, neglect or exploitation against children, the elderly and adults with disabilities

MHMR of Tarrant County Respite Contractor Training

Contractor/Provider _____

Upon completion of training, please sign and date below for each subject reviewed or training completed and send the signature sheets to Michele Mendez, Director of Contract Services at 1300 Circle Drive, Fort Worth, TX 76119.

CLIENT RIGHTS

By my signature I certify that I have **read** and **understood** the following:

- The rights that consumers of MHMRTC have and my responsibility to support consumers to exercise their rights
- I must report rights violations by calling the MHMRTC Rights Protection Office at 1-888-636-6344

SIGNATURE: _____ **DATE:** _____

RECOGNITION, PREVENTION AND REPORTING OF ABUSE, NEGLECT AND EXPLOITATION

By my signature I certify that I have **read** and **understood** the following:

- I recognize the acts that constitute abuse, neglect or exploitation
- My responsibility to report acts of abuse, neglect or exploitation to the Texas Department of Family and Protective Services (TDFPS)
- I must report to TDFPS immediately but no later than one hour after I see or suspect that abuse, neglect or exploitation occurred either by calling 1-800-647-7418 or by making a report online at <https://www.txabusehotline.org/notice-aps.asp>
- I understand the ways to prevent acts of abuse, neglect or exploitation

SIGNATURE: _____ **DATE:** _____

PRIVACY/HIPAA

By my signature I certify that I have **read** and **understood**:

- The information on the Health Insurance Portability and Accountability Act of 1996
- I understand that all consumer protected health information is of a confidential nature
- I will not give or discuss information with those who are not authorized to receive it.
- In addition, client information may not leave MHMRTC premises except through established policies and procedures.
- I understand that if I violate the policies and procedures related to the confidentiality and privacy of information that I will be subject to disciplinary action up to and including cancellation of my contract.

SIGNATURE: _____ **DATE:** _____

**MHMR of Tarrant County
Mental Retardation Services Contractor/Provider Training**

Contractor/Provider _____

COMPLIANCE PLAN

- By my signature I certify that I have **read** and **understood** MHMRTC's Compliance Plan and agree to abide by the plan.

SIGNATURE: _____ **DATE:** _____

INCIDENT REPORTING

By my signature I certify that I have **read** and **understood** the following:

- I must report the death of a consumer as soon as possible to the consumer's service coordinator.
- I must report any incident listed on the incident reporting form by completing the form and submitting it to my contract monitor and the MR quality management coordinator within 5 working days.

SIGNATURE: _____ **DATE:** _____

CLIENT CHARGES

By my signature I certify that I have **read** and **understood** the following:

- MHMRTC is responsible for charging the consumer or LAR for community services in accordance with applicable rules and I, as the contractor, may not charge the consumer or LAR for services.

SIGNATURE: _____ **DATE:** _____

Thank you for working with us in ensuring the best possible care, treatment and services for our consumers.

Reporting Requirements For Reporting Critical Incidents

Contractors are required to contact the MHMRTC Contract Services Department at (817) 569-4032 within 24 hours to report occurrences of the following with information regarding the occurrence of any of the following critical incidents as soon as they are aware and to contact each consumer's MHMRTC Service Coordinator/Case Manager:

1. Consumer Death
2. News Media Coverage Likely
3. Homicide Threat with a Plan
4. Homicide Attempt
5. Perpetrator Of Homicide
6. Missing Person (Police Report Filed)
7. Catastrophic Events (I.E. Bomb Threats, Explosions, Major Fire, Etc.)
8. Litigation threat (client, staff, family/guardian, etc.)

Contractors are required to report all incidents by completing a **Contractors Incident Reporting Form** and sending it to 1300 Circle Drive, Fort Worth, TX 76119 att: MR Quality Management Coordinator with the Contract Services Department within three working days following the incident

1. Abuse, Neglect, or Exploitation Allegation or Investigation (Including peer-to-peer abuse)
2. Suicide Attempts
3. Consumer Illness Requiring Admission to a Hospital
4. Consumer Injury Requiring Treatment by a Nurse, Doctor, EMS or Emergency Room
5. Consumer Injury not requiring ER treatment
6. 911 Called
7. Physical Aggression (forceful or hostile actions with intent to harm self/others or property)
8. PMAB (Physical Restraint)
9. Work related injury
10. Psychiatric admission
11. Illegal substances
12. Sexual Misconduct
13. Auto Accident involving consumers
14. Financial Loss (Consumer's)
15. Criminal Activity (By or Against a Consumer)
16. Medication Error
17. Possible Exposure to Infectious Diseases
18. Self abusive behavior

If there is any investigation into any incident by the police, TDFPS, DADS, MHMRTC, or other authorized agency, the contractor is expected to cooperate fully with the investigator.



Contractor Incident Reporting Form

Consumer Case #: _____
 Consumer First Name: _____
 Consumer Last Name: _____
 Consumer Medicaid #: _____

Consumer Home Unit: _____
 Funding Source GR TxHmLv ICF/MR HCS

Send completed form to 1300 Circle Drive, FW 76119 att: MR/QM Coordinator
 or fax to 817-569-5474

Date: _____ Time: _____ AM PM Occurred Discovered
 Incident Place: _____
 Reporting Staff: _____
 Reporting Contractor: _____
 Contact Phone #: _____

Critical Event: (Must be reported ASAP to the persons' service coordinator/case manager) **The following should be reported only if the incident directly involves a person who receives services through MHMR of Tarrant County**

- Death (Must be reported immediately)
- Catastrophic events (bomb, fire, etc)
- News media coverage likely
- Homicide threat with a plan
- Missing person (police report filed)
- Litigation threat
- Homicide attempt (by consumer)
- Perpetrator of homicide (consumer)

Client Related Incident:

- Abuse/neglect/exploitation
- Suicide attempt
- Client injury requiring ER
- Client illness requiring admission
- Client injury not requiring ER
- 911 Called
- Physical aggression
- PMAB (Physical restraint)
- Client property/financial loss
- Medication error
- Infectious Diseases
- Work related injury
- Staff auto accident while transporting MHMR consumer
- Illegal substances
- Sexual misconduct
- Self abusive behavior
- Psychiatric admission
- Criminal activity
- Complaints (clients, family/guardians)
- Other: _____

Facility Related Incident:

- Agency property damage/financial loss
- Fire at facility
- Other _____

Medication Errors:

Person's involved

- Pharmacist _____
- Nurse _____
- Consumer _____
- Physician _____
- Staff _____
- Family _____

Medication Error Type:

- Wrong medication
- Wrong client
- Total # errored
- Wrong dose
- Missed dose
- Wrong time
- Wrong Route

Description of event or medication error: (For medication errors list the error, name of medication, intended dose, actual dose administered)

MHMRTC CONSUMER RIGHTS

At MHMR of Tarrant County and its contractors, it is our responsibility to assist every person in fully exercising their rights and in making informed choices. Every staff member, contractor, and contractor employee is expected to have read and be familiar with the consumer rights handbook.

A HANDS-ON APPROACH TO RIGHTS INCLUDES BOTH SUPPORTING AND PROTECTING RIGHTS.

- Affirming rights means respecting personal preferences and choices and providing the assistance people need to exercise their rights. Affirming rights involves providing training and supports to help people recognize and understand personal freedoms and the rights of others. People must know what their rights are before they can use them.
- Protecting rights means ensuring that individual rights are not ignored or infringed upon. Protecting rights involves providing people with access to a fair and impartial hearing of grievances and an independent review of limitations to personal freedoms; providing people with training and support so that limitations are reversed or removed; and to review and change policies and practices that limit or restrict people. Staff must be careful to respect each consumer's rights

Remember: it is against federal and state laws and DADS and MHMRTC rules and procedures to violate the rights of any consumer. **Any violation of consumer rights must be reported to the MHMRTC Consumers Rights Department or the DADS Office of Consumer Services and Rights Protection.**

MHMRTC Rights Protection Office Complaint Line: 817-569-4429,
Toll Free Line: 1-888-636-6344

Texas Department of Aging and Disability Services Consumer Services and Rights Protection:
1-800-458-9858

Our Rights as Americans All citizens of the United States of America have certain rights and liberties under the US Constitution and Bill of Rights. These rights cannot be denied based on race, religion, gender, ethnicity, disability, or any other form of discrimination, which would cause a group of individuals to be treated as second-class citizens under the law. These rights and liberties include:

- Equal protection and due process
- Freedom of speech and expression
- Freedom of religious expression
- **The right to vote**
- **The right to privacy**
- The right to free association with others
- Freedom from cruel and unusual punishment
- Access to the courts and legal representation
- The right to contract for, own and dispose of property
- Equal education opportunity
- Equal employment opportunity
- The right to marry, procreate and raise children

Some Rights Granted to People with Mental Retardation in Texas

The Mentally Retarded Persons' Act of 1977 is a Texas law, which lists all those rights that persons with mental retardation have over and above those rights already granted to them as citizens of the United States and the State of Texas. These rights include:

- All the rights, benefits, and privileges guaranteed by the constitution and laws of the U.S. and Texas
- **Protection from exploitation and abuse**
- The right to live in the least restrictive setting
- The right to publicly supported educational services
- Equal opportunities in employment
- Equal opportunities in housing
- The right to adequate treatment and habilitative services
- The right to receive a determination of mental retardation (DMR)
- The right to an administrative hearing contesting the results of a DMR
- Presumption of competency
- Due process in guardianship hearings
- Fair compensation for the person's labor
- To be informed regarding rights
- **Participate in planning**
- Freedom from unnecessary medication
- The right to submit complaints

Rights for Consumers Receiving Services through MHMRTC MR Services

Listed below are some rights that consumers have indicated are of particular importance to them.

The Right to Be Treated With Respect And Dignity

- When it comes to such basic rights, all other facts about a person such as age, race, religion, disability and so on become **irrelevant**. No one should be thought of as having fewer rights or being somehow of “less value”. This line of thinking can make it easier for someone to violate that person’s rights.
- Self-advocates have indicated that respect from their service providers is one of the characteristics of a high quality service. (*Speaking Out; NCOR 2001*)

The Right to Confidentiality

- Staff, contractors and contractor employees are prohibited from sharing identifying or personal information about consumers with others (outside of MHMRTC) without the person’s or their LAR’s permission. This includes discussing identifying information with family or neighbors.
- Every consumer (or if applicable: advocate, guardian, family member) must be informed of his/her rights and responsibilities in a language that he/she can be expected to understand. If a consumer does not understand English or is hearing impaired, every reasonable effort must be made to provide an interpreter. Each year, each consumer must be informed of their rights.

The Right to Due Process

- The Constitution guarantees the right to due process to all U.S. citizens. The purpose of due process is to ensure equal protection of the law for everyone. If at any time, it is necessary to restrict a consumer’s rights in any area, it must be discussed with the consumer and/or their LAR the reason why the restriction is needed and what else has been tried. The consumer and/or their LAR must give signed consent before a restriction can happen.
- Consumers are free to obtain and talk with an attorney. At no time may their contact with an attorney be limited

The Right to Freedom of Speech and Open Communication

- Consumers are free to contact their family, friends, and the community at large. Every consumer has the right to send and receive unopened mail and to express their opinions. Only under very strict conditions can our staff open someone’s mail.

The Right to Make Informed Choices and to Choose Services

- All consumers have the right to make their own choices, unless legally restricted by the courts.
- Each service or treatment plan must be individualized to fit the unique needs of a particular consumer.
- Unless court ordered, consumers have the right to give informed consent to treatment and services BEFORE receiving them. This includes the right to refuse to take medications, including psychoactive medications.

The Right to Freedom of Religion

- Everyone has the right to choose and practice any or no religion.
- All forms of service being provided must take into consideration an individual's religious preference.
- Staff must not attempt to influence consumer's beliefs

The Right to Positive Approaches and Methods for Learning Skills and Behaviors

- People are not punished
- People are not controlled by house rules and procedures that encourage "sameness" and fail to recognize individuality;
- People are given the opportunity to make the same choices as the general public about where they live, with whom, and how a shared home will function;
- People learn how to make informed choices about their personal lives, about sexuality and sexual expression;
- People are treated fairly;
- Confidentiality is maintained;
- People are free from the use of psychoactive medications, physical restraints, and aversive interventions without employing prior less restrictive measures.

The Right to Privacy

- Friendships are encouraged;
- People are trusted to visit with families and friends in private, at reasonable times, with respect for the privacy of others;
- Private places are available to people;
- Portable phones are available or phones are accessible for use in private spaces;
- People do not have to ask permission to use the phone where they live;
- Incoming and outgoing mail is never read by anyone else, except with permission
- Bathrooms have doors; showers have doors or curtains;
- Doors to bathrooms and bedrooms are closed during personal hygiene times;
- Individual preference is taken into account in performing these personal care routines—when does the person wish to have personal care, where does he or she choose to have this done; what is most convenient for the person?

The Right to Freedom of Movement, With Due Regard For the Privacy of Others

- People are not restricted to certain areas of their own homes;
- Doors within the home are not locked;
- Common leisure activities and supplies are not kept in locked closets or rooms;
- Alarms that let others know the location of people are not used;
- People are not locked in, but intruders are locked out;
- People have keys to their homes;
- Fences do not lock people into their yards
- The location of door locks, door knobs, and window latches do not stop people who use wheelchairs from going where they need or want to.
- People have access to transportation that is available to the general population;

- People can move freely between their home and the community;
- People may take advantage of community resources;
- People choose their own doctors and other professionals
- People are not required to attend church or synagogue unless they choose to do so and then they may attend a church or synagogue of their own choosing;
- People are not restricted from visiting friends or family members;
- People are not restricted to their home as punishment or because of the inappropriate behavior of others;
- People can make individual choices about how they spend their time;
- Public buildings are accessible

The Right to Earn, Hold and Spend Money

- People have the right to apply for and get meaningful jobs in the their community;
- People get equal pay for equal work;
- People keep their own money;
- People have their own bank accounts;
- People have a safe place to keep their money;
- People do not have to ask permission to get or spend their money;
- People have access to the community to spend their money in ways they choose.

The Right to Be Protected and Safe From Harm

- People are free from abuse, neglect and exploitation, regardless of who the alleged perpetrator is;
- People are respected by and respectful of others;
- Rights are not restricted and people are not deprived of their liberty based on the behavior of their peers;
- People are protected from sexual harassment and non-consensual sexual acts;
- People know how to file complaints or grievances and how to resolve differences and conflicts.

The Right to Own Real and Personal Property, Including Adequate Storage, With Safeguards in Place to Protect Property from Harm or Theft

- People participate in the purchase of personal items;
- People may keep personal possessions with them;
- People have a safe place to keep their personal possessions;
- Personal possessions are not locked away from the owner for any reason, but especially because someone else might get hurt or steal or destroy the possession because of his or her inappropriate or acting out behavior
- Personal opinions are solicited and people participate in choosing furniture and decorations for their home;
- People choose their own clothing;
- People may own their own home if they wish.

The Right to a Clean, Safe, and Humane Environment

- Not only should all facilities be clean and free from health hazards, but the physical and emotional well being of consumers should be protected at all times.
- People can eat or have a snack or beverage when they want to, not only at scheduled times of the day or by asking permission;
- People choose their own food and beverages based on individual preferences;
- People are not prevented from entering the kitchen or food storage areas for any reason, but especially because a roommate is restricted from those areas
- People are included in planning for meals and food purchases.

No one may place limitations on a legal adult's exercise of his or her rights without due process.

This does not mean that individual rights can never be limited, but (with the exception of emergency situations), before the rights of a person are limited in any way, the following safeguards must be in place:

- The person or his representative has access to due process to express any concerns regarding proposed restrictions;
- Timely, regular review of the limitation is done to be sure that it continues to be necessary;
- Training to teach the person the skills or behaviors needed to remove the limitation is in place and actively carried out.

Ways to Support Consumers to Understand and Exercise Their Rights

- Take time to know the person, how they communicate and their wants and needs
- Listen to people through words, observation, and interaction with others
- Encourage and support the person to explore options and gain information when making choices
- Avoid creating "rules" for convenience.
- Respect the person's opinions and choices
- Involve people in decision making every day and in every part of their life
- Do not let barriers stop you from working on people's choices. Work around them

MHMRTC Consumer Rights Evaluation

Name: _____ Date: _____

Please circle the correct answer for each question.

1) A hands-on approach to consumer's rights includes Supporting and Protecting rights. (page 8)

True

False

2) All suspected rights violations should be reported to either MHMRTC Rights Department or the DADS Office of Consumer Services and Rights. (page 8)

True

False

3) Circle two rights and liberties that all citizens of the United States of America have under the US Constitution and Bill of Rights? (page 9)

1.The right to vote

2.The right to privacy

3.The right to drive a blue car

4) Circle two rights that persons with mental retardation have over and above those rights already granted to them as citizens of the United States and the State of Texas as listed in the Mentally Retarded Persons' Act of 1977. (page 9)

1.Protection from exploitation and abuse

2.Participate in planning

3.To have a dog named Duke

Thank you for helping MHMRTC protect and honor the rights of our consumers.

MENTAL HEALTH MENTAL RETARDATION OF TARRANT COUNTY MENTAL RETARDATION SERVICES

RECOGNITION, REPORTING, AND PREVENTION OF ABUSE, NEGLECT & EXPLOITATION

Introduction:

Individuals who receive services through Mental Health Mental Retardation of Tarrant County and its contractors/providers are entitled to the same rights and protections that all people have, including the right to be free from harm and to live in a safe and humane environment. Unfortunately, individuals with mental illness and developmental disabilities are often dependant upon others for support and assistance and can become victimized by those whom they depend upon for care and support.

- MHMRTC is committed to providing the highest quality of services in environments that protect and strengthen each individual.
- Under no circumstances does MHMRTC excuse the abuse, neglect or exploitation of people receiving services.
- **The client rights, abuse and neglect procedures followed by MHMRTC are approved by federal and state laws.**
- It is a felony offense to abuse or neglect mentally ill or mentally retarded individuals. All criminal acts are reported to local law enforcement for investigation.
- **It is the responsibility of every employee and contracted provider who supports individuals served by MHMRTC to be familiar with, and abide by the policy and procedures regarding the prevention of abuse, neglect and exploitation of MHMRTC clients.**

Definitions of Abuse, Neglect and Exploitation:

Abuse is defined as any act or failure to act, which could cause injury to a child, elderly adult over the age of 65 or a person with disabilities. Types of abuse can include the following:

Physical Abuse

- ❑ Hitting the person with a hand or an object such as a belt
- ❑ Getting someone else to hit or hurt the person
- ❑ Use of excessive force when placing a person in bodily restraints
- ❑ Use of bodily or chemical restraints on a mentally ill or disabled individual which is not in compliance with Federal and State laws and regulations (Tying a person to their bed or chair, giving medication to sedate the individual when it is not by a physician's order, etc.) Does not include appropriate restraints ordered by a physician for the individual's comfort or safety
- ❑ Locking the person into a room

Verbal Abuse

- ❑ Communicating to the individual in a way that results in observable distress or harm to the individual or is of such a serious nature that a reasonable person would consider it harmful or causing distress (Degrades or humiliates the individual, intimidates or verbally threatens to harm the individual, curses,)

Emotional Abuse

- ❑ Denying the individual goods or services, which are necessary to avoid physical harm, mental anguish, or mental illness (Refusing to give the individual their food or medicine, taking away a possession which is comforting to them, cursing or vilifying/slandering the individual, etc)

Sexual Abuse

- ❑ Rape or sexual assault
- ❑ Any activity with the individual which is meant to be sexually exciting to the abuser

Abuse is also any act or failure to act by an employee of a facility rendering care or treatment which was performed, or failed to be performed, knowingly, recklessly, or intentionally, and which caused, or may have caused, injury to an individual

Neglect is defined as the failure of the individual or person responsible for their care to safeguard the individual from harm or harmful situations. This can include:

- ❑ The failure of the individual, caretaker, or staff to provide the goods or services, which are necessary to avoid physical harm, mental anguish, or mental illness.
- ❑ The negligent act or omission by any individual responsible for providing services which caused or may have caused injury or which placed the individual at risk of an injury (Leaving cleaning solutions out when the individual is known to drink out of any container, leaving individuals unsupervised in a van and unable to leave, sleeping on the job, etc.)
- ❑ The failure to establish or carry out an appropriate individual program plan or treatment plan
- ❑ The failure to provide adequate nutrition, clothing, or health care
- ❑ The failure to provide a safe environment, including the failure to maintain adequate number of appropriately trained staff.

Exploitation is defined as the illegal or improper act or process of a caretaker using the resources of an individual for monetary or personal benefit, profit, or gain. This can include:

- ❑ Theft of the individual's moneys or property
- ❑ "Borrowing" the individual's property
- ❑ Having the individual perform activities or work which benefits the accused and for which the individual is not compensated for
- ❑ Having the individual pay for something such as a meal, borrowing money, or accepting anything of monetary value from the individual
- ❑ Using the individual's identifying information/credit. (Identity Theft)

When the allegation of abuse involves organizations providing MHMRTC's contracted services, acts of abuse, neglect and exploitation are classified by DFPS into four classes, based on the potential impact on the individual.

- ❑ **Class I** - Any act or failure to act done knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused serious physical injury to a client. Without regard to injury, any sexual activity between an employee, employee of an affiliate or agent and a client Any employee who has been confirmed for Class I abuse can no longer work with consumers of MHMR services.
- ❑ **Class II** - Any act or failure to act done knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused non-serious physical injury to a client, or exploitation.
- ❑ **Class III** - The use of verbal or other communication to curse, vilify or degrade a client, or threaten a client with physical or emotional harm, or any act, which vilifies or degrades a client, or threatens a client with physical or emotional harm.
- ❑ **Neglect** - Any negligence which caused or may have caused physical or emotional injury to a client, including failure to carry out a client's program/treatment plan, failure to provide adequate nutrition, clothing or healthcare, or failure to provide for a safe environment.

Impact of Abuse, Neglect or Exploitation:

Abuse, neglect and exploitation can have both short and long term effects, not only for the individual but also for the abuser and others in the individual's life. How the abuse impacts the individual can depend on the type and severity of the abuse, how long it went on, and the relationship between the individual and the abuser. Listed below are some possible outcomes of abuse for the individual:

- ❑ Feelings of betrayal, guilt, fear, anger, helplessness, and hopelessness
- ❑ Increase in anger outbursts, inappropriate behaviors, and violent or aggressive acts
- ❑ Loss of abilities, daily living skills (decrease in toileting, hygiene skills)
- ❑ Loss of placement or services due to change in behaviors or having to get away from the abuser
- ❑ Withdrawal or symptoms of depression or anxiety
- ❑ Pain and limitation of activities due to injuries from abuse or neglect
- ❑ Hospitalization or need for medical care due to neglect of health care or medication errors
- ❑ Sexually transmitted diseases,
- ❑ Issues with intimacy and trust with a sexual partner or spouse or inability to maintain an intimate relationship
- ❑ Loss of credit, ability to obtain credit, rent or own a home or obtain employment due to identity theft
- ❑ Loss of property, inability to pay bills
- ❑ Death

A person who has been confirmed for abuse is also affected. Depending on the situation, they can face a reprimand, retraining, cancellation of their contract, loss of employment or criminal charges, fines and imprisonment. Also, anyone confirmed for Class I or serious abuse is placed on the DADS Employment Misconduct Registry and will be unemployable with any Texas

Department of Health and Human Services monitored programs such as nursing/ICF-MR homes, HCS programs, day care programs, or any MHMR center..

Factors that can contribute to Abuse, Neglect or Exploitation:

There are many reasons why abuse, neglect or exploitation occurs. Often abuse occurs while the abuser is attempting to do what they believe is right, but are acting out of frustration, a belief that they need to be in control, or a lack of knowledge of the individual's needs. Sometimes it is due to not having enough resources or staff to safely provide for the individual. In some cases, there is a deliberate act to gain something at the victim's expense whether it is property, power, or gratification. In many cases, abuse or neglect occurs because someone is distracted or not following the individual's plan. How the abuser feels about the individual is also important. Some of the possible factors that have contributed to confirmations of abuse, neglect or exploitation include:

- ❑ A lack of respect towards the individual; seeing their wants and needs as being of less value than their own or that of others; seeing the individual as being less valued than others
- ❑ Isolation of the individual from support networks who might see and prevent the abuse
- ❑ The imbalance of power between the individual and the abuser
- ❑ Control issues between the abuser and the individual
- ❑ Parental attitudes toward the individual; treating the individual like a child
- ❑ Lack of appropriate training to handle the individual's needs and behaviors
- ❑ Lack of sufficient staffing to handle the situation
- ❑ Inappropriate use of restraints
- ❑ Not following the individual's plan
- ❑ Feeling overwhelmed or unable to cope with the individual's needs or behaviors
- ❑ Frequent turnover in caretakers
- ❑ Lack of understanding of cultural or other differences
- ❑ Being distracted

Prevention of Abuse, Neglect or Exploitation:

Recognizing the causes and situations that can lead to abuse can help to prevent it from ever occurring. It is important to recognize both the importance and difficulty of the type of supports and assistance you provide, and the impact it can have on those individuals you provide services for. The more aware you are of your job duties, how you are likely to react in different situations and the needs of the individual's you are working with, the less likely it is that abuse will occur.

Listed below are some suggestions:

- ❑ Read the individual's plan and strategies and follow the plan; be aware of any specific behavioral, medical or other needs the consumer may have that you need to know about. Ask questions if you are not sure. If you have a concern about anything in the plan, do not change anything until it has been discussed and approved by whoever is in charge of the plan.
- ❑ If the individual has a behavior plan or guidelines, follow them as written; again, ask questions if you are unsure
- ❑ Make sure to stay current with any training needed to provide services to the individual.
- ❑ Always treat the individual in a respectful manner; be aware of how your attitude, tone of voice and actions might affect others; remember that your role is to support and assist the individual

- ❑ Be aware of your own reactions; know what is likely to push your buttons and have a way to deal with it that is appropriate
- ❑ Be aware that stress in any part of your life can affect how well you cope with your work; find out what is helpful for you to deal with stress and use it
- ❑ Ask for help from supervisors or coworkers if you are in a difficult situation; don't let it get to the point of losing control
- ❑ Be aware of how differences in cultures or value systems may affect how you react to a situation

The Client Rights Department and Training Department of MHMRTC encourage you to contact them for assistance. You may also have access to an Employment Assistance Program if your employer provides it as a benefit.

Reporting Requirements:

It is the responsibility of each employee, contractor, contractor employee and volunteer to report any concern, suspicion or incident of client abuse, neglect, or exploitation, regardless of who the alleged abuser may be. There is no chain of command in reporting abuse or neglect. **Anyone who witnesses or becomes aware of abuse or neglect must contact The Texas Department of Family and Protective Services (TDFPS, formerly TDPRS) within one hour.** These telephone numbers are to be posted in each facility. Only TDFPS can investigate allegations of abuse, neglect or exploitation.

A report can be made by one of the following methods:

- ❑ If the alleged abuser is an employee of MHMRTC, a contracted provider, a private HCS or ICF-MR program; call 1-800-647-7418.
- ❑ If the alleged abuser is anyone else, a parent, teacher, etc., call 1-800-252-5400
- ❑ Regardless of whom the alleged abuser is, DFPS can be contacted online at <https://www.txabusehotline.org/notice-aps.asp>.

However TDFPS is contacted, they will request the following information:

- ❑ The name of the reporter and a contact number (if reporting by phone, can remain anonymous)
- ❑ The name of the alleged victim, gender, contact phone number(s) and address and their current condition
- ❑ The name of the alleged abuser, (if known) and how to contact
- ❑ A detailed description of the alleged abuse including when and where it occurred

Remember:

- ❑ It is a violation of state and federal laws not to report incidents of abuse and neglect.
- ❑ Failure to report client abuse and neglect may result in (internal) disciplinary action and/or (external) criminal charges.
- ❑ State laws protect individuals reporting abuse and neglect. Anyone who in good faith reports abuse or neglect will not be subject to retaliatory action.
- ❑ Any person, who believes he or she is being subjected to retaliatory action due to making a report of abuse, or who believes a report has been ignored without cause, should immediately contact the Client Rights Department.

Protecting the Alleged Victim:

If you witness abuse or neglect, stay calm. Let the person who is committing the act know that you are present. Usually the presence of another person will help the abuser regain control. Ensure that the person is no longer in danger or harm and see that he or she receives needed medical attention. A consumer should be examined by a nurse or physician. Always seek professional medical assistance; failure to do so may itself be considered abuse or neglect. Once the person is SAFE, you are then required to report the incident. **Call TDFPS within one hour of discovering the alleged abuse.**

Cooperating with the Investigation:

After suspected abuse, neglect or exploitation is reported, if the alleged abuser is an employee of MHMRTC, a provider, one of its contract agencies, or a private HCS or ICF-MR program, the incident, if accepted, will be investigated by TDFPS Facility Investigation Services. If the allegation is not accepted by TDFPS, it may be referred to MHMRTC’s Client Rights Office for Investigation. The accused must be placed in a non-direct care position, placed on administrative leave, or otherwise denied access to the alleged victim until the investigation is completed. During the investigation, all involved persons have an opportunity to tell their side of the story. The person who is accused, the individuals who witnessed or have knowledge of the incident and the consumer (if appropriate) will be interviewed. If a confirmation of abuse, neglect or exploitation is found, the organization and/or accused will have an opportunity to appeal the findings if they believe they are in error.

Listed below are the required actions to be taken by MHMRTC employees, providers or contractors once abuse, neglect or exploitation has been alleged:

If the victim is a consumer and the perpetrator is an employee, contractor, provider or volunteer for MHMRTC, the following actions should be taken:

Event	Action
1. Staff become aware that a client may have been abused, neglected, or exploited by a MHMRTC employee, contractor, provider or volunteer	1a. Staff will take necessary steps to protect the individual and contact any emergency personnel if needed. 1b. Staff will report the allegation to the Texas Department of Family and Protective Services at 1-800-647-7418 OR by https://www.txabusehotline.org/notice-aps.asp within one hour.
2. TDFPS investigator contacts MHMRTC and/or contract staff and request a written statement as to her/his knowledge regarding the incident	2. Staff must comply with request and provide the written statement
3. TDFPS investigator request information from the client’s MHMRTC chart	3. Staff must provide immediate access to the chart. Copies of portions of the chart may be made by records room staff and given to the TDFPS investigator.
4. TDFPS investigator wants to take a photograph of the client	4. As long as the client is willing to comply then the photo may be taken

Event	Action
5. TDFPS investigator wants to interview other clients	5. Staff will provide contact to the other clients

Reference: Human Resources Code 48.051; Family Code 261.101

(c) The duty (to report) imposed by Subsections (a) and (b) applies without exception to a person whose knowledge concerning possible abuse, neglect, or exploitation is obtained during the scope of the person's employment or whose professional communications are generally confidential, including an attorney, clergy member, medical practitioner, social worker, and mental health professional.

To Report Allegations of Abuse, Neglect and Exploitation, Call the Texas Department of Family and Protective Services at: **1-800-647-7418**, or online at <https://www.txabusehotline.org/notice-aps.asp>

MENTAL HEALTH MENTAL RETARDATION OF TARRANT COUNTY MENTAL RETARDATION SERVICES

HIPAA PRIVACY SUMMARY

DADS and MHMRTC require that all employees must review and understand the following curriculum on a yearly basis and complete the competency test to follow.

What is HIPAA?

Health Insurance Portability and Accountability Act of 1996. The Privacy Rule under HIPAA requires health care providers to protect privacy of medical records and identifies certain rights of persons served to control use and disclosure of and access their medical records.

Who is affected?

All Healthcare organizations including healthcare providers, physician's offices, health plans, public health authorities, life insurers, clearinghouses, billing agencies, information system vendors, service organizations, and universities. HIPAA also indirectly affects business associates who have access to patient records. A Business Associate is any entity that performs services to, or on behalf of, a covered entity such as MHMR of Tarrant County and uses or discloses protected health information that belongs to MHMR of Tarrant County.

What is Protected Health Information (PHI)?

"Protected health information" is any information, whether oral or recorded in any form or medium that:

- **Is created or received by a health care provider (MHMR of Tarrant County)**, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and
- Relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual or the past, present or future payment for the provision of health care to that individual.

PHI includes any information – oral, recorded, on paper, or sent electronically – about a person's physical or mental health, services rendered or payment for those services. The standards apply to all "information" not just the traditional medical record that we are familiar with.

This "information" includes any personal information connecting the patient to the records. This kind of personal information is called "Identifiable Health Information." The 19 items of information that might connect personal health information to the individual patient may include the individual's:

- name
- address (street name, city, county, zip code, equivalent geographic codes)
- social security number
- other identification numbers (health plan number, license number)
- finger and voice prints
- photo images
- names of relatives
- names of employers

- date of birth
- phone or fax numbers, e-mail addresses
- medical record numbers, account numbers
- physician's personal notes
- billing information

Client Rights under the HIPAA Privacy Rule:

- Right to receive notice of privacy practices. **A copy must be given to each client starting April 14, 2003. We must also ask the client to sign an Acknowledgment Receipt for Notice of Privacy and place the signed acknowledgment in the client record.**
- Right to request restrictions. The client can ask us to limit some of the ways we use or share their health information. We will consider their request, but the law does not require us to agree to it. If we do agree, we will put the agreement in writing and follow it, except in case of emergency. We cannot agree to limit the uses or sharing of information that are required by law.
- Right to request confidential communications. The client can ask us to contact them at a different place or in some other way. We will agree to their request as long as it is reasonable.
- Right to access Protected Health Information (PHI). The client can look at or get a copy of the health information that we have about them. There are some reasons why we will not let them see or get a copy of their health information, and if we deny their request we will tell them why. The client can appeal our decision in some situations. They can choose to get a summary of their health information instead of a copy. The client will be charged a reasonable fee for the summary or copy of their health information.
- Right to request amendments. The client can ask us to correct information in their records if they think the information is wrong. We will not destroy or change our records, but we will add the correct information to their records and make a note in their records that they have provided the information.
- Right to request accounting. The client can get a list of when we have given health information about them to other people in the last six years. The list will not include disclosures for treatment, payment, health care operations, national security, law enforcement, or disclosures where they gave their permission. The list will not include disclosures made before April 14, 2003. There will be no charge for one list per year.
- Right to file a complaint. **If the client believes their privacy rights have been violated, they can file a complaint with the Privacy Officer or with the Secretary of Health and Human Services.** There will be no retaliation for filing a complaint.

MHMR of Tarrant County Responsibilities:

- To maintain the privacy of the clients health information.
- Provide clients with a notice as to our legal duties and privacy practices with respect to information we collect and maintain about them.
- Abide by the terms of the privacy notice.
- Notify clients if we are unable to agree to a requested restriction.
- Accommodate reasonable requests they may have to communicate health information by alternative means or at alternative locations.

Penalties for privacy rights violations:

- Non-Compliance: \$100 for each violation, up to \$25,000 maximum per year (applies to all HIPAA requirements).
- Wrongful Disclosure: Up to \$50,000 & imprisoned up to 1 yr for each offense.

- If disclosed under false pretenses: Up to \$100,000 & imprisoned up to 5 yrs.
- If disclosed with intent to sell information or reap other personal gain: Up to \$250,000 & imprisoned up to 10 yrs.

If you have any questions regarding areas of privacy, contact the Privacy Officer/ Director of Client Records, Kathy Munn, at 817-569-4382.

To file a privacy violation complaint:

Privacy Officer, MHMR/TC: (817) 569-4382 or MHMR/TC Complaint Line: (817) 569-4367

You may also file a complaint with:

U.S. Department of Health and Human Services: (800) 368-1019 (toll free)
200 Independence Avenue, S.W.
Washington, D.C. 20201

MHMR OF TARRANT COUNTY

CONSUMER PRIVACY AND CONFIDENTIALITY

All consumer or client related information used by the provider in order to provide services is considered private and confidential and the provider is obligated to safeguard all consumer related information according to the Health Insurance Portability and Accountability Act of 1996.

This “information” includes any personal information connecting the patient to the records. This kind of personal information is called “Identifiable Health Information.” The 19 items of information that might connect personal health information to the individual patient may include the individual’s:

- name
- address (street name, city, county, zip code, equivalent geographic codes)
- social security number
- other identification numbers (health plan number, license number)
- finger and voice prints
- photo images
- names of relatives
- names of employers
- date of birth
- phone or fax numbers, e-mail addresses
- medical record numbers, account numbers
- physician’s personal notes
- billing information
- right to request amendments. The client can ask us to correct information in their record

MHMR of Tarrant County

Confidentiality Summary

- ☞ All requests for release of information should be routed to the Client Record Department (Unit #044) at Hulen Tower North.
- ☞ Consent to release information is not required before reporting child or elder abuse (this still does not release the medical record).
- ☞ When responding to phone calls, do not give out client information if you do not know the caller. You should always be able to take a name and phone number, verify the identity of the caller, and return the phone call if authorized.
- ☞ As a general rule, client information may be disclosed only after written permission of the appropriate person is received.
- ☞ A written authorization is required for the release of client information, even to the FBI or the Secret Service.
- ☞ MHMR/TC consent and authorization forms are valid for one year.
- ☞ Consents and authorizations may be revoked at any time, however, they must be written, signed, and dated.
- ☞ Client information may be released in a bona fide medical emergency (contact the Client Records Department).
- ☞ Always return client records to their secure locked location in your building or program at the end of the workday.
- ☞ All subpoenas for client medical records are referred to the Client Record Department at Hulen Tower North. Staff should contact their supervisor and the Client Record Department if subpoenaed to testify about or on the behalf of a client.
- ☞ Client Record Procedures are found in Section REC (Client Records), in the Operating Procedure Manual.

If you have any questions regarding areas of confidentiality, contact the Director of Client Records, Kathy Munn, RHIA, at 817-569-4382.

HIPAA Privacy Evaluation

Name: _____

Date: _____

Please circle the correct answer for each question.

- 1) HIPAA stands for Health Insurance Portability and Accountability. (page 23)

True

False

- 2) Protected Health Information is any information that is created or received by a health care provider such as MHMR of Tarrant County. (page 23)

True

False

- 3) All persons served including those newly admitted must sign a form acknowledging receipt of a Notice of Privacy Practices. (page 24)

True

False

- 4) People being served by MHMRTC have the right to file a complaint if they feel that the agency has not protected their personal health information. (page 24)

True

False

Thank you for helping us maintain the privacy of all consumer records and information.

In fulfilling our monitoring requirements, MHMRTC needs to document more information about the provider you have secured for respite. Please provide information regarding the special needs of your loved one and the training that has been provided to your respite provider.

Consumer Name: _____

Respite Provider's Name: _____

In your own words – why is this provider able to provide services to your loved one?
(Examples: They have a history with the consumer; They have a background of working with people with disabilities; They have been trained by or observed by you; the provider has special skills/degree/training....)

What training and/or discussion have you had with the provider about your loved one?
(Example: Diagnosis, Likes/dislikes, treatment plan, medical needs, behavioral needs, desired outcomes, etc.)

What other plans do you have for receiving respite if an emergency happens?

_____/_____/_____
Signature of Person completing form Date Relationship to Consumer

Learning Your Responsibilities As An Employer

If you hire someone to perform a service in your home, such as respite, you are considered that person's employer. This is true whether you pay the person you have hired with your money and then receive reimbursement or if you pay the person with money you receive from MHMRTC.

As an employer, you will have certain responsibilities specified by law. This includes, but is not limited to, payment of federal and state employment taxes and filing the required paperwork with the appropriate agencies.

It is your responsibility to learn your legal obligations as an employer and carry them out as the law requires.

MHMRTC cannot advise you on these matters. These laws and policies are administered by federal agencies and other state agencies, not MHMRTC. To receive your current information on your responsibilities as an employer, please contact the agencies listed below using the numbers listed in the Blue Pages of your local telephone directory. If you have access to the Internet, you may also visit the Internet sites maintained by these agencies to get general information.

The Internal Revenue Service

<http://www.irs.treas.gov>

The Department of Labor

<http://www.dol.gov>

The Texas Workforce Commission

<http://www.twc.state.tx.us>