

Tender Care Medical Services, Inc.

POLICY & PROCEDURES

Title: Harassment and Intimidating or Disruptive Behavior

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Purpose:

To establish an internal procedure for handling employee complaints relating to alleged harassment and intimidating or disruptive behavior.

DEFINITIONS:

Harassment

In general, ethnic or racial slurs and other verbal or physical conduct relating to a person's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, citizenship, veteran status or military or uniformed services or any other attribute or characteristic which is protected under applicable federal, state or local laws constitutes harassment when they unreasonably interfere with a person's work performance or create an intimidating work environment.

Sexual Harassment

Sexual harassment is generally defined as unwelcome or unwanted sexual advances, requests for sexual favors; and other visual, verbal, or physical conduct of a sexual nature.

Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or

Submission to or rejection of the conduct is used as the basis for an employment decision, promotion, performance appraisal, compensation, etc.) or such conduct or speech has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive working

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environment (e.g., unwanted sexual jokes, innuendos, vulgar language, sexual gestures, physical assaults, sexual advances, displaying sexually oriented materials, etc.).

Sexual harassment may also include, but is not limited to:

- Offering employment benefits in exchange for sexual advances; or
- Visual conduct, such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons or posters; or
- Verbal conduct, such as making or using derogatory comments, epithets, slurs, and jokes; or
- Verbal sexual advances and propositions; or
- Verbal abuse of a sexual nature, graphic commentaries about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations; or
- Physical conduct (e.g., touching, assault, impeding or blocking movements).

Disruptive and/or Intimidating Behavior

This behavior may include:

- Profane language
- Sexual comments or innuendo
- Inappropriate touching, sexual or otherwise
- Racial or ethnic jokes
- Throwing instruments, charts, or other objects
- Failure to adequately address safety concerns or patient care needs expressed by the caregiver
- Intimidating behavior that has the effect of suppressing safety input by other of the healthcare team
- Deliberate failure to adhere to company safety policies without adequate evidence to support the alternative chosen
- Retaliation against any member of the healthcare team who has reported an instance of violation of conduct or who has participated in the investigation of such an incident, regardless of the perceived veracity of the report
- Inappropriate language or behavior
- Any violation related to conduct

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POLICY:

The Company is committed to providing all employees with the opportunity to work in an environment free of harassment, discrimination, or disruptive and intimidating behavior.

This can exist only when each employee is assured an atmosphere of mutual respect- one in which each is judged solely on criteria relating to job performance. Harassment and disruptive and intimidating behavior in any form will not be tolerated.

This policy applies to all incidents of alleged harassment, including those which occur off-premises, or off-hours, where the alleged offender is a supervisor, co-worker, or non-employee with whom the employee is involved, directly or indirectly, in a business or potential business relationship.

Retaliation against any employee for filing a bona fide complaint under this policy or for assisting in a complaint investigation is prohibited. However, if after investigating any complaint of harassment or discrimination, the Company determines that the complaint is frivolous or was not made in good faith or whether an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint or who gave the false information.

COMPLAINT PROCEDURE:

Any employee who believes he/she has been the subject of harassment or intimidating or disruptive behavior, shall promptly report the incident to his/her supervisor, administrator or the Human Resources Director. All reports of disruptive behavior should be documented and investigated.

INVESTIGATING HARASSMENT COMPLAINTS:

Responsibility:

The Company's Human Resources Director will be responsible for promptly initiating a full and effective investigation of harassment complaints. Additional management personnel may be included in the investigation team, as appropriate to the nature of the complaint. Under no circumstances should any individual named in the employee's complaint be involved in conducting or supervising the investigation.

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Documentation:

All complaints should be put in writing – (see Harassment Form Investigation Checklist). All aspects of the investigation should be thoroughly documented. Investigations should include the following information:

- Who is the person allegedly engaged in the harassment conduct?
- What happened?
- Where did it happen?
- When and how often did it happen?
- What did the employee making the complaint do about the harassing behavior?
- Who are the witnesses?
- Who else did the employee making the complaint talk to at the time of the incident?

Confidentially:

The investigation should be kept private and confidential to the greatest extent possible. Employees (including the employee making the complaint and witnesses) should never be promised strict or absolute confidentiality. Such a promise could prevent an investigation that is fair to all parties involved.

Recordkeeping:

Investigative files are maintained by Corporate Human Resources.

COMPLAINT RESOLUTION:

Before arriving at a conclusion, the Human Resources Director will prepare a complete file containing the written statements of all individuals with whom the matter was discussed. The Human Resources Director will discuss this with the CEO. After a conclusion has been reached regarding the investigation and a course of action determined, the following steps should be taken:

The Human Resources Director will inform the employee making the complaint of the findings.

If a policy violation is found to have occurred, tell the employee making the complaint that appropriate action will be taken (no need to be specific) and ask the employee to notify the investigator in the event of any further incidents.

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If the offending conduct does not violate the harassment policy, the employee making the complaint should be advised of this determination before closing the investigation.

Again, the employee making the complaint should also be told the Human Resources Director will speak to the alleged offender about the conduct and that the employee making the complaint should immediately report any further incidents.

Enable employees to report retaliation

Advise all employees involved that any form of retaliation for their having filed a complaint or participated in the investigation is strictly prohibited, and that they should report any incidents or retaliation to the Human Resources Director.

Hold separate meetings

Inform the employee making the complaint and the accused of the findings in separate meetings. If there is insufficient evidence to warrant disciplining the accused, the individual should still be reminded of the Company policy against harassment.

DISRUPTIVE AND/OR INTIMIDATING BEHAVIOR RESOLUTION:

Assure the employee making the complaint that appropriate action will or has been taken and ask the individual to notify the Human Resources Director in the event of any further incidents.

Enable employees to report retaliation

Advise all employees involved that any form of retaliation for their having filed a complaint or participated in the investigation is strictly prohibited, and that they should report any incidents of retaliation to the Human Resources Director.

DISCIPLINARY ACTION:

In consultation with the CEO, appropriate disciplinary action as determined by the Human Resources Director and discussed with the CNO and Administrator up to and including separation, should be based on the results of the investigation.

Any non-employee who subjects an employee to harassment or intimidating or disruptive behavior in the workplace should be informed of this policy by management. Other action may be taken as appropriate.

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TRAINING:

All employees must be provided with initial and ongoing education about the systems in place to establish a culture of civility, including a workplace free from harassment and disruptive and intimidating behavior. *Employees must be provided with training on how and when to report harassment and disruptive and intimidating behavior annually.*

