

Subject	Number	Date Originated	Date Revised	Relevance
Prison Rape Elimination Act (PREA)	340	10/2019	10/2020 12/2022	<input type="checkbox"/> All Personnel <input type="checkbox"/> Admin Personnel <input type="checkbox"/> Billing/AR Personnel <input type="checkbox"/> Clinical Personnel <input type="checkbox"/> Leadership Personnel <input type="checkbox"/> Maintenance/Other Personnel
Originated by:		Approved by:		
Policy Committee		<i>Pamela Lamb</i>		

Policy

In harmony with the 2003 Prison Rape Elimination Act (PREA), it is the policy of Team Wellness Center (TWC) to maintain a zero-tolerance of sexual harassment/abuse at any facility owned or operated by Team Wellness Center.

All persons affiliated with Team Wellness Center as a consumer, staff, or other stakeholders are required to behave in a manner that promotes dignity and respect for all others, at all times. Remaining free from sexual harassment is a legally protected right and TWC is committed to promoting adherence to the law. This includes promoting the effort to eliminate potential sexual abuse by staff against members and eliminating the potential harassment/abuse by members against other members.

Definitions related to sexual abuse.

TWC utilizes the following definitions in accordance with this law:

For purposes of this part, the term— Sexual abuse includes— (1) Sexual abuse of an inmate, detainee, or member by another inmate, detainee, or member; and (2) Sexual abuse of an inmate, detainee, or member by a staff member, contractor, or volunteer. Sexual abuse of an inmate, detainee, or member by another inmate, detainee, or member includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse: (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; (2) Contact between the mouth and the penis, vulva, or anus; (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation. Sexual abuse of an inmate, detainee, or member by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or member: (1) Contact between the penis and the vulva or the penis and the anus,

including penetration, however slight; (2) Contact between the mouth and the penis, vulva, or anus; (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section; (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or member, and (8) Voyeurism by a staff member, contractor, or volunteer. (9) Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or member by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Sexual harassment includes— (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or member directed toward another; and (2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or member by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Staffing:

In accordance with the PREA guidelines, TWC will include a staffing plan strategy that increases our capacity for prevention, detection, monitoring, responses to incidents and services to alleged victims and their families.

TWC will maintain its best efforts to maintain a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to guard against sexual abuse. When calculating adequate staffing levels and determining video monitoring, considerations will include, but are not limited to:

- All components of the facility (e.g., blind spots or isolated areas)
- The composition (mix) of the population
- Supervisors on shift
- Number/type of programs on shift
- Regulations
- Considerations from past substantiated complaints of harassment/abuse

- Any other relevant factors
- A formal PREA staffing plan form must be completed for jail diversion program

Whenever necessary, but no less frequently than once each year, the facility shall assess, determine, and document whether adjustments are needed to:

- (1) The staffing plan established pursuant to paragraph
 - (a) of this section;
- (2) Prevailing staffing patterns;
- (3) The facility’s deployment of video monitoring systems and other monitoring technologies; and
- (4) The resources the facility has available to commit to ensure adequate staffing levels

Searches:

The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners., the facility shall not permit cross-gender pat-down searches of female members, absent exigent circumstances. The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches and shall document all cross-gender pat-down searches of female members.

It is the facility/TWC policy that members are to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Staff of the opposite gender must announce their presence when entering an area where members are likely to be showering, performing bodily functions, or changing clothing.

All staff who perform searches complete “PREA Cross Gender and Transgender Pat Search” training and complete a quiz to test their knowledge of the training.

Limited English Proficient/Members with disabilities:

TWC has taken appropriate steps to ensure that members with disabilities (including, for example, members who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent,

detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with members who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, TWC has ensured that written materials are provided in formats or through methods that ensure effective communication with members with disabilities, including members who have intellectual disabilities, limited reading skills, or who are blind or have low vision. TWC has taken reasonable steps to ensure meaningful access to all aspects of the TWC's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to members who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. TWC does not rely on member interpreters, member readers, or other types of member assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the member's safety, the performance of first-response duties under 115.264, or the investigation of the member's allegations.

See policy _____

Hiring and Promotion Decisions

TWC does not hire or promote anyone who may have contact with members, who—

(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. § 1997);

(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph

(a)(2) of this section.

(b) TWC does consider any incidents of sexual harassment in determining whether to hire or promote anyone, who may have contact with members. TWC does ask all applicants and employees who may have contact with members directly about previous misconduct described in paragraph

(c) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees.

TWC does impose upon employees a continuing affirmative duty to disclose any such misconduct. Potential employees and promotional candidates are informed that material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

Before hiring new employees, who may have contact with members, the agency does the following:

- (1) Performs a criminal background record check;
- (2) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

TWC does conduct criminal background records checks annually in accordance with the contract with the Michigan Department of Corrections on current employees who may have contact with members.

Unless prohibited by law, the agency will provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

Upgrades to Facilities and Technologies

If the TWC/facility makes upgrades to existing facilities or technology, the agency shall consider the effect of the monitoring technology, design, acquisition, expansion, or modification upon the agency's ability to protect members from sexual abuse.

Procedure

Responsive Planning

For allegations of sexual abuse, TWC/Facility shall contact the police.

- (1) TWC/facility shall take appropriate measures to follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. TWC/facility shall request that the protocol used the forensic exam be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.
- (2) TWC/facility shall offer all victims of sexual abuse access to forensic medical examinations whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.
- (3) TWC shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, TWC shall make available to provide these services a qualified person from a community-based organization. TWC shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis

center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. TWC may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services. As requested by the victim, the qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. To the extent TWC itself is not responsible for investigating allegations of sexual abuse, TWC shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

- (4) TWC shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

(b) The agency has a policy in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior.

TWC has published such policy on its website. The agency shall document all such referrals. When separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity.

Training and Education

TWC trains all employees who may have contact with members on:

- (1) Its zero-tolerance policy for sexual abuse and sexual harassment;
- (2) How to fulfill their responsibilities under TWC sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- (3) Members' right to be free from sexual abuse and sexual harassment;
- (4) The right of members and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (5) The dynamics of sexual abuse and sexual harassment in confinement;
- (6) The common reactions of sexual abuse and sexual harassment victims;
- (7) How to detect and respond to signs of threatened and actual sexual abuse;
- (8) How to avoid inappropriate relationships with members;

(9) How to communicate effectively and professionally with members, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming members; and

(10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Such training shall be tailored to the gender of the members at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male members to a facility that houses only female members, or vice versa. TWC shall provide each employee with refresher training every two years to ensure that all employees know the TWC's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, TWC shall provide refresher information on current sexual abuse and sexual harassment policies. TWC shall document, through employee signature or electronic verification that employees understand the training they have received. TWC/facility receives and completes training through the Michigan Department of Corrections. TWC does not use volunteers or contractors;

During the intake process, every member who enters the facility for programing receives information explaining the agency's zero tolerance policy regarding sexual abuse and sexual harassment, how to report incidents or suspicions of sexual abuse or sexual harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding TWC policies and procedures for responding to such incidents. See zero tolerance handout. TWC maintains documentation of member participation in these education sessions. TWC/facility shall ensures that key information is continuously and readily available or visible to members through posters that are readable and accessible postered throughout the facility.

Screening for risk of victimization and abusiveness/Use of screening information

Members that reside at TWC will be screened for past/present trauma (including sexual trauma) and will have a formal PREA screening. Roommate assignment will be influenced by the member's choice and the analysis of the screenings. In the event a member expresses concerns of being uncomfortable with the roommate, TWC will make a change to the roommate assignment, to the best of the organization's abilities.

This Intake screening shall ordinarily take place within 72 hours of arrival at the facility. Such assessments shall be conducted using an objective screening instrument. See Attachment _____

The intake screening does consider, at a minimum, the following criteria to assess members for risk of sexual victimization:

- (1) Whether the member has a mental, physical, or developmental disability;
- (2) The age of the member;
- (3) The physical build of the member;
- (4) Whether the member has previously been incarcerated;
- (5) Whether the member's criminal history is exclusively nonviolent;

- (6) Whether the member has prior convictions for sex offenses against an adult or child;
- (7) Whether the member is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
- (8) Whether the member has previously experienced sexual victimization; and
- (9) The member's own perception of vulnerability.

The intake screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing members for risk of being sexually abusive. Within a set time period, not to exceed 30 days from the member's arrival at the facility, the facility will reassess the member's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. A member's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the member's risk of sexual victimization or abusiveness. Members may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section. (i) TWC does implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the member's detriment by staff or other members. They are maintained in the facility's Director's office with controls on who can gain access.

TWC uses information from the risk screening required by § 115.241 to inform housing, bed, assignments with the goal of keeping separate those members at high risk of being sexually victimized from those at high risk of being sexually abusive. TWC makes individualized determinations about how to ensure the safety of each member.

In deciding whether to assign a transgender or intersex member to a facility for male or female members, and in making other housing and programming assignments, TWC considers on a case-by-case basis whether a placement would ensure the member's health and safety, and whether the placement would present management or security problems. A transgender or intersex member's own view with respect to his or her own safety shall be given serious consideration. Transgender and intersex members are given the opportunity to shower separately from other members. TWC does not place lesbian, gay, bisexual, transgender, or intersex members in dedicated facilities, units, or wings solely on the basis of such identification or status.

Reporting

TWC provides multiple internal ways for members to privately report sexual abuse and sexual harassment, retaliation by other members or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents and informs members they may report to the probation/parole office or directly to the policy. TWC/facility assists members with being able to make such report privately. Probation/parole officers are obligation to report the allegation to the facility immediately even if the report is made anonymously.

Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports. TWC informs staff they may report privately to the policy or probation/parole officer.

TWC/Facility does not have an administrative procedure to address member grievances regarding sexual abuse. Grievances alleging sexual abuse will be closed and immediately forwarded to the appropriate authority for investigation.

Member access to outside confidential support services

The facility provides members with access to outside victim advocates for emotional support services related to sexual abuse by giving members mailing addresses and telephone numbers, including toll-free hotline numbers on the zero-tolerance handout at intake. Members has access to telephones for which they can make this call directly, privately. This phone is not monitored or recorded. TWC/facility has entered into a memorandum of understanding (MOU) with these services and are able to provide members with confidential emotional support services related to sexual abuse. TWC maintains copies of this agreement.

Official Response Following a Member Report

TWC requires all staff to report immediately and according to TWC policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the TWC; retaliation against members or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Apart from reporting to designated supervisors or officials, staff will not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

If the alleged victim is considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility’s designated investigators. The designated investigators at this TWC/facility is the TWC Compliance Department.

When TWC learns that a member is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the member.

Upon receiving an allegation that a member was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. TWC shall document that it has provided such notification. The facility head that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

Upon learning of an allegation that a member was sexually abused, the first security staff member to respond to the report shall be required to:

- (1) Separate the alleged victim and abuser;
 - (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
 - (3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

TWC has an established policy to protect all members and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other members or staff and shall designate which staff members or departments are charged with monitoring retaliation. (b) TWC employs multiple protection measures, such as housing changes or transfers for member victims or abusers, removal of alleged staff or member abusers from contact with victims, and emotional support services for members or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. For at least 90 days following a report of sexual abuse, TWC monitors the conduct and treatment of members or staff who reported the sexual abuse and of members who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by members or staff and shall act promptly to remedy any such retaliation. Items TWC will monitor include any member disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. TWC shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. In the case of members, such monitoring shall also include periodic status checks. If any other individual who cooperates with an investigation expresses a fear of retaliation, TWC shall take appropriate measures to protect that individual against retaliation. TWC's obligation to monitor terminates if TWC determines that the allegation is unfounded.

Criminal and administrative investigations

When TWC conducts investigations into allegations of sexual abuse and sexual harassment, it does so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. If an administrative investigation is conducted into allegations of sexual abuse the investigator(s) has received special training in sexual abuse investigations, however it is the intent for this agency/facility to contact the local

police. Investigators of administrative allegations shall gather and preserve direct and circumstantial evidence, including any available physical evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. If the allegation involves DNA, the local the scene/clothing will be preserved for the police to collect the evidence. If the administrative investigations reveal to possibly support criminal prosecution, TWC/facility shall contact the local police who will determine if compelled interviews need to be conducted. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as member or staff. No agency /facility shall require a member who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.

Administrative investigations:

(1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and

(2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Criminal investigations shall be documented in a written reports received from the police department investigators. Police will be requested to ensure that substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. TWC shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. The departure of the alleged abuser or victim from the employment or control of the facility or TWC shall not provide a basis for terminating an investigation. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

TWC shall impose no standard higher than a preponderance of the evidence in determining whether administrative investigations of allegations of sexual abuse or sexual harassment are substantiated.

Following an investigation into a member's allegation of sexual abuse suffered in the facility, TWC shall inform the member as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. When agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the member.

Following a member's allegation that a staff member has committed sexual abuse against the member, TWC shall subsequently inform the member (unless the agency has determined that the allegation is unfounded) whenever:

- (1) The staff member is no longer posted within the member's unit;
- (2) The staff member is no longer employed at the facility;
- (3) TWC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- (4) TWC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Following a member's allegation that he or she has been sexually abused by another member, the agency shall subsequently inform the alleged victim whenever:

(1) TWC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

(2) TWC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. All such notifications or attempted notifications shall be documented. TWC's obligation to report under this standard shall terminate if the member is released from the agency's custody.

See TWC Compliance Investigation Policy

Discipline

TWC has a vital interest in maintaining a safe, productive and healthful work environment for its employees, clients and others. TWC has zero-tolerance for an employee, client or stakeholder who exhibits inappropriate behavior, such as soliciting, touching, insinuation, or overtones of a sexual nature that jeopardizes the safe, trauma-free, healthy and productive environment or infringes upon the agency's Mission, Vision, Core Values and Purpose.

NO EMPLOYEE OF TWC IS ALLOWED TO HAVE A ROMANTIC OR SEXUAL RELATIONSHIP WITH ANY TWC CONSUMER. ALTHOUGH A CONSUMER MAY BE LEGALLY ABLE TO ENGAGE IN A RELATIONSHIP WITH ANYONE THEY CHOSE, IT IS A CONDITION OF EMPLOYMENT FOR TWC STAFF TO REFRAIN FROM ANY SUCH RELATIONSHIP. FAILURE TO ADHERE TO THIS POLICY WILL BE INTERPRETED AS SEXUAL HARASSMENT AND THE STAFF WILL BE TERMINATED IMMEDIATELY.

Disciplinary sanctions for staff

Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Interventions and disciplinary sanctions for residents

Residents shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories. The disciplinary process shall consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

TWC may discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. TWC/facility prohibits all sexual activity between residents and may discipline residents for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

Medical and Mental Care

Resident victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. Security staff first responders shall take preliminary steps to protect the victim pursuant to and shall immediately notify the Facility Director to arrange for appropriate medical and mental health care. Resident victims of sexual abuse shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. The facility shall provide such victims with medical and mental health services consistent with the community level of care. Resident victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. If pregnancy results from conduct specified in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services. Resident victims of sexual abuse while confined shall be offered tests for sexually transmitted infections as medically appropriate. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Data Collection and Review

The facility conducts a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. Such review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials, with input from line supervisors. Investigation reports and medical/mental health records are reviewed, when relevant.

The review team shall:

- (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

(2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;

(3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;

(4) Assess the adequacy of staffing levels in that area during different shifts;

(5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and

(6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement, and submit such report to the facility head and PREA compliance manager. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so.

Please see TWC PREA Log

TWC collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. TWC aggregates the incident-based sexual abuse data at least annually. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. TWC maintains, reviews, and collects data as needed from all available incident-based documents including reports, investigation files, and sexual abuse incident reviews. Upon request, TWC shall provide all such data from the previous calendar year to the Department of Justice as required.

TWC shall reviews data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:

(1) Identifying problem areas;

(2) Taking corrective action on an ongoing basis; and

(3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole. Such report includes a comparison of the current year's data and corrective actions with those from prior years and provides an assessment of the TWC's progress in addressing sexual abuse. TWC's report is approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means. TWC may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility but must indicate the nature of the material redacted.

The agency ensures that data collected pursuant to § 115.287 are securely retained. Before making aggregated sexual abuse data publicly available, TWC shall remove all personal identifiers. TWC shall maintain sexual abuse data collected pursuant to § 115.287 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

Audits

The TWC/facility shall conduct a PREA audit with a certified auditor every three years.

Sexual Harassment Complaint Procedure:

- Any employee, volunteer, student intern or applicant who believes that he/she is a target of Sexual Harassment shall immediately contact their supervisor, any staff person, the PREA Coordinator, or the owner of TWC via PREA@t-mhs.com or (888) 813-8326.
- The supervisor or owner shall investigate each complaint thoroughly and make timely recommendations for appropriate corrective action of a probable cause finding, as well as other recommendations deemed advisable. The identity of the complainant may remain confidential during an investigation, except on a need to know basis.
- Any complaint involving a member in the residential jail diversion program must be tracked on the appropriate PREA logs, including the formal follow-ups for 90 days, to ensure that anti-retaliation rules are not violated.

Any employee who has a complaint of Sexual Harassment at work by anyone, including Supervisors, co-workers or visitors, should first clearly inform the harasser that his/her behavior is offensive or unwelcome and request that the behavior STOP. If the behavior continues, the employee must immediately bring the matter to the attention of the supervisor or owner. If an immediate supervisor is involved in the harassing activity, the violation should be immediately reported to:

Tracy Purnell

tracy.purnell@t-mhs.com

If TWC personnel knows of or suspects an incident of Sexual Harassment/Abuse, they shall take appropriate remedial action immediately. If the alleged harassment involves any types of threats of physical harm to the victim, the alleged harasser may be suspended without pay. During such suspension, an investigation will be conducted by TWC. If the investigation supports charges of Sexual Harassment/Abuse, disciplinary action against the alleged harasser will take place and may include termination. If the investigation reveals that the charges were brought falsely and with malicious intent, the charging party may be subject to disciplinary action, including termination.

Responsibilities of Managers and Supervisors:

- Managers and Supervisors must be alert to any allegations of Sexual Harassment/Abuse and are responsible for maintaining a workplace free of

Sexual Harassment/Abuse to the best of their ability.

- Managers and Supervisors must participate in unannounced rounds to help prevent potential sexual harassment/abuse. These rounds must be logged.
- Managers and Supervisors who are aware of Sexual Harassment behavior within their area of responsibility must contact the owner.
- All employees, volunteers and student interns are responsible for adhering to this policy, discouraging Sexual Harassment, reporting such incidents to appropriate persons and cooperating in any investigation of an allegation of Sexual Harassment.