

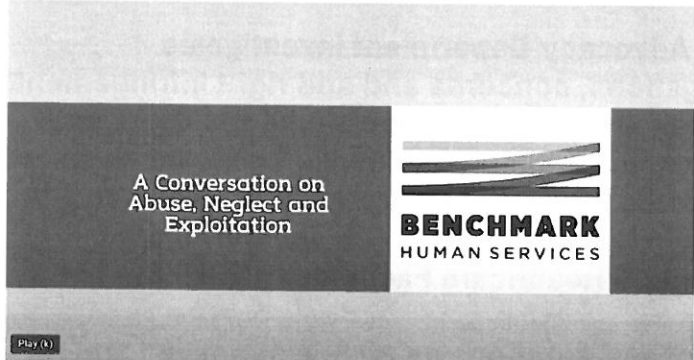
NC Department of Health and Human Services

Patient Rights and Reporting New Employee Orientation

ADVOCACY DEPARTMENT
Division of State Operated Healthcare Facilities
Central Regional Hospital

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A Conversation . . .



A Conversation on Abuse, Neglect and Exploitation

BENCHMARK
HUMAN SERVICES

A Conversation on Abuse, Neglect and Exploitation (2015), copyright by Benchmark Human Service, Used by permission of Benchmark Human Services, INC, Fort Wayne, IN

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OBJECTIVES



Rights Infringement & Reporting



Rights Infringements – A, N, & E



Grievance & Advocacy Department



Human Rights Committee

Central Regional Hospital

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ADVOCACY DEPARTMENT . . .

The Advocacy Department investigates allegations, concerns and and right infringements on behalf of patients/clients who reside in state operated healthcare facilities. These facilities are operated by the NC Department of Health and Human Services (DHHS), Division of State Operated Healthcare Facilities (DSOHF).

Advocacy functions as an investigative team of the division that conducts interviews, collects documents and evidence and prepares investigative reports for Facility, DSOHF and DHHS.

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ADVOCACY

NCGS §122C-3 A Client Advocate is a person whose role is to monitor the protection of client's rights or to act as an individual advocate on behalf of a particular client.

NCGS §122C-53 "Internal client advocate" means a client advocate who is employed by the facility or has a written contractual agreement with the Department or with the facility to provide monitoring and advocacy services to clients in the facility in which the client is receiving services.

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ADVOCACY Department Values:

COMMUNICATION: We actively listen to others, non-judgmentally to gain an account of the facts relating to issues arising from a situation.

INFORMATION: We seek facts through systematic examination of information, to form a cohesive and logical picture of a given situation.

APPROACHABLE: We are always available for the patients, residents, students and healthcare services providers.

ENGAGEMENT: We work forthwith to help patients, residents, students and members of the healthcare team to protect clients' rights.

ACCOUNTABILITY: We perform with transparency and integrity, demonstrating respect, honesty, fairness, equality and uncompromising adherence to strong ethical behaviors.

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ADVOCACY – Contact Information

STAFF may Call

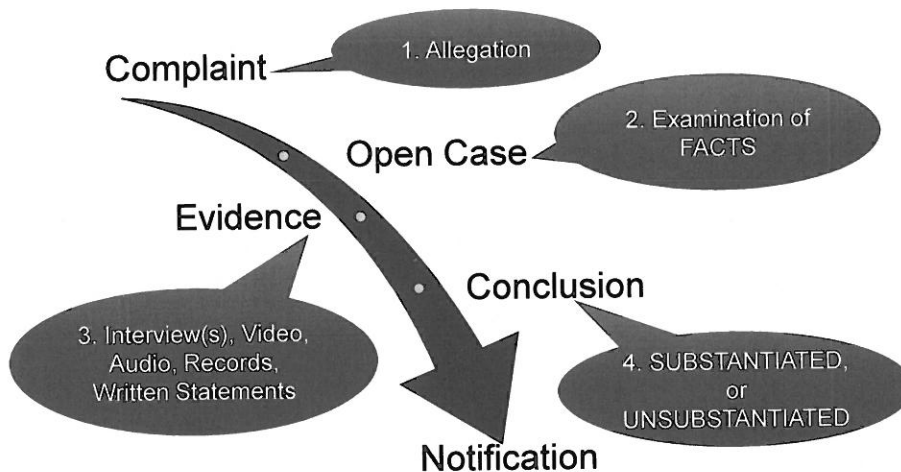
- ✓ CRH Operator: (919) 764-2000
- ✓ Advocacy On-Call Cell: (919) 698-5005
- ✓ Direct Office Number: (919) 575-7802
- ✓ Director's Office: (919) 575-7800

Patients/Residents Contact

Advocacy Voicemail: (919) 575-7485

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INVESTIGATION PROCESS



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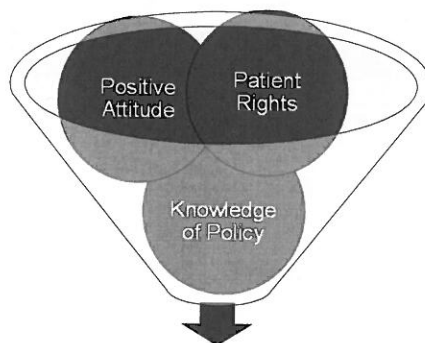
Allegations

Investigations

- Physical Abuse
- Emotional Abuse
- Verbal Abuse
- Sexual Abuse
- Exploitation
- Neglect
- Rights Violation

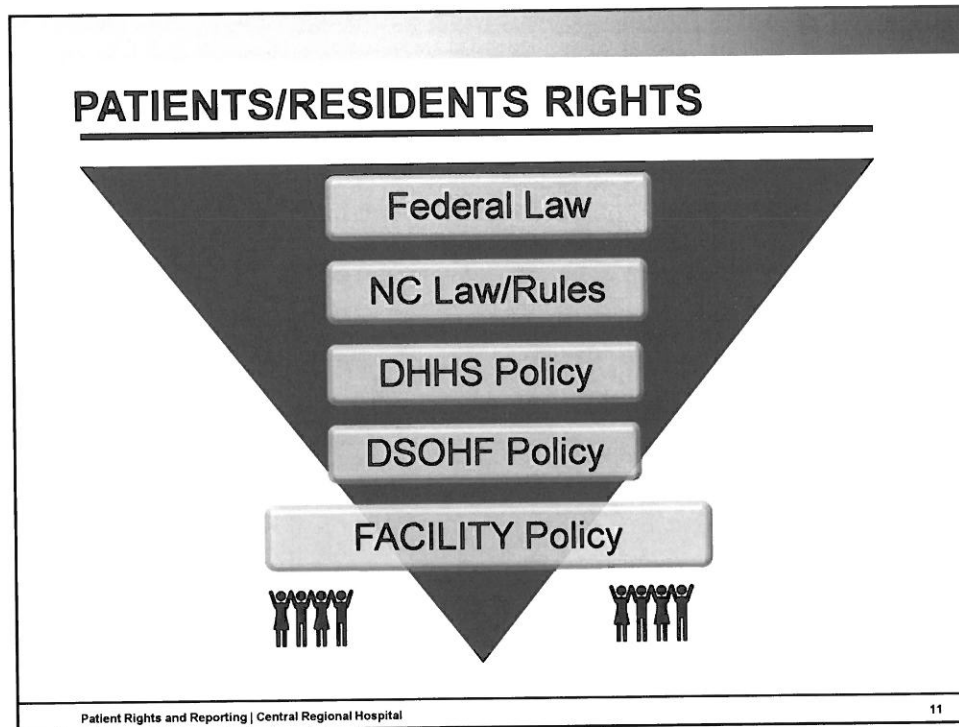
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Interaction must blend. . .



TO GIVE
DIGNITY AND RESPECT TOWARD PATIENTS

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FEDERAL LAW

**U.S. Code, Title 18
§ 242 – Deprivation of Rights Under Color of Law**

It is a crime for any person acting under color of law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

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Federal: Title 42 CFR – Public Health

Chapter IV - Centers for Medicare & Medicaid Services, Department of Health and Human Services

- § 483.10 Resident Rights
- § 483.12 Freedom from Abuse, Neglect & Exploitation
- § 483.15 Admission, Transfer & Discharge Rights
- § 483.24 Quality of Life
- § 483.25 Quality of Care
- § 483.60 Food & Nutrition Services

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FEDERAL: Bill of Rights

- Free to exercise: Religion, Speech, Press & Assembly
- Free to petition the government for Redress of Grievances

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STATE LAW (NCGS)

§ 122C, Article 3 - Clients' Rights

It is the policy of the State to assure basic human rights to each client of a facility. These rights include the right to **DIGNITY, HUMANE CARE** and freedom from **MENTAL AND PHYSICAL ABUSE, NEGLECT AND EXPLOITATION.**

North Carolina General Statute § 122C, Mental Health, Development Disabilities and Substance Abuse Act of 1985

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PATIENT'S NOTICE OF RIGHTS

- Patients are informed of their rights at admission.
- A written explanation is provided in patient handbooks, notices or brochures.



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STATE LAW (NCGS)

Patients' Rights

- To Be Informed of Patient Rights
- Dignity, Privacy & Humane Care
- Freedom from Discrimination
- Freedom from corporal punishment
- Freedom from A, N, & E
- Civil Rights
- Confidentiality
- Treatment/right to refuse treatment

North Carolina General Statute § 122C, Mental Health, Development Disabilities and Substance Abuse Act of 1985

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STATE LAW (NCGS)

Patients' Rights

- Annual physical & dental exam
- To be informed of treatment risk(s)
- Access to Laundry & Clothing
- File a Grievance
- Balanced & Nutritional Diet (3 a day)
- Consult with Legal Counsel, Private Health Professionals
- Right to consult with Advocate
- Send/receive sealed mail

North Carolina General Statute § 122C, Mental Health, Development Disabilities and Substance Abuse Act of 1985

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STATE LAW (NCGS)

- To be addressed by staff in a **RESPECTFUL** Manner

North Carolina General Statute § 122C, Mental Health, Development Disabilities and Substance Abuse Act of 1985

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STATE LAW (NCGS) – Can Be Restricted

- Confidential Telephone Calls
- Visits
- Social Interaction
- Off-Campus Visits
- Time outdoors
- Access to Facilities/ Equipment for Physical Exercise
- Personal Clothing & Possessions
- Participation in Religious Worship
- Keep/spend Money
- Retain a Drivers License
- Access to Storage for Private Use

North Carolina General Statute § § 15A, 20, 35A, 122c and GSAC 10A NCAC (APSM 95-1)

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ADMINISTRATIVE CODE (NCAC)

10A, 28A 28D - Mental Health, State Operated Facilities and Services

The purpose of the rules in Subchapters 28A, 28B, 28C and 28D is to set forth regulations governing human rights for clients in state facilities.

North Carolina Administrative Code
28A – Committees & Procedures; 28B – General Rights; 28C – Dignity & Respect; 28D – Right to Treatment
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Resource: APSM 95-1: Human Rights for Clients in State Facilities



DHHS, (2020), <https://www.ncdhhs.gov/document/apsm-95-1-human-rights-clients-state-facilities>

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POLICY - DHHS Directive Number III-5

Reporting Abuse, Neglect and Exploitation in DHHS Divisions, Facilities and Schools

It is the **policy** of the DHHS that whenever there is **cause to suspect** the **ABUSE, NEGLECT or EXPLOITATION** of a person in the custody of or receiving services from a DHHS division/facility/school, the matter is investigated as **required by law** (G.S. 7B, Subchapter I; G.S. 108A, Article 6; and G.S. 122C-66) and **department policy**.

Department of Health and Human Services (DHHS) Policy
GS 7B – Juv. Code; GS 108A – Social Svc; GS 122C-66 – Protection from Abuse & Exploitation; Reporting

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POLICY – DHHS Directive Number III-5

Client Rights Policies, Rights of Client

- Requires all allegations involving **minors** to be reported to the Department of Social Services (DSS) – Child Protective Services
- Also requires the reporting of abuse, neglect, exploitation that involves disabled adults, who are in continued need of protection.

Department of Health and Human Services (DHHS) Policy DirIII-05

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POLICY – DSOHF – 136-AL(4)

Protecting Patients/Residents/Students from Rights Infringements

- Rights Infringements are strictly prohibited
- Must promptly report to immediate supervisor & advocate
- Advocacy Investigates

State Operated Healthcare Facilities (SOHF) Policy 136-AL (4)

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BOTTOM LINE UP FRONT (BLUF)

- Abuse, Neglect or Exploitation of a client will not be tolerated
- No tolerance for a failure to report
- Any DHHS employee found to have violated any abuse, neglect and exploitation policy or reporting requirement may be disciplined up to and including dismissal

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POLICY - Local

CENTRAL REGIONAL HOSPITAL

- CPM-A.0005, ANE or Other Rights Infringement of Patients, Events Occurring After Admission
- CPM-P.0030, Patient Rights Summary – Minors
- CPM-P.0025, Patient Rights Summary – Adults

Abuse, Neglect, Exploitation (ANE)

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RIGHTS INFRINGEMENTS
(including, but not limited to, abuse, neglect and exploitation)
**of patients/residents/students
in all DSOHF facilities are
strictly prohibited and shall not
be tolerated.**

A / N / E

DSOHF Policy, 136-AL (3), (11/25/2015)

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ABUSE defined 42 CFR § 483.12 . . .

- The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation. This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms.

CORNELL LAW SCHOOL, Legal Information Institute (2020), <https://www.law.cornell.edu/cfr/text/42/483.12>

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ABUSE defined 10A NCAC 28A.0102. . .

- "ABUSE" means THE INFLICTION of physical or mental PAIN or INJURY by other than accidental means; or unreasonable confinement; or the DEPRIVATION by an employee of SERVICES which are NECESSARY to the mental and physical health of the client.
- Temporary discomfort that is part of an approved and documented treatment plan or use of a documented emergency procedure shall not be considered abuse.

10A NCAC 28A.0102, Definitions (emphasis added)

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ABUSE.. . .

DSOHF 131-AL(3) Policy

- The **INFLICTION** of physical or mental **PAIN** or **INJURY** by other than accidental means; or **UNREASONABLE CONFINEMENT**; or the **DEPRIVATION** by an employee of **SERVICES** which are **NECESSARY TO THE MENTAL AND PHYSICAL HEALTH** of the patient/resident/student.

DSOHF Policy, 131-AL(3) (11/15/2015), *Protecting Patients/Residents from Rights Infringements*

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ABUSE (Physical) . . .

Types of physical abuse:

- **Assault: hitting, slapping, punching, kicking, hair-pulling, biting, pushing**
- **Rough handling**
- **Scalding and burning**
- **Physical punishment**
- **Inappropriate or unlawful use of restraint**

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ABUSE (Physical) . . .

Types of physical abuse – cont'd:

- Making someone purposefully uncomfortable (e.g. opening a window and removing blankets)
- Involuntary isolation or confinement
- Misuse of medication

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ABUSE (Verbal) . . .

- **THE USE OF WORDS TO INFLICT EMOTIONAL HARM¹.**
- Can be the act of forcefully criticizing, insulting, or denouncing a patient/resident/student.

¹ DSOHF Policy, 136-AL(3), (12/25/2015), *Protecting Patients/Residents from Rights Infringements*

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ABUSE (Verbal) . . .

- **Words that Demean**
 - Cause a loss in the dignity of and respect for
- **Words that Frighten**
 - Cause a feeling of being afraid or anxious
- **Words that Control**
 - Behaviors Used Intentionally To Control or Manipulate Others
- **Words that Alarm**
 - Behaviors Used To Cause An Anxious Awareness of Danger or ill-will

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ABUSE (Sexual) . . .

SEXUAL ABUSE

Engaging in ANY form of Sexual Activity towards OR with a patient/resident/student.

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ABUSE (Sexual) . . .

Contact examples:

CONTACT Examples:

- Genitalia, anus, groin, breast, inner thigh, or the buttocks of a patient/resident/student, excluding contact incidental to a professional action.
- Between the mouth and any body part as an attempt, threat, or request by a staff member, contractor, or volunteer to engage in sexual activities.
- Staff member, contractor, or volunteer **SHOWS THE INTENT** to abuse, arouse, or gratify sexual desire from client.

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ABUSE (Emotional) . . .

EMOTIONAL ABUSE

Abusive verbal or nonverbal interactions with or in the presence of patient(s)/resident(s)/student(s) that may result in distress, fear or a negative reaction

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EMOTIONAL Abuse . . .

BEHAVIOR MAY INCLUDE:

- | | |
|--|--|
| <ul style="list-style-type: none"> • Verbal Aggression • Intimidation • Manipulation • Threats • Menacing • Cowing • Making Fun of • Jibes • Snub | <ul style="list-style-type: none"> • Taunting/Baiting • Insults • Sarcasms • Put-Downs • Humiliation • Goadng • Teasing • Glaring • Non-Verbal eye-roll |
|--|--|

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EXPLOITATION . . .

The USE of a PATIENT/RESIDENT/STUDENT or his/her RESOURCES including borrowing, taking or using personal property with or without his/her permission for another person's profit, business or advantage.

The misuse of a patient's/resident's/student's identity will also be considered exploitation.

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EXPLOITATION . . .

- **Action or Fact of:**
 - Treating a client **UNFAIRLY** in order to benefit from them personally
 - Making use of and **BENEFIT** from a client's resources
 - Deliberate **MALTREATMENT**, manipulation of power and excessive control over a client
 - Taking **ADVANTAGE** of a client or situation for personal gain

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NEGLECT . . .

The FAILURE to provide Care or Services NECESSARY to maintain the Mental and Physical health of the Patient/Resident/Student.

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NEGLECT . . .

Staff member's action, or inaction that deprives a client of the care or services necessary to maintain the client's physical or health status

DSOHF Policy, 136-AL(3), (12/25/2015), *Protecting Patients/Residents from Rights Infringements*

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NEGLECT . . .

Neglect examples:

- Failure to execute observation protocols
- Failure to deliver a meal
- Failure to provide necessary clothing
- Ignoring medical/physical care needs
- Withholding necessities life (nutrition, medication, heating)
- Ignoring a client's cries for help

DSOHF Policy, 136-AL(3), (12/25/2015), *Protecting Patients/Residents from Rights Infringements*

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GRIEVANCE SYSTEM 42 CFR 483.10

- The resident has the right to voice grievances to the facility or other agency or entity that hears grievances without discrimination or reprisal and without fear of discrimination or reprisal.

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GRIEVANCE: NCGS 150b-22 . . .

It is the policy of this State that any dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty, should be settled through informal procedures.

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GRIEVANCE 10A NCAC 28B.0203

PROCEDURE & REPORTS

Each state facility shall have a written procedure to process clients' formal grievances in a fair, timely and impartial manner. The grievance procedure shall specify that it is not intended to cover informal verbal expressions of dissatisfaction or discontent which can be resolved informally.

North Carolina Administrative Code
10A NCAC 28B.0203, STATE FACILITY GRIEVANCE PROCEDURES AND REPORTS

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GRIEVANCE Process . . .

- Informal Resolution**
 - Usually the patient reaches out to a treatment team member for assistance or resolution
- Formal Process**
 - Advocate or either the patient submits (verbally or written) the complaint for formal review
- Appeal Process**
 - If the patient is not satisfied, they may appeal to the Facility CEO for resolution

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GRIEVANCE Allegations

- Privileges
- Environmental
- Food
- Legal
- Mgt. Issues
- Medical Care
- Treatment
- Medication
- Personal Possession
- Property Access
- Staff Interaction
- Telephone
- Unit Rules
- Other

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Reviewers . . .



FACILITY and EXTERNAL

- Facilities' respective Risk Mgt. Teams
- Law Enforcement (Criminal Matters)
- Disability Rights North Carolina (DRNC)
- NC DHHS Healthcare Personnel Registry
- NC DHHS Division of Social Services
- Human Rights Committee

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HUMAN RIGHTS COMMITTEE

TO PROVIDE AN ADDITIONAL SAFEGUARD FOR PROTECTING THE HUMAN, CIVIL, LEGAL AND TREATMENT RIGHTS OF CLIENTS.

A human rights committee shall be established at each state facility to provide an additional safeguard for protecting the human, civil, legal and treatment rights of clients who, due to impairments resulting from mental retardation, mental illness or substance abuse, may be less able to articulate and exercise their legal entitlements than those not impaired.

10A NCAC §§28A MENTAL HEALTH, STATE OPERATED FACILITIES AND SERVICES

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HUMAN RIGHTS COMMITTEE

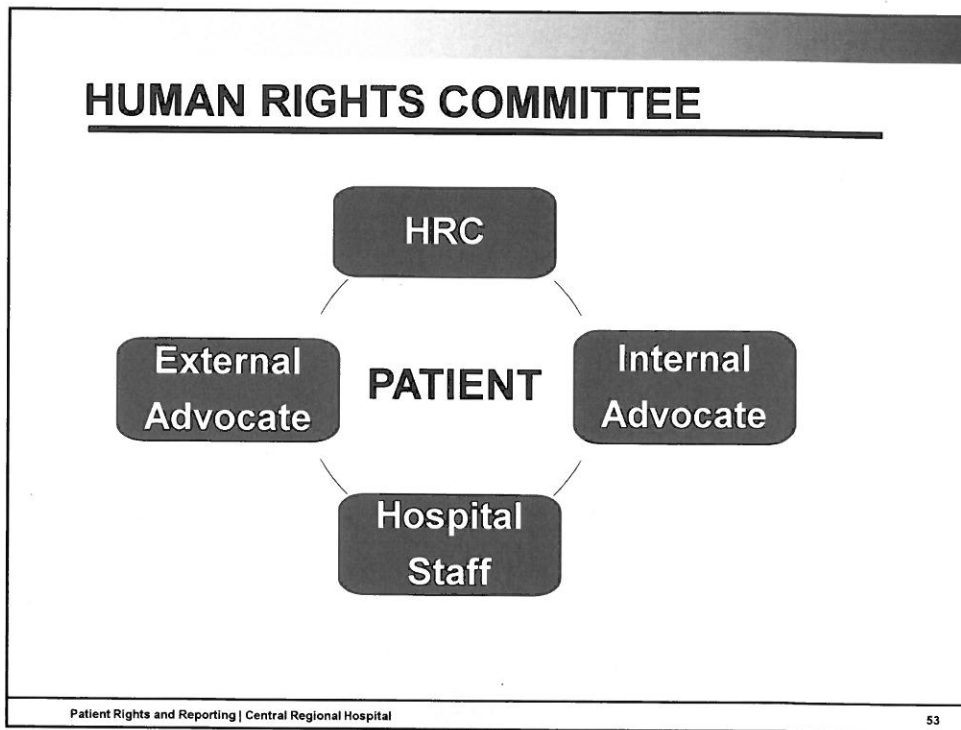
THE COMMITTEE SERVES AS INDEPENDENT BODY

- **REVIEWS FACILITY'S COMPLIANCE WITH HUMAN RIGHTS LAWS AND RULES**
- **REVIEWS EXISTING AND PROPOSED METHODS AND PROCEDURES FOR PROTECTING CLIENTS**
- **REVIEWS ALLEGATIONS (GRIEVANCES AND INVESTIGATIONS)**
- **REVIEWS HUMAN RIGHTS PROGRAMS AND SERVICES**
- **REVIEWS OTHER CONCERNS BROUGHT FORWARD**

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Questions

When you blend your professional practice with positive attitude and knowledge of Patient Rights and Policy you are more likely to _____?

- Know when you are doing a good job.
- Treat patients/residents/students with Dignity and Respect
- Remember everything that you are supposed to do each day
- Treat patients the same as you would treat a stranger you meet on the street

It is a federal crime to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the United States? (True or False)

It is the policy of North Carolina to assure the basic human rights to each client of a facility (True or False)

The patient's/client's right to be addressed in a respectful manner by staff is only a policy of the Hospital? (True or False)

Patients/clients have the right to voice grievances? (True or False)

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