

**CORPORATE  
POLICY AND PROCEDURE MANUAL**

TITLE: RI 200-31 PREA INVESTIGATIONS FOR ALLEGATIONS OF SEXUALLY ABUSIVE BEHAVIOR

PAGE: 1 OF 16

CATEGORY: RIGHTS AND RESPONSIBILITIES

VERSION: 4

APPROVER: Genna Brisson (VP Operations)

SUPERSEDES: 01/19/2018

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**1. PURPOSE**

The purpose of this policy is to set guidelines that ensure all Wellpath Recovery Solutions, LLC facilities comply with Section 28 C.F.R. Part 115, the Department of Justice final rule adopting national standards to prevent, detect, and respond to prison rape, as required by the Prison Rape Elimination Act of 2003 (PREA).

**2. SCOPE**

This policy provides all facilities with guidance on the Wellpath Recovery Solutions, LLC Prison Rape Elimination Act (PREA) Standards.

**3. POLICY**

Wellpath Recovery Solutions, LLC mandates a zero tolerance towards all forms of Sexual Abuse and Sexual Harassment in all its facilities. In accordance with this procedure manual, all Employees, Contractors and Volunteers have an affirmative duty to report all allegations or knowledge of Sexual Abuse, Sexual Harassment, romantic, or sexual contact that takes place within any Wellpath Recovery Solutions, LLC facility or program. All cases of alleged sexual conduct, Sexually Abusive Behavior Prevention and Intervention, shall be promptly, thoroughly, and objectively investigated. Upon substantiation of any allegation of sexual conduct, appropriate disciplinary actions will be taken against the Employee, Contractor, Volunteer, or Residents in a Wellpath Recovery Solutions, LLC Facility or Program, including possible criminal prosecution.

**4. INTERPRETATION**

It is the responsibility of the Director of Contract Compliance to define, interpret, and administer this policy.

**5. PROCEDURE****5.1. Policy Statements****5.1.1. Policies to Ensure Referrals of Allegations for Investigations (§115.22)**

- Each facility shall have a policy in place to ensure that all allegations of Sexual Abuse or Sexual Harassment are referred for investigation to a law enforcement agency with legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. Facilities shall document all referrals.
- Due to client contract requirements, some facilities may be required to follow specific client PREA investigations policies. If for some reason, client policy is less restrictive than Section 28 C.F.R. Part 115 of the National PREA Standards, the PREA Standards shall prevail and a site specific supplemental policy shall be developed.

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- Each Wellpath Recovery Solutions, LLC operational subsidiary, business unit or program shall have a current policy in place to ensure that:
  - Allegations of Sexually Abusive Behavior receive prompt intervention upon report; and,
  - Perpetrators of Sexually Abusive Behavior are disciplined and, when appropriate, referred for prosecution in accordance with Wellpath Recovery Solutions, LLC policy and federal, state or local laws.
- Wellpath Recovery Solutions, LLC shall publish its corporate investigations policy on its website.

**5.2. Ability to Protect Residents from Contact with Abusers (§115.66)**

5.2.1. In every case where the alleged abuser is an Employee, Contractor or Volunteer, there shall be no contact between the alleged abuser and the alleged victim pending the outcome of an investigation.

5.2.2. Wellpath Recovery Solutions, LLC shall not enter into or renew any collective bargaining agreement or other agreement that limits a facility's ability to remove alleged Employee sexual abusers from contact with any Resident in a Wellpath Recovery Solutions, LLC Facility or Program pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

**5.3. Evidence Protocol and Forensic Medical Examinations (§115.21)**

5.3.1. Facilities that are responsible for investigating allegations of Sexual Abuse are required to follow uniform evidence protocols that maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

5.3.2. Facilities shall offer all Residents in a Wellpath Recovery Solutions, LLC Facility or Program who experience Sexual Abuse access to forensic medical examinations (whether on-site or at an outside facility) with the victim's consent and without cost to the resident and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

5.3.3. Facility Medical staff shall not participate in Sexual Assault forensic medical examinations or evidence gathering. Examinations shall be performed by a Sexual Assault Nurse Examiner (SANE) or Sexual Assault

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Forensic Examiner (SAFE). A Qualified Medical Practitioner may perform the examination if a SAFE or SANE is not available.

- 5.3.4. A victim advocate shall be made available to accompany the victim through examinations and investigatory interviews.
- 5.3.5. Upon request by the victim and with the victim's consent either in writing or on audio tape, the victim advocate may participate in supporting the victim throughout the forensic medical examination process (ensuring compliance with confidentiality laws) and investigatory interviews and shall provide emotional support, crisis intervention, information and referrals.
- 5.3.6. The victim advocate may not obstruct or interfere with the course of the investigation in any manner and will not serve as a translator.
- 5.3.7. Wellpath Recovery Solutions, LLC Facilities may not utilize Facility Employees as victim advocates unless the following documentation exists:
  - Documentation is on file that no other alternatives are available in the community; and,
  - Documentation exists that validate designated Employees have been screened for appropriateness to serve in this role and have received education concerning sexual assault and forensic examination issues in general.

**5.4. Investigations**

- 5.4.1. **Criminal and Administrative Agency Investigations (§115.71)**
  - An administrative or criminal investigation shall be completed for all allegations of Sexual Abuse and Sexual Harassment at Wellpath Recovery Solutions, LLC Facilities.
  - The Facility Administrator and Contracting Agencies shall be notified prior to investigating all allegations of Sexual Abuse and Sexual Harassment.
  - Specific procedures not listed in this policy which are required by contractual obligations shall be followed.
  - When the facility conducts its own investigations into allegations of Sexual Abuse and Sexual Harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. Wellpath Recovery Solutions, LLC shall use investigators who have received specialized training in Sexual Abuse investigations. The specialized training shall include

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techniques for interviewing Sexual Abuse victims, proper use of Miranda and Garret warnings, Sexual Abuse evidence collection and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

- Where the Facility does not conduct Sexual Abuse investigations and an outside Agency is responsible for investigating these type incidents, the Facility shall request documentation from the Agency that it has provided such training to its investigators who conduct such investigations. Training documentation shall be kept on file at the Facility.
- 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.
- The credibility of an alleged victim, suspect, or witness shall be assessed on an resident basis and shall not be determined by the person's status as Resident in a Wellpath Recovery Solutions, LLC Facility or Program or staff.
- No agency shall require an Resident in a Wellpath Recovery Solutions, LLC Facility or Program 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.
- The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.
- In the event of facility transfers, if the transfer location is known, the Facility Administrator shall notify the receiving Facility Administrator (in writing) of the on going investigation. The written notification shall be retained in the investigative file.
- Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

**5.5. Investigative Reports**

5.5.1. An investigative report shall be written for all investigations of allegations of Sexual Abuse and Sexual Harassment.

5.5.2. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA 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.

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5.5.3. 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 a written report format that includes at a minimum, a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

5.5.4. **Evidentiary standard for administrative investigations (§115.72)**  
Facilities shall impose no standard higher than a preponderance of the evidence in determining whether allegations of Sexual Abuse or Harassment are substantiated. Criminal investigations shall be documented in a written report format that contains at a minimum, a thorough description of physical, testimonial, and documentary evidence.

5.5.5. Investigative reports shall include attached copies of all documentary evidence where feasible.

5.5.6. All investigations shall be logged and tracked upon receipt of notification.

5.5.7. At the conclusion of every investigation of Sexual Abuse, the written results shall be reviewed by the Facility Administrator and promptly forwarded to the Corporate PREA Coordinator for review.

5.5.8. Due to their confidential nature, all Sexual Abuse and Sexual Harassment investigative files shall be retained in a secure location with restricted access as designated by the Facility Administrator.

5.5.9. Wellpath Recovery Solutions, LLC shall retain all written reports referenced this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years; however, for any circumstance, files shall be retained no less than ten years.

5.5.10. Because of the very sensitive nature of information about victims and their medical condition, including infectious disease testing, staff must be particularly vigilant about maintaining confidentiality and releasing information only for legitimate need-to-know reasons.

**5.6. Sources of Evidence**

5.6.1. Evidence is anything that can be used as proof of innocence or guilt. Evidence can include at a minimum: verbal and written statements from

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the alleged victim, alleged abuser or other residents; material objects; video footage; letters; cards; mail; phone systems; log books; e t c .  
Investigators shall consider these things during their investigations.

**5.7. Receipt of Allegations of Sexual Abuse and Sexual Harassment**

First responder duties and actions will be carried out in accordance Wellpath Recovery Solutions, LLC policy SO 700-01, Crimes Committed at Wellpath Recovery Solutions Facilities.

**5.8. Preservation of Evidence**

**5.8.1. Physical Evidence – Victim**

- The alleged victim shall immediately be escorted for medical treatment as deemed necessary by medical providers.
- The alleged victim and alleged abuser shall not be permitted to communicate and shall be escorted and held separately out of sight and sound from each other on site, at the hospital and upon return to the facility.
- If the alleged Sexual Abuse is reported or discovered within 96 hours of the incident, and if determined appropriate by the medical provider and/or investigator, the alleged victim shall be either be transported to the designated offsite facility or a SANE or SAFE shall be called to the facility for the collection of forensic evidence and medical treatment.
- No attempt will be made by facility medical staff to clean or treat the victim unless the injuries are such that not treating them would cause deterioration of the victim's medical condition; however, visible injuries shall be documented both photographically and in writing, and placed in the victim's medical record.
- All refusals of medical services shall be documented.
- Upon completion of the forensic exam facility management shall implement necessary follow up actions to safeguard the alleged victim to include at a minimum, medical and mental health referrals, and appropriate housing determinations.
- If the alleged victim does not consent to the forensic exam, or if more than 96 hours have passed since the alleged Sexual Abuse was reported or alleged to have occurred, the alleged victim shall receive further assessment and treatment as deemed necessary by medical and mental health providers. All refusals of these services shall be documented.

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- Facility Management shall implement necessary follow up actions to safeguard the alleged victim to include determining appropriate housing determinations.
- Wellpath Recovery Solutions, LLC shall employ multiple protection measures, such as housing changes or transfers for victims or abusers, removal of alleged staff or Residents in Wellpath Recovery Solutions, LLC Facility or Program abusers from contact with victims, and emotional support services for victims or staff that fear retaliation for reporting Sexual Abuse or Sexual Harassment or for cooperating with investigations.
- Involuntary segregated housing may be used only after an assessment of all available housing alternatives has shown that there are no other means of protecting the alleged victim. Facilities shall utilize the "Sexual Assault/Abuse Available Alternatives Assessment" form to document the assessment.
- If the Facility cannot conduct such assessment immediately, the resident may be placed in involuntary segregated housing for no more than 24 hours while completing the assessment.

**5.9. After-hours Mental Health Assessments**

5.9.1. In the event a report of Sexual Abuse is received after normal business hours, on-call mental health providers shall be contacted.

5.9.2. If the on-call mental health provider is unable to respond in person, the victim shall be interviewed over the telephone, with an on-duty nurse present during the interview.

5.9.3. After interviewing the victim, the mental health provider shall consult with and advise the on-duty nurse of mental health interventions, such as the need for implementation of suicide precautions.

5.9.4. In the absence of a nurse, the on-call mental health provider shall provide direction about mental health interventions to security staff.

**5.10. Physical Evidence — Abuser**

5.10.1. The alleged abuser shall remain in the dry cell/area under direct supervision of a same sex security staff member to ensure he/she does not destroy potential evidence (i.e., wash, shower, change clothes, etc.).

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5.10.2. After the investigator(s) has completed the interview, separate and apart from the alleged victim, the alleged abuser shall be referred to medical for further assessment and treatment as deemed necessary by healthcare providers. Visible injuries shall be documented both photographically and in writing, and placed in the abuser's medical record.

5.10.3. Thereafter, the alleged abuser shall be held in segregation pending further investigation.

5.10.4. During the course of the investigation, the alleged victim and alleged abuser shall remain separated and housed out of sight and sound range from one another.

#### **5.11. Physical Evidence-Crime Scene**

5.11.1. If determined that a possibility of evidence still exists, it shall only be retrieved by trained personnel.

5.11.2. Facility investigators may be responsible for collecting information or evidence in accordance with facility policy, contract requirements and coordination with the outside agency to which the case may be referred.

5.11.3. Access to the crime scene shall be controlled. A crime scene log shall be maintained to record the names of each person entering the crime scene, the time of entry and time of departure. Persons entering the crime scene area shall be limited to those people's performing specific related tasks.

5.11.4. The crime scene and all evidence gathered shall be photographed and/or video-taped (as appropriate) and all evidence gathered shall be logged and properly stored with a chain of custody evidence form attached in accordance with facility policy.

5.11.5. Each item suspected as contaminated with bodily fluids shall be stored in resident paper wrapping or a paper sack and a chain of custody shall be initiated.

5.11.6. The crime scene shall remain secured until cleared and released by the investigating authority in charge of the scene.

#### **5.12. Interviewing Alleged Victims, Suspected Abusers and Witnesses**



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- 5.12.1. Interviews shall be conducted in a thorough, professional, non-abusive and non-threatening manner. Interviews shall take place in a private location, away from assigned housing areas/units.
- 5.12.2. Initially, a brief statement about the abuse should be taken from the alleged victim as he/she may be in shock, embarrassed to discuss the incident in detail, and even unable to give very much detail. If this is the case, it is important to be understanding and responsive. Opportunities to secure more details will occur later.
- 5.12.3. Residents in a Wellpath Recovery Solutions, LLC Facility or Program shall not be relied on as interpreters except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties, or the investigation of the resident's allegations. Any use of these interpreters under these type circumstances shall be justified and fully documented in the written investigative report.
- 5.12.4. In accordance with Standard of Employee Conduct Procedures during the course of an official investigation, employees are to cooperate fully by providing all pertinent information they may have. During an investigation, failure by any employee to answer any inquiry fully and to the best of their knowledge will be grounds for taking disciplinary action. Any attempt to obstruct an investigation will subject the person to immediate disciplinary action, up to and including termination.
- 5.12.5. Allegations of Sexual Abuse where an Employee is the alleged abuser shall be investigated in accordance with Staff Misconduct Reporting Procedures.
- 5.12.6. When the quality of evidence appears to support criminal prosecution, the facility shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- 5.13. **Reporting to Residents in a Wellpath Recovery Solutions, LLC Facility or Program (§115.73)**
  - 5.13.1. At the conclusion of an investigation, the facility investigator or staff member designated by the Facility Administrator shall inform the resident

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who made the allegation of Sexual Abuse in writing, whether the allegation has been: Substantiated, Unsubstantiated or Unfounded.

5.13.2. If the alleged abuser was an Employee, the victim shall also be informed whenever:

- The Employee is no longer posted within the victim's housing unit/area.
- The Employee is no longer employed at the facility;
- The facility learns that the Employee has been indicted on a charge related to the Sexual Abuse within the facility; or,
- The facility learns that the Employee has been convicted on a charge related to Sexual Abuse within the facility.

5.13.3. If the alleged abuser was another resident in a Wellpath Recovery Solutions, LLC Facility or Program, the victim shall also be informed whenever:

- The facility learns that the alleged abuser has been indicted on a charge related to Sexual Abuse within the facility; or,
- The facility learns that the alleged abuser has been convicted on a charge related to Sexual Abuse within the facility.

**Note:** Items (b) and (c) are not required for allegations determined unfounded.

5.13.4. The resident shall receive the original completed "Notification of Outcome of Allegation" form in a timely manner and a copy of the form shall be retained as part of the investigative file.

5.13.5. The resident will be provided an updated notification at the conclusion of a criminal proceeding, if the resident is still in custody at the facility.

5.13.6. The facility's obligation to report under this section shall terminate if the resident is released from custody.

5.13.7. If the facility did not conduct the investigation, it shall request the relevant information from the investigating agency in order to inform the resident.

At the conclusion of every investigation of Sexual Abuse, the written results shall be promptly forwarded to the Corporate PREA Coordinator for review.

**5.14. Disciplinary Actions**

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**5.14.1. Employee Disciplinary Sanctions (§115.76)**

- Employees may be subject to significant disciplinary sanctions for sustained violations of Sexual Abuse and Harassment policies, up to and including termination for any Employee found guilty of Sexual Abuse.
- Termination shall be the presumptive disciplinary sanction for staff who has 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 and resignation for such conduct shall be reported to law enforcement and licensing agencies, unless the activity was clearly not criminal.

**5.15. Residents in a Wellpath Recovery Solutions, LLC Facility or Program Disciplinary Sanctions (§115.78/§115.278)**

- 5.15.1. Residents in a Wellpath Recovery Solutions, LLC Facility or Program who are found guilty of engaging in Sexual Abuse involving other Residents in a Wellpath Recovery Solutions, LLC Facility or Program (either through administrative or criminal investigations) shall be subject to formal disciplinary sanctions.
- 5.15.2. 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.
- 5.15.3. The disciplinary process shall consider whether an resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any should be imposed.
- 5.15.4. If the facility offers counseling or other interventions designed to address the reasons or motivations for the abuse, the facility shall consider requiring the offending resident to participate.

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- 5.15.5. Disciplining a Resident in a Wellpath Recovery Solutions, LLC Facility or Program for sexual contact with an Employee is prohibited unless it is found that the Employee did not consent to the contact.
- 5.15.6. A report of Sexual Abuse made in good faith by a Resident in a Wellpath Recovery Solutions, LLC Facility or Program, based upon a reasonable belief that the alleged conduct occurred, will not constitute false reporting or lying.
- 5.15.7. Facilities may not deem that Sexual Activity between Residents in a Wellpath Recovery Solutions, LLC Facility or Program is Sexual Abuse unless it is determined that the activity was coerced.
- 5.15.8. The PREA Compliance Manager shall receive copies of all disciplinary reports regarding Sexual Activity and Sexual Abuse for monitoring purposes.
- 5.15.9. The incident shall be reported to law enforcement, unless the activity was clearly not criminal.
- 5.16. **Corrective Action for Contractors and Volunteers (§115.77)**
  - 5.16.1. Any Contractor or Volunteer who engages in Sexual Abuse or Sexual Harassment shall be prohibited from contact with Residents in a Wellpath Recovery Solutions, LLC Facility or Program and shall be reported to law enforcement and relevant licensing bodies, unless the activity was clearly not criminal.
  - 5.16.2. In the case of any other violation of Wellpath Recovery Solutions, LLC Sexual Abuse or Sexual Harassment policies by the Contractor or Volunteer, the Facility shall notify the applicable Wellpath Recovery Solutions, LLC Contracting Authority who will take remedial measures, and shall consider whether to prohibit further contact with Residents in a Wellpath Recovery Solutions, LLC Facility or Program.

**6. DEFINITIONS**

**6.1. General Definitions (§115.51)**

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- 6.1.1. **Contractor** means a person who provides services on a recurring basis pursuant to a Contractual agreement with Wellpath Recovery Solutions, LLC.
- 6.1.2. **Employee** means a person employed by Wellpath Recovery Solutions, LLC or any operational subsidiary. Sometimes referred to as staff or staff member.
- 6.1.3. **Residents** in a Wellpath Recovery Solutions, LLC Facility or Program means residents, detainees, clients, participants or individuals receiving services.
- 6.1.4. **Substantiated** means the investigation determined the allegation occurred.
- 6.1.5. **Unsubstantiated** means the investigation determined the allegation may have occurred, but there was insufficient evidence to prove.
- 6.1.6. **Unfounded** means the investigation determined the allegation did not occur.
- 6.1.7. **Volunteer** means a individual, not an employee, who donates time and effort on a recurring basis to enhance the activities and programs of Wellpath Recovery Solutions, LLC.
- 6.2. **Definitions Related to Sexual Abuse (§115.6)**
- 6.2.1. **Sexual Abuse by another Resident** in a Wellpath Recovery Solutions, LLC Facility or Program 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:
- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
  - Contact between the mouth and the penis, vulva, or anus;
  - Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and,
  - Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, excluding contact incidental to a physical altercation.
- 6.2.2. **Sexual Abuse by an Employee, Contractor, or Volunteer** includes:
- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

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- Contact between the mouth and the penis, vulva, or anus;
- Contact between the mouth and any body part where the Employee, Contractor, or Volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 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 Employee, Contractor, or Volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 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 Employee, Contractor, or Volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Any attempt, threat, or request by an Employee, Contractor, or Volunteer to engage in the activities described in sections (a) through (e) of this section;
- Any display by an Employee, Contractor, or Volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an Resident in a Wellpath Recovery Solutions, LLC Facility or Program, and, Voyeurism by an Employee, Contractor, or Volunteer.

**6.2.3. Sexual Harassment** includes:

- Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one Resident in a Wellpath Recovery Solutions, LLC Facility or Program directed toward another; and,
- Repeated verbal comments or gestures of a sexual nature to an Resident in a Wellpath Recovery Solutions, LLC Facility or Program by an Employee, Contractor, or Volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

**6.2.4. Sexual Abuse by another Resident** in a Wellpath Recovery Solutions, LLC Facility or Program 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:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and,

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- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, excluding contact incidental to a physical altercation.

**6.2.5. Sexual Abuse by an Employee, Contractor, or Volunteer** includes:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- Contact between the mouth and the penis, vulva, or anus;
- Contact between the mouth and any body part where the Employee, Contractor, or Volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 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 Employee, Contractor, or Volunteer has the intent to abuse, arouse, or gratify sexual desire;
- 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 Employee, Contractor, or Volunteer has the intent to abuse, arouse, or gratify sexual desire;
- Any attempt, threat, or request by an Employee, Contractor, or Volunteer to engage in the activities described in sections (a) through (e) of this section;
- Any display by an Employee, Contractor, or Volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an Resident in a Wellpath Recovery Solutions, LLC Facility or Program, and, Voyeurism by an Employee, Contractor, or Volunteer.

**6.2.6. Sexual Harassment** includes:

- Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one Resident in a Wellpath Recovery Solutions, LLC Facility or Program directed toward another; and,
- Repeated verbal comments or gestures of a sexual nature to an Resident in a Wellpath Recovery Solutions, LLC Facility or Program by an Employee, Contractor, or Volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

**6.2.7. Voyeurism by an Employee, Contractor, or Volunteer** means an invasion of privacy of an Resident in a Wellpath Recovery Solutions, LLC Facility or Program by staff for reasons unrelated to official duties, such

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as peering at an Resident in a Wellpath Recovery Solutions, LLC Facility or Program who is using a toilet in his or her cell to perform bodily functions; requiring a Resident in a Wellpath Recovery Solutions, LLC Facility or Program to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a Resident in a Wellpath Recovery Solutions, LLC Facility or Program naked body or of a Resident in a Wellpath Recovery Solutions, LLC Facility or Programs performing bodily functions

**6.3. Additional Definitions**

6.3.1. **Sexual Activity:** Physical contact between two or more Residents in a Wellpath Recovery Solutions, LLC Facility or Program of the same or opposite sex for the purpose of sexual arousal or gratification where all involved Residents in a Wellpath Recovery Solutions, LLC Facility or Program independently express or imply consent. Such contact includes the following: active or passive contact or fondling of genitals, hands, mouth, buttocks, anus, or breast.

6.3.2. **Sexually Abusive Behavior:** The term used in this policy to describe Sexual Abuse and Sexual Harassment as defined in this section.

**7. REFERENCES****7.1. 28 CFR Part 115****7.2. Prison Rape Elimination Act of 2003 (PREA)****7.3. Prison Rape Elimination Act National Standards – Prisons & Jails**