

§ 411.41 Assessment for risk of sexual victimization and abusiveness.

(a) Within 72 hours of a UC's arrival at a care provider facility and periodically throughout a UC's stay, the care provider facility must obtain and use information about each UC's personal history and behavior using a standardized screening instrument to reduce the risk of sexual abuse or sexual harassment by or upon a UC.

(b) The care provider facility must consider, at a minimum and to the extent that the information is available, the following criteria to assess UCs for risk of sexual victimization:

(1) Prior sexual victimization or abusiveness;

(2) Any gender nonconforming appearance or manner or Self-identification as lesbian, gay, bisexual, transgender, questioning, or intersex and whether the resident may therefore be vulnerable to sexual abuse or sexual harassment;

(3) Any current charges and offense history;

(4) Age;

(5) Any mental, physical, or developmental disability or illness;

(6) Level of emotional and cognitive development;

(7) Physical size and stature;

(8) The UC's own perception of vulnerability; and

(9) Any other specific information about an individual UC that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other UCs.

(c) This information must be ascertained through conversations with the UC during the intake process and medical and mental health screenings; during classification assessments; and by reviewing court records, case files, care provider facility behavioral records, and other relevant documentation from the UC's files. Only trained staff are permitted to talk with UCs to gather information about their sexual orientation or gender identity, prior sexual victimization, history of engaging in sexual abuse, mental health status, and mental disabilities for the purposes of the assessment required under paragraph (a) of this section. Care provider facilities must provide UCs an opportunity to discuss any safety concerns or sensitive issues privately.

(d) The care provider facility must implement appropriate controls on the dissemination within the care provider facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the UC's detriment by staff or other UCs.