

REASONABLE REPORTING

**State of Michigan
Bureau of Health Systems**

Welcome!!

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Monitoring

Review of Reporting Requirements for Alleged Violations of:

- Abuse
- Neglect
- Mistreatment
- Misappropriation of resident property
- Injuries of unknown source

OBJECTIVES

By the end of this session the participant will be:

- Familiar with the Federal and State regulations regarding the reporting of possible incidents of abuse or neglect.
- Able to identify signs and symptoms of abuse or neglect.

OBJECTIVES

- Able to differentiate what is reportable and what is not.
- Able to provide a process for reporting and investigating possible abuse or neglect.

CMS Reporting Requirements

42 CFR 483.13(c)(2)

The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property are reported immediately to the administrator of the facility and to other officials in accordance with State law through established procedures (including to the State survey and certification agency).

CMS Reporting Requirements (con't.)

42 CFR 483.13(c)(4)

The results of all investigations must be reported to the administrator or his designated representative and to other officials in accordance with State law (including to the State survey and certification agency) within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken.

CMS Guidance

Centers for Medicare & Medicaid Services

Issues S&C-05-09 (12/16/04)

Reiterates the reporting of alleged violations and the results of the investigation by nursing homes to the state survey and certification agency as mandated by 42 CFR 483.13(c)(2) and (4).

Defines the terms “neglect”, “abuse”, “injury of unknown source”, “misappropriation of resident property”, “immediately” and “in accordance with State law.”

Nursing Homes – **2012 Draft CMS S&C Memo**: Clarifications on issues related to the Federal Regulations for abuse, neglect, mistreatment, and misappropriation of resident property.

Definition of Terms

- Abuse: The willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish.
- Neglect: The failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

- “Misappropriation of Resident Property”: Deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident’s belongings or money without the resident’s consent.
- “Immediately”: As soon as possible, not to exceed 24 hours.

- “Injuries of unknown source”: Source of injury not observed by any person and resident can not explain what happened.
- “In accordance with State law”: State law may stipulate that alleged violations and the results of the investigations be reported to additional State officials.

- “Elopement”: Occurs when a resident leaves the premises or a safe area without authorization (i.e., an order for discharge or leave of absence) or any necessary supervision to do so.

Source: CMS State Operations Manual
Regulation F323 - “Resident Vulnerabilities”

State of Michigan

Public Health Code: 333.21771

- (1)** A licensee, nursing home administrator, or employee of a nursing home shall not physically, mentally, or emotionally abuse, mistreat, or harmfully neglect a patient.

- (2)** A nursing home employee who has reasonable suspicion of an act prohibited by this section shall report the suspicion to the nursing home administrator or nursing director and to the department in the manner required by subsection (8). A nursing home administrator or nursing director who has reasonable suspicion of an act prohibited by this section shall report the suspicion by telephone to the department and 1 or more law enforcement entities in the manner required by subsection (8).

(3) Any individual may report a violation of this section to the department.

(4) A physician or other licensed health care personnel of a hospital or other health care facility to which a patient is transferred who has reasonable suspicion of an act prohibited by this section shall report the suspicion to the department and 1 or more law enforcement entities in the manner required by subsection (8).

- (5)** Upon receipt of a report made under this section, the department shall make an investigation. The department may require the individual making the report to submit a written report or to supply additional information, or both.
- (6)** A nursing home employee, licensee, or nursing home administrator shall not evict, harass, dismiss, or retaliate against a patient, a patient's representative, or an employee who makes a report under this section.

Elder Justice Act

- **Reporting Suspicion of a Crime:** Section 1150B of the Social Security Act (the Act), as established by section 6703(b)(3) of the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act), requires specific individuals in applicable long-term care facilities to report any reasonable suspicion of crimes committed against a resident of that facility.
- **Reporting to State Survey Agencies (SAs) and Law Enforcement:** Reports must be submitted to at least one law enforcement agency of jurisdiction and the SA (in fulfillment of the statutory directive to report to the Secretary).

Elder Justice Act (con't.)

- **Processing Reports about Suspected Crimes:** SAs should process reports received under Section 1150B of the Act in accordance with existing Centers for Medicare & Medicaid Services (CMS) and State policies and procedures for reporting incidents and complaints to SAs.
- **LTC Facility Policies and Procedures:** LTC facilities should have policies and procedures to comply with this law. The obligations of the facility are different than the obligations of a covered individual.

WHAT NOT TO REPORT

- Resident to staff altercations: hitting, yelling, pinching, etc.
- Medication errors identified through QA/QI process.
- Resident attempts to hit another resident but does not make contact.

WHAT NOT TO REPORT (con't.)

- Resident combative with staff, throws object that hits visitor.
- Resident to resident altercation with no harm; physical or mental (remember reasonable person concept).

Reportable Events Guidelines

SEE HANDOUTS

Reporting

- Incidents are reportable on BHS-OPS-362 (within 24 hours).
- Investigation results on BHS-OPS-363 (within 5 days) are required if a BHS-OPS-362 report is filed.

BHS-OPS-362

Facility Incident Report

Includes:

- Resident diagnosis – victim, alleged abuser.
- Injury, if any, and resident's current status.
- Summary of incident: What happened, when, how did it happen, who was involved.

BHS-OPS-363

Facility Investigation Report

Please include:

- Conclusion statement:
 - Substantiated vs. Not Substantiated.
- Copy of incident/accident report.
- What? Where? Date? Time?

Facility Investigation Report (con't.)

- Physician and family notified?
- Identify guardianship.
- How did the incident affect resident?
- How were other residents protected from further abuse or neglect during the investigation?

Facility Investigation Report (con't.)

- Mental status of victim/resident?
- Event: isolated vs. pattern.
- Name of hospital/treatment required.

Facility Investigation Report (con't.)

- Witness information.
- Witness written statement.
- Alleged perpetrator information.
- Alleged aggressor/resident information.

Facility Investigation Report (con't.)

- Current status of resident: nursing home/hospital?
- X-RAY report, physician's orders and progress notes, nurse's notes, and care plan addressing the problem/issue (send only the documents that are relevant).
- What corrective action was taken or will be taken by the facility?

HOW TO REPORT

- Online submission of BHS-OPS-362 within 24 hours at www.michigan.gov/bhs.
- A typed or legible handwritten report (**facility incident report BHS-OPS 362 form**) on alleged abuse must be submitted within 24 hours by mail or fax at (517)241-0093.
- CIU hotline at 1-800-882-6006; requires a follow-up written report.
- An investigation report (**BHS-OPS 363 form**); must be submitted within 5 days.
- Facility may use own forms but must contain the necessary information.

REMINDER: 24-Hour Emergency Reporting

Serious facility service problems such as fire or a natural disaster that requires evacuation of residents; loss of heat, power, water or food service for more than 4 hours; a critical lack of staff from such things as severe weather, labor disputes, and/or widespread illness that has a critical impact on resident care.

During **State of Michigan business hours**, emergency situations should be reported to the **Division of Nursing Home Monitoring Licensing Officer** or **Survey Monitor** responsible for your facility.

During **State of Michigan non-business hours**, emergency situations should be reported to the Complaint Investigation Unit hotline at **1-800-882-6006**.

State Operations Manual (CMS)

Appendix P

http://cms.hhs.gov/manuals/Downloads/som107ap_p_ltcf.pdf

Appendix PP

http://cms.hhs.gov/manuals/Downloads/som107ap_pp_guidelines_ltcf.pdf

Public Health Code Section 21771

[http://www.legislature.mi.gov/\(S\(xdfthp55ninsehbsl0xehw45\)\)/mileg.aspx?page=getObject&objectName=mcl-333-21771](http://www.legislature.mi.gov/(S(xdfthp55ninsehbsl0xehw45))/mileg.aspx?page=getObject&objectName=mcl-333-21771)