



State of Louisiana
Louisiana Department of Health
Health Standards Section

REVISED: October 4, 2018

Date: September 10, 2018

To: Nursing Facilities (NFs)

From: Cecile Castello, BSN, RN
Director, Health Standards Section
Louisiana Department of Health

Re: Guidance for Mandated Reporting for Allegations of Abuse, Neglect, Exploitation, Misappropriation of Resident Property and Other Reportable Incidents

This notice is to provide guidance to the NF for reporting incidents of abuse, neglect, misappropriation of property and/or any other reportable incidents to the Louisiana Department of Health (LDH) / Health Standards Section (HSS).

Federal and State laws require that the NF owner, Administrator, or any employee, who has cause to believe that the physical or mental health, safety or welfare of a resident has been or may be adversely affected by abuse, neglect, or exploitation/misappropriation of property report such in accordance with state and federal requirements.

Although an injury may not be determined to be reportable to the HSS, the NF is still required to investigate all aspects of injury to a resident. Such situations must be reported to the NF Administrator and thoroughly investigated and documented.

Examples provided in this notice for reportable incidents are **not** all inclusive. NFs are responsible for determining when incidents not listed are reportable.

I. Reporting of Abuse, Neglect, Exploitation, and Misappropriation of Resident Property through the use of LDH required database reporting system.

A. Abuse: Abuse is defined as the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish. Abuse also includes deprivation by an individual, including a caretaker of goods and services that are necessary to attain or maintain physical, mental, and psychosocial well-being. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain or mental anguish. It includes verbal

abuse, sexual abuse, physical abuse, and mental abuse including facilitated or enabled through the use of technology.

A NF must report to HSS incidents of alleged abuse and all situations in which it has cause to believe that the physical or mental health and/or welfare of a resident has been or may be adversely affected by abuse caused by another person.

To determine whether an allegation of abuse is reportable, the NF must conclude whether an injury, emotional harm, pain, or death of a resident was due to abuse caused by another person.

1. Resident abuse may include:

- Resident to resident abuse;
- Staff to resident abuse; or
- Family/visitor to resident abuse

2. Types of Abuse:

(i). **Physical Abuse:** Physical abuse may include an aggressive act, including inappropriate physical contact that is harmful or likely to cause injury or harm to a resident.

** Incidental touching or non-aggressive contact is not considered to be abuse.*

(ii). **Sexual Abuse:** One of the following elements must be present for an incident of sexual abuse to be reportable:

- Non-consensual sexual intrusion or penetrations;
- Touching intimate body parts or the clothing covering intimate body parts;
- Examination or treatment of the resident for other reason than bona fide medical purposes; and
- Observation or photographs of another person's intimate body parts.

(iii). **Verbal Abuse:** At least one of the following elements must be present for an incident to be reportable:

- Threat or physical action (including threatening gesture or intimidation);
- Fear of imminent, serious bodily injury;
- Use of foul, threatening, disparaging or derogatory language; and
- Evidence of psychological harm.

**Verbal abuse may be considered a type of mental abuse.*

(iv). **Mental Abuse:** Mental abuse is the use of verbal or non-verbal conduct which causes or has the potential to cause the resident to experience humiliation, intimidation, fear, shame, agitation, or degradation. Mental

abuse may also be facilitated or enabled through the use of technology such as smart phones, and other electronic devices. This includes keeping and/or distributing humiliating photographs and recordings through social media or multimedia messaging.

- B. Neglect:** Neglect is defined as the failure of the facility, its employees or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish or emotional distress. A NF must report to the HSS incidents of alleged neglect and all situations in which the NF has cause to believe that the physical or mental health and/or welfare of a resident has been or may be adversely affected by neglect caused by another person.

To determine whether an allegation of neglect is reportable, the NF must conclude whether an injury, emotional harm, pain, or death of a resident was due to the NF's failure to provide goods or services, treatments, or care to a resident.

Neglect may include, **but is not limited to:**

- Failure to carry out physician orders, medication omission, treatment omission, which results in harm or injury;
- Failure to ensure provision of medical or psychiatric emergency services;
- Failure to provide adequate supervision and staffing;
- Failure to follow the care plan, which results in harm or injury;
- **Pattern** of failure to follow the care plan with or without injury;
- Failure to provide the **timely, consistent, safe, adequate and appropriate care and services as needed;** and
- Failure to provide training on equipment, procedures, or medication required for a specified resident, or required changes in acceptable standards of practices.

- C. Exploitation:** Exploitation is defined as taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion. A NF **must** report to the HSS any alleged occurrence of exploitation.

- D. Misappropriation:** Misappropriation of resident property is defined as the deliberate misplacement, exploitation, or wrongful temporary or permanent use of a resident's belongings or money without the resident's consent. A NF must report to HSS any alleged misappropriation of funds.

At least one of the following elements **must** be present for an incident to be reportable:

- Identity theft;
- Theft of money from the resident's bank account;
- Unauthorized purchases on the resident's credit card or from the resident's funds;

- A resident who provides a gift to staff in order to receive ongoing care, based on staff's persuasion;
- A resident who provides monetary assistance to staff, after staff had made resident believe that staff was in a financial crisis; and
- **Drug Diversion:** Diversion of resident medication, including, but not limited to, controlled substances for staff use or personal gain.

E. Injuries of Unknown Origin: An injury should be classified as “injury of unknown origin” when *both* of the following criteria are met:

- The source of the injury was not observed by any person or the source of injury could not be explained by the resident; **and**
- The injury is suspicious because of the extent of the injury **or** location of the injury (e.g., the injury located in an area not generally vulnerable to trauma) **or** the number of injuries observed at one particular point in time or the incident of injury over time.

****If a staff person witnessed an incident that resulted in an injury, or the cognitive resident was able to explain the sources of the injury, then the injury is an injury of known origin.***

A NF must report to HSS any suspicious injury of **unknown** origin to a resident.

Injuries of unknown origin include, **but not limited to:**

- All injuries to cognitively impaired residents not witnessed;
- Injuries that are non-accidental or unexplained;
- Fractures, sprains, or dislocations;
- Burns, blisters or scalds on hands or torso;
- Bite marks, scratches, skin tears, lacerations, with or without bleeding, including those that are in locations that would unlikely result from an accident;
- Bruises, including but not limited to bruises found in unusual locations such as the head, neck, inner thigh areas, lateral location of the arms or anterior/posterior torso and trunk, or bruises in shapes such as finger imprints; and
- Facial injuries, including but not limited to broken or missing teeth, facial fractures, black eyes, bruising, bleeding or swelling of the mouth or cheeks.

II. Additional Incidents requiring report, as determined by the NF, to LDH/HSS via electronic database, implementation of corrective actions(s), and referrals, as applicable to the appropriate authorities/agencies:

A. Burns:

- All accidents resulting in a burn to any area of the body; and/or
- Resident's clothing catch fire.

B. Attempted Suicide or Injury Related to Suicide:

- Resident attempt at suicide resulting in injury or death.

C. Restraints:

- Death in restraints;
- An incident or accident related to entrapment or mal-use of equipment, inclusive of malfunctioning of equipment that results in restraint of a resident.

D. Falls:

- Un-witnessed falls (**Reference Section I-B NEGLECT**);
- **As determined by the NF**, falls resulting in residents being sent to the hospital;
- Deaths related to falls; and/or
- Falls that result from accidental contact with objects or other persons, **i.e. patterns of incidents.**

E. Accidents/Deaths related to:

- Choking;
- Drowning;
- Ingestion of harmful chemicals or objects; and
- A death occurred that is reportable to law enforcement as unexplained or suspicious.

F. Resident found in a non-resident area:

- Residents found in potentially hazardous non-resident areas.

G. CPR Concerns:

- CPR was not initiated when required; or
- CPR was provided against the resident's wishes.

H. Elopement:

- Resident with cognitive impairment or elopement risk leaves the facility undetected or elopes from the physician office, or other outside appointment or facility outing; and
- Resident, despite cognition, is at risk for elopement and remains missing, after search of the building is conducted.

I. Medication Errors:

- Medication or treatment errors resulting in resident harm or death.

J. Criminal Activity:

- The NF is responsible for reporting suspicious or actual criminal activity against a resident to both the HSS and one or more law enforcement entities in which the facility is located.

III. Emergency Situations requiring report, as determined by the NF, to LDH/HSS via electronic database(s), implementation of corrective actions(s), and/or referrals, as applicable to the appropriate authorities/agencies:

A NF **must** report to the appropriate agency any emergency situation that poses a threat to residents, staff, public health and safety. This includes situations resulting in death or serious harm or injury of a resident for which the police or the local fire authority must be notified or summoned in order to maintain safety.

Emergency situations **may** include **but are not limited to:**

- Sudden rise in the incidence of an infectious disease or illness;
- Sudden rise in deaths;
- Fire;
- Failure of the fire alarm system;
- Bomb threat;
- Flood;
- Generator or emergency power failure;
- Loss of telephone service;
- Environmental condition that compromises the NF's structure;
- Environmental condition that compromises kitchen and sanitation services;
- Air condition system failure;
- Heating system failure;
- Non-functional widespread call system failure;
- Weapons that could be used to hurt or threaten residents, NF staff, visitors, etc.; and
- Any situation which initiates the emergency response network system.

IV. Reporting Requirements:

NF must report to the HSS any incidents and allegations of abuse, neglect, exploitation, misappropriation of resident property and/or injuries of unknown origin **immediately, but no later than 2 hours after the allegation is made, if the event that caused the allegation involves abuse or results in bodily harm or injury.**

If the event **does not** involve abuse and does not result in bodily harm or injury, then the NF is to report the allegation/incident **no later than 24 hours from the discovery of the event.**

Reporting is to be made to the Administrator, or designee, of the facility and to other officials (including the HSS and Adult Protective Services where state law provides for jurisdiction in the long term care facilities) in accordance with state law through established procedures.

Notification, as required by the HSS, shall be submitted to the current LDH required database system. In the event the LDH database system is unavailable, the NF is required to submit written notification to the Long Term Care Abuse Reporting Program Manager via facsimile or secured email.

The following information must be included when providing ***initial*** notification:

- NF name, address and reporter's name and telephone number;
- Discovery date and time of the incident;
- Date and time of the incident, if known;
- Name of the alleged victim (resident);
- Name of the accused;
- Brief description of the incident;
- Incident Category (e.g., physical or verbal abuse, injury of unknown origin, etc.);
- Action taken by NF to protect the resident(s) during the investigation;
- Action taken by NF related to accused; and/or
- Any other relevant information related to the investigation of the incident.

The ***final report*** must be completed and submitted to the HSS ***within 5 working days from the discovery of the incident.***

The final report must include:

- Alleged victim's name, date of birth and complete description of physical harm, pain, or mental anguish;
- The accused's name, date of birth, address, telephone number and social security number (if NF employee);
- Date and time of the incident; date and time of incident discovery;
- Description of the alleged abuse, neglect, misappropriation of property and/or injury of unknown origin;
- A detailed summary of the NF's investigation, including interviews with staff, residents and/or family members, and all of the facts which lead to the determination to substantiate, unsubstantiate or unable to verify the allegation. Also, the detail summary should include victim's cognitive status, pertinent diagnosis, and notification of appropriate parties and/or local authorities.

If the alleged violation is substantiated, the NF must take immediate appropriate corrective action. The safety of the resident is primary.

IV. References. The websites listed below are provided for guidance and additional clarification:

State:

Title 48: I-XXV, Public Health - General (Book 2 of 2) Nursing Facilities - Licensing Standards–LAC 48:I.Chapters 97-99:

<https://www.doa.la.gov/Pages/osr/LAC-48.aspx>

Federal:

CMS Appendix PP - Long Term Care Facilities Regulations:

https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltcf.pdf

Attachment: **Mandated Reporting Flowsheet.**

For questions regarding this notice, please contact:

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