

Reporting Allegations of Misconduct for DQA-Regulated Providers (Except Nursing Homes)

Reporting Procedures for DQA- Regulated Providers (Except Nursing Homes)



Investigating and reporting misconduct are critical to the safety and quality care of vulnerable persons. Wisconsin statutes and administrative rules contain reporting requirements in a variety of situations:

- Staff in DQA-regulated provider types are required to report immediately allegations of misconduct to the appropriate person in their provider type
- DQA-regulated providers are required under certain conditions to report to DQA
- Any employee of any provider must report allegations of abuse, neglect or exploitation made by an adult-at-risk who is seen in the course of the person's professional duties under certain circumstances

Providers are required to develop written procedures specifying:

- How and to whom staff are to report incidents
- How internal investigations will be completed
- How staff will be trained on the procedures related to allegations of misconduct
- How clients will be informed of those procedures

Every provider must ensure that its employees, clients, clients' family members, contractors, volunteers, and non-client residents are knowledgeable about the provider's misconduct reporting procedures and requirements. Staff must be trained to immediately report to the appropriate person all allegations of misconduct allegedly committed by anyone.

Entities that fail to develop written procedures on misconduct reporting requirements may be subject to regulatory sanctions.

Incident Reporting within a DQA-Regulated Provider

Anyone who has information regarding an incident may report the incident to the provider. Providers are required to immediately investigate an allegation received from any source. A provider can learn of an incident from:

- Verbal or written statement of a client
- Verbal or written statement by someone in a position to have knowledge of the incident through direct or indirect observation
- Discovery of an incident after it occurred
- Hearing about an incident from others
- Observing injuries (physical, emotional, or mental) to a client
- Observing misappropriation of a client's property
- Otherwise becoming aware of an incident

Reporting to DQA

Mandatory Incident Reporting

Incidents must be reported to DQA when the provider has reasonable cause to believe:

It has sufficient evidence, or another regulatory authority could obtain the evidence to show the alleged incident occurred,

-AND-

The incident meets or could meet the definition of abuse, neglect, or misappropriation.

When a provider concludes that these conditions are true, the provider must report the incident to DQA through the Misconduct Incident Reporting (MIR) system. The MIR system allows providers to electronically submit The Caregiver Misconduct Incident Report (DQA form F-62447) as required by federal and state regulations.

Example:

Employee Mary overhears another employee, Jack, shout loudly to client Ellie, "Will you shut up? I am sick and tired of cleaning up your disgusting messes! You make me sick!" Ellie begins to cry and will not respond to anyone for the rest of the evening.

Mary reports the incident to her supervisor, Betty. Mary was just outside the client's room when the incident occurred and could clearly hear and see the accused caregiver and made a credible statement to that effect.

After the incident, Betty immediately checks on the client, finds her crying, and documents her withdrawn and unresponsive state for the rest of the evening. Betty interviews the two caregivers after the incident and Jack is evasive, changing his story several times, but admits that he was attempting to clean up Ellie after toileting her.

In this example:

1. The provider has reasonable cause to believe there is sufficient evidence to show that the incident occurred

-AND-

2. The provider has reasonable cause to believe that the incident meets the definition of abuse of a client

When these conditions exist, the provider **MUST** report the incident to DQA.

Optional Incident Reporting

The provider is **not required** to report an incident when:

The provider does not believe that it has, or that another regulatory authority could get, sufficient evidence to show the incident actually occurred

- OR -

The provider does not believe that the incident meets the definition of abuse, neglect, or misappropriation

- OR -

The provider is reasonably certain that the incident does not meet the definition of an injury of unknown source (e.g., the provider's investigation includes documentation, nurse's notes, and/or witnesses to support that the incident is not caregiver misconduct or an injury of unknown source)

The provider must conduct an internal investigation and document the incident, but it is not mandatory to report the incident to DQA.

Example:

CNA Corrine notices a large bruise on the arm of Resident Paula. Corrine reports the injury to Supervisor Rachel.

Rachel immediately begins an investigation and discovers documentation in the client's chart over the previous weekend noting that Paula bumped into a wall in the hallway. The nurse aide who observed the incident noticed the bruising on Paula's arm later that same day.

In this case:

The provider determines that the incident does not meet the definition of misconduct or injury of unknown source (there is credible documentation that the bruise was the result of everyday living).

The provider must conduct an internal investigation and document the incident, but it is not mandatory to report the incident to DQA.

The following documents can also assist a *non-nursing home* provider in determining if an incident must be reported to DQA. Let's take a look at the DQA forms:

- Caregiver Misconduct Reporting Requirements Worksheet (DQA form F-00161)
<https://www.dhs.wisconsin.gov/forms/f0/f00161.pdf>
- Flowchart of Entity Investigation and Reporting Requirements (DQA form F-00161A)
<https://www.dhs.wisconsin.gov/forms/f0/f00161a.pdf>

“Minor” Effect on the Client

Both the worksheet and the flowchart allow a provider to determine the effect on a client. A minor effect on the client is one that causes no apparent physical, emotional, or mental pain or suffering to a client. Examples include, but are not limited to:

- Taking a piece of a client's candy
- Food missing from a client's plate after the client has finished eating
- Mild profanities not directed at a client

Example:

Resident Georgia reports to housekeeping aide Joan P that someone stole a small box of chocolate mints from her bedroom dresser. Georgia states that she received the box of candy from her granddaughter on her birthday the month before. Joan immediately reports the incident to Supervisor Sally.

Sally knows that the resident has several friends and family members that stop by weekly to visit. Sally asks the resident when she last saw the box of candy. Georgia states, “I can't remember the last time I ate a piece of candy, but the box is missing now, so someone must have stolen it.”

In this example, the provider can't be certain that misconduct did not occur, but the effect of the incident on the client was minor (a small box of candy.) The provider must conduct an internal investigation and document the incident, but it is **not** mandatory to report it to DQA.

The following examples are **not** considered minor effects on the client:

- Discomfort occurring as a result of a skin tear due to rough handling
- Client covering or crying due to verbal or physical threats
- Loss of a client's spending money, even though the amount was small

How to Report to DQA

When a non-nursing home provider determines that it must report, or opts to report, follow these steps to report an incident to DQA.

1. As of March 4, 2019 all providers are required to use the Misconduct Incident Reporting (MIR) system for reporting incidents to DQA. If a provider has not already done so, the provider must register to gain access to this system.

To use the MIR system, providers will need to **complete 2 steps:**

- Create a Wisconsin Logon Management System (WILMS) account for the facility. Each facility may have up to two WILMS accounts for the purpose of submitting reports to the MIR system.*
- Register the WILMS account with the MIR system.*

Publication [P-02312](#) provides guidance to this two-step registration process.

2. To submit an incident to DQA, the provider will log-in to the MIR system and complete the web-based *Misconduct Incident Report (DQA form F-62447)*. This system allows you to attach all relevant internal investigation documents such as witness statements, pictures, or videos. <https://www.dhs.wisconsin.gov/forms1/f6/f62447.pdf>

3. Ensure the completed incident report is submitted according to the appropriate timeframe. Providers must submit reports of alleged misconduct to DQA within seven (7) calendar days of the incident or the date the provider knew or should have known of the incident.

Unreported Incidents



Providers must maintain the results of the 30 most recent internal investigations that were not forwarded to DQA. Providers may still use the *Misconduct Incident Report (DQA form F-62447)* to document the incident and the internal investigation results.

Upon reviewing the results of unreported incidents, DQA survey staff may still refer the allegations to the Office of Caregiver Quality (OCQ) for further review and possible investigation.

Providers may be sanctioned for failing to meet misconduct reporting ~~requirements~~ if the following actions did not occur:

The provider maintains written policies and procedures regarding misconduct, including internal reporting requirements:

- The provider trains all staff on those written policies and procedures
- The provider immediately takes steps to protect the client(s)
- The provider begins an internal investigation immediately upon learning of an incident
- The provider conducts a thorough internal investigation and documents the results
- The provider makes good-faith decisions in determining whether or not to report an incident

Reporting Requirement Penalties

Providers that intentionally fail to follow the reporting requirement procedures for misconduct, including for contracted employees, may be subject to one or more of the following sanctions:

- Forfeiture of not more than \$1000
- DQA approved or imposed corrective plan
- DQA imposed regulatory limits
- Suspension or revocation of license and/or
- Notification of the act and any corresponding forfeiture in the local newspaper

Resources

Reporting Requirements for All Entities Regulated by the Division of Quality Assurance (Except Nursing Homes) P-00967 (03-2015)

<https://www.dhs.wisconsin.gov/publications/p00907.pdf>

Wisconsin Caregiver Program Manual

<https://www.dhs.wisconsin.gov/publications/p0/p00038.pdf>

Office of Caregiver Quality (OCQ)

DHSCaregiverIntake@dhs.wisconsin.gov

or 608-261-8319

DQA Misconduct Incident Reporting System (MIR): How to Sign-Up [P-02312](#)

DQA Misconduct Incident Reporting (MIR) System Entity User Instructions

[P-02312a](#)