Reporting Allegations of Misconduct/Mistreatment in Nursing Homes

Nursing Home Reporting Procedures

For purposes of this training, an incident includes any allegation involving mistreatment, abuse, neglect or exploitation of a resident; misappropriation of a resident's property; or injuries to a resident of unknown source. Allegations include mistreatment of a resident by any person, including but not restricted to caregivers.

All nursing homes must develop **written policies and procedures** specifying:

- **Screening of potential employees** for a history of the abuse, neglect, or mistreatment of residents which includes attempting to obtain information from previous employers and/or current employers, and checking with appropriate licensing boards and registries
- **Training for employees** through orientation and on-going sessions on issues related to the mistreatment of residents, including what constitutes abuse, neglect, and misappropriation of resident property, the procedures related to allegations of misconduct, and how residents (and guardians, as appropriate) will be informed of those procedures
- **Strategies for the prevention of incidents** of abuse, neglect, or mistreatment including training in dementia management and resident abuse prevention
- **Strategies for the identification of events,** occurrences, patterns, and trends, such as suspicious bruising of residents, that may constitute abuse in order to determine the direction of the investigation
- **Investigation of different types of incidents**, including the identification of the staff member responsible for the initial reporting, investigation of alleged violations, and reporting of results
- **How residents will be protected** from harm and prevent further potential abuse, neglect, exploitation, or mistreatment while an investigation is in progress
- **How and to whom staff is to report** incidents and the **response** to alleged violations, such as an analysis to determine what changes are needed, if any, to policies and procedures to prevent further occurrences
- **All employees, contractors, volunteers and residents are knowledgeable** about the nursing home's reporting procedures and requirements
- **Staff must be trained to immediately report** to the administrator (or their designee) all incidents of mistreatment including abuse, exploitation, or neglect of a resident, misappropriation of a resident's property, or injuries to a resident of unknown source

Reporting Allegations of Misconduct

All nursing homes must immediately report **all alleged violations** involving mistreatment, neglect, exploitation, or abuse, including injuries of unknown source and misappropriation of resident property to DQA using the Misconduct Incident Reporting (MIR) system. The MIR system allows providers to electronically submit DQA form F-62617, *Alleged Nursing Home Resident Mistreatment, Neglect, and Abuse Report.*

Alleged Nursing Home Resident Mistreatment Report to MIR (F-62617)

Let's review the handout. Completion of this electronic form is required to meet the requirements in federal regulation
42 CFR § 483.12(c)(1).

- Nursing homes must immediately report all incidents of alleged mistreatment, abuse, exploitation, and neglect of residents, misappropriation of resident property, and injuries of unknown source to DQA.
- If the events that cause the allegation involve abuse or result in serious bodily injury, nursing homes must report the violation no later than two hours after the allegation is made.
- CMS defines "immediately" to be as soon as possible but not to exceed 24 hours after discovery of the incident. Failure to provide the information to DQA within 24 hours of discovering an incident may result in a citation under federal or state codes.

As of March 4, 2019, all providers are required to use the MIR system for reporting incidents to DQA by completing the web-based DQA form F-62617.

Alleged violations must be reported immediately, but not later than ***two hours*** after the allegation is made if the events that cause the allegation involve abuse or result in serious bodily injury

-or-

not later than ***24 hours*** if the events that cause the allegation do not involve abuse and do not result in serious bodily injury.

-and-

Providers must notify local law enforcement authorities of any situation where there is a potential criminal offense.

Initial Evaluation

Prior to immediately reporting allegations, nursing homes may first conduct an initial evaluation of an allegation, *in limited circumstances*, to determine whether an incident meets the definition of a reportable incident. Generally, the initial evaluation is restricted to misappropriation of a resident's property and injuries of unknown source without serious bodily injury.

Example:

Resident Carl reports to CNA Joan that someone has stolen his bathrobe. Joan reports the allegation immediately to her supervisor, Louise. Louise knows that Carl's family often does his laundry. Louise calls Carl's daughter who confirms that she took the bathrobe home with her yesterday.

In this case, the initial evaluation determines that no misappropriation of Carl's property occurred. It is not necessary to report the allegation to DQA.

Example:

RN Monique observes a bruise on the right hand of Resident Linda. Monique asks Linda how she got the bruise. Linda replies that she doesn't know. Although Monique doesn't find the bruise suspicious, she checks Linda's records and finds that a CNA noted two days earlier that she observed Linda bump her right hand into a wall. A note in the record later that same day noted a bruise appearing on Linda's right hand.

In this case, the initial evaluation confirms that no injury of unknown source occurred because there is documentation in the file about the source of Linda's injury. It is not necessary to report the allegation to DQA.

NOTE: An initial evaluation should be concluded quickly and does not extend the timeline for reporting.

Reporting Injuries of Unknown Source and/or Resident-to-Resident Altercations

Two flowcharts can assist nursing home providers in determining whether or not an injury of unknown source or a resident-to-resident altercation must be reported. Let's review those handouts.

Resident-to-Resident Altercation Flowchart
https://www.dhs.wisconsin.gov/publications/p0/p00361.pdf

Injury of Unknown Source Flowchart
https://www.dhs.wisconsin.gov/publications/p0/p00362.pdf

Reporting Incidents of Misconduct

Completion of the *Misconduct Incident Report* (DQA form F-62447) via the MIR system https://www.dhs.wisconsin.gov/forms1/f6/f62447.pdf is required when:

- You submit an *Alleged Nursing Home Resident Mistreatment Report* (DQA form F-62617) within 24 hours of an incident (or within two hours if the events that cause the allegation involve abuse or result in serious bodily injury).

- You conclude that an incident did not meet federal definitions, so you did not submit the *Alleged Nursing Home Resident Mistreatment, Neglect, and Abuse Report* but, upon further review, the incident does meet state definitions.

- You are a state-only licensed nursing home (not a participating Medicare and Medicaid provider). The federal reporting requirements do not apply to state-only licensed nursing homes, which may continue to follow the requirements in DQA publication P-00907, *Reporting Requirements for All Entities Regulated by the Division of Quality Assurance (Except Nursing Homes),* available at https://www.dhs.wisconsin.gov/publications/p00907.pdf.

Note: Nursing homes must complete the *Misconduct Incident Report* (DQA form F-62447) via the MIR system for reporting the results of an investigation. Federally-certified nursing homes must not use the caregiver misconduct reporting flowchart and worksheet, as these decision-making tools do not apply to participating Medicare and Medicaid nursing homes.

Conducting a Thorough Investigation

All nursing homes must also immediately begin a thorough investigation of any reported incident, collect information that corroborates or disproves the incident, and document the findings for each incident. A thorough investigation may include:

- Conducting observations of alleged victim, including identification of any injuries, the location where the alleged incident occurred, interactions and relationships between staff and the alleged victim and/or other residents, and interactions/relationships between resident to other residents, as appropriate
- Collecting and preserving physical and documentary evidence, including conducting record review for pertinent information related to the alleged violation, as appropriate (e.g., progress notes, financial records, incident reports, reports from hospital emergency room records, laboratory or x-ray reports, medication administration records, photographic evidence, and reports from other investigatory agencies)
- Interviewing alleged victim(s) and witness(es)
- Interviewing accused individual(s) allegedly responsible for mistreatment or suspected of causing an injury of unknown source, including staff, visitors, resident's relatives, etc.

- Interviewing other residents to determine if they have been abused or mistreated
- Interviewing staff who worked the same shift as the accused to determine if they ever witnessed any mistreatment by the accused
- Interviewing staff who worked previous shifts to determine if they were aware of an injury or incident
- Involving other regulatory authorities who may assist (e.g., local law enforcement elder abuse agency, adult protective service agency)

NOTE: Even if an alleged violation was reported to law enforcement as a reasonable suspicion of a crime committed against a resident, the facility must still conduct its own internal investigation to the extent possible, in consultation with the law enforcement authority.

Reporting Investigation Results

As of March 4, 2019, all providers are required to use the MIR system for reporting incidents to DQA. Follow these steps to report the results of an investigation 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.

1. Thoroughly complete the *Misconduct Incident Report* via the MIR system and attach relevant investigation documents.
2. Ensure the completed *Misconduct Incident Report* is submitted within five working days of the incident or on the date the entity became aware of the incident.

OCQ notifies the DQA Bureau of Nursing Home Resident Care (BNHRC) of all reports. Allegations of caregiver misconduct may be investigated by OCQ and/or BNHRC. BNHRC may conduct separate investigations related to facility issues. OCQ refers reports involving:

- Facility issues (resident-to-resident incidents, policy and procedure issues, etc.) to the appropriate DQA BNHRC Regional Office
- Non-caregiver accused (family member, friend, visitor, etc.) to the appropriate county adult-at-risk or elder-at-risk agency
- Credentialed and licensed staff (physician, RN, LPN, social worker, administrator, etc.) to the Department of Safety and Professional Services (DSPS)

Allegations of mistreatment of a resident must be reported immediately to the NH Administrator and DQA via the MIR system
-and-
Reasonable suspicion of a crime must be reported to both DQA and law enforcement
-and-
Investigation results must be reported within 5 working days to the NH Administrator/Designee and DQA via the MIR system

Resources

Nursing Home Reporting Requirements for Alleged Incidents of Abuse, Neglect, and Misappropriation P-00981 (11/2017)
https://www.dhs.wisconsin.gov/publications/p00981.pdf

Wisconsin Caregiver Program Manual
https://www.dhs.wisconsin.gov/publications/p0/p00038.pdf

Office of Caregiver Quality (OCQ)
DHSCaregiverIntake@dhs.wisconsin.gov
608-261-8319

Caregiver Misconduct and Reporting Requirements
https://www.dhs.wisconsin.gov/caregiver/complaints.htm

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

DQA Misconduct Incident Reporting (MIR) System Entity User Instructions
P-02312a