

# Reporting Process for Assisted Living Centers/Adult Foster Care/Inpatient Hospice/Residential Hospice in South Dakota



## Office of Healthcare Facilities Licensure and Certification

*The mission of the South Dakota Department of Health, Office of Health Facilities Licensure and Certification is to partner with consumers, families, healthcare providers, healthcare organizations, and other regulatory agencies to ensure the health, safety, and appropriate care of patients and residents in South Dakota.*



SOUTH DAKOTA  
DEPARTMENT OF HEALTH

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# Welcome



This training was developed by the Office of Healthcare Facilities Licensure and Certification to assist healthcare providers to better understand the reporting process required in Assisted Living Facilities, Adult Foster Care, Inpatient Hospice, and Residential Hospice facilities.

## The objectives for this training are:



- To ensure understanding by the provider community of the reporting process that includes Federal and State consideration.
- To allow the State Survey Agency to receive more clear and concise reports from the providers.

# Review of Section 1150(b)(1) of the Affordable Care Act



- The South Department of Health’s interpretation is that all licensed provider types will comply with the Affordable Care Act for the safety of our residents.
  - Per Section 1150(b)(1) of the Affordable Care Act provides that a “crime” is defined by law of the applicable political subdivision where the facility is located. Applicable facilities must coordinate with the local law enforcement entities to determine what actions are considered crimes.

## The goals of this training are to:



- Review reporting per the Administrative Rules of South Dakota (ARSD).
- Review the definitions relevant to accurate reporting in a timely manner.
- Review the time frames for reporting.
- Review reporting of an injury of unknown source or an allegation of a reasonable suspicion of a crime (abuse, neglect, or misappropriation of resident property).

## The intent of preventing occurrences of abuse, neglect, mistreatment, and misappropriation of property



- The intent is to ensure that the facility is doing all that is within its control to prevent occurrences.
- The facility must develop and implement policies and procedures to include these seven components:
  - **1. Screening,**
  - **2. Training,**
  - **3. Prevention,**
  - **4. Identification,**
  - **5. Investigation,**
  - **6. Protection, and**
  - **7. Reporting/Response.**

# The Public Health and Welfare, Section 1320a-7 of the Social Security Act states:



“The Secretary shall exclude individuals and entities from participation in any Federal health care programs that has been convicted of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service.”

# What is Abuse?



- Abuse is the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish.
- This includes deprivation of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well being.
- Physical Abuse can include hitting, slapping, pinching, shoving and kicking. This also includes controlling behavior through corporal punishment.

# What is Neglect?



- Neglect is the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.
- A State Survey Agency must not make a finding an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.

# What is Misappropriation of Resident Property?



- Misappropriation of resident property is the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent.

## For Abuse, Neglect, and Misappropriation of Resident/Patient Property:



- The applicable Administrative Rules of South Dakota (ARSD) are located at <http://doh.sd.gov/resources/statute-rules/>
  - ✦ Assisted Living Centers: 44:70
  - ✦ Adult Foster Care: 44:77
  - ✦ Inpatient Hospice: 44:79
  - ✦ Residential Hospice: 44:80

# Resident-to-resident altercation



- In the event a resident-to-resident altercation has been alleged; take immediate and necessary actions to intervene while providing appropriate supervision and monitoring to protect the resident and other resident(s). Make sure and ask yourself, did the resident act willfully in the altercation?
- “Willful” means the individual intended the action itself that he/she knew or should have known could cause physical harm, pain, or mental anguish. Even though a resident may have cognitive impairment, he/she could still commit a willful act.
  - If it is NOT a willful act, it is NOT reportable as Abuse at this time.  
Do an investigation, review the findings, and revise care plan as necessary.
  - If the act was willful and resulted in the “infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain, or mental anguish”.  
Do an investigation and report per the appropriate timeline.

# Fall



- A fall is when an individual unintentionally comes to rest on the ground, floor, or lower level **but** not as the result of an overwhelming external force (e.g., resident pushes another resident).
- An episode where an individual lost his/her balance and would have fallen if not for staff intervention is still a fall.
- Unless there is evidence suggesting otherwise, when an individual is found on the floor, a fall is considered to have occurred.
- A fall without injury is still a fall.
- Not all falls are reportable.

# Administrative Rules for South Dakota (ARSD) reporting requirements are:



- ARSD requirements include:
  - Any death resulting from other than natural causes originating on facility property such as accidents, abuse, negligence, or suicide; and any allegations of abuse or neglect of any resident by any person within **48 hours**.
  - Any missing resident to the department within **48 hours**.
    - The individual is away from facility without staff knowledge of departure or exit time and destination.
  - Any fire with damage or where injury or death occurs **as soon as possible**.
  - Any partial or complete evacuation of the facility resulting from natural disaster **as soon as possible**.
  - Any loss of utilities, such as electricity, natural gas, telephone, emergency generator, fire alarm, sprinklers, and other critical equipment necessary for operation of the facility for more than **24 hours**.

## Questions for review



- 1. How is abuse, neglect, mistreatment **prevented** and **detected** in your facility?
- 2. Do you as the provider adequately **screen** both current and future employees and residents?

## Questions for review



- 3. Do you actively **identify** and correct **risks** for possible occurrences of abuse, neglect, and mistreatment?
- 4. Is there ongoing comprehensive **training** for all staff, residents, family members, and volunteers?

## Questions for review



- 5. What **protections** are in place to assure residents are safe and free from harm?
  - What have you done to ensure current residents do not continue to be at risk?
  
- 6. Are all incidents/accidents **reported** and thoroughly **investigated**?
  - How long does it take you as a provider to report the results of an investigation to the administrator and other officials, as appropriate?
  
  - Refer to the Power Point presentation *How to Conduct an Investigation*.

# Questions for review



- 7. Do you as the provider **respond** by appropriately correcting identified problems?
  - Do you have evidence some action has taken place to prevent further abuse or neglect?
  - What is/was that action?
  - How long did it take for the completion of that process?
  - Did the actions taken resolve the issue at least on a temporary basis or on a permanent basis?
  
- 8. After investigations have been **completed**, how many alleged violations accumulate and/or lead to disciplinary action?
  - As a result of your investigations, is there a pattern of reduction of allegations?



***This is the end of***  
***Reporting Process for ALC/AFC/Inpatient***  
***Hospice/Residential Hospice***  
***in South Dakota.***

For any questions, please contact our office:

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