

Reporting Process for Long Term Care Facilities 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 Long Term Care 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.

The goals of this training are to:



- Review the intent of S & C: 11-30-NH revised 01.20.12.
- 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).
- Review other reporting per the Administrative Rules of South Dakota (ARSD).

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



- The intent of this regulation is “The facility must develop and operationalize policies and procedures for screening and training employees, protection of residents and prevention, identification, investigation, and reporting of abuse, neglect, mistreatment, and misappropriation of property. The purpose 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.”

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



- Per Section 1150(b)(1) of the Affordable Care Act a “crime” is defined by law of the applicable political subdivision where the LTC facility is located. Applicable facilities must coordinate with the local law enforcement entities to determine what actions are considered crimes within their political subdivision.
- Political subdivision – CMS believes it would be a city, county, township or village, or any local unit of government created by or pursuant to State law.

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, 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 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 Property:



- The applicable Administrative Rules of South Dakota (ARSD) are located at <http://doh.sd.gov/resources/statute-rules/>
 - ✦ Nursing Facilities - 44:73:01:01

Resident-to-resident altercation (F323)



- 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 (F323)



- 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.

The Affordable Care Act (ACA) time frames for reporting in Long Term Care:



- Section 1150B of the Affordable Care Act (ACA) establishes two time frames for the reporting of reasonable suspicion of a crime.
 - * Serious Bodily Injury – 2 Hour Limit: If the events that cause the reasonable suspicion result in serious bodily injury to a resident, report the suspicion immediately, but not later than 2 hours after forming the suspicion.
 - * All Others – Within 24 hours: If the events that cause the reasonable suspicion do not result in serious bodily injury to a resident, report the suspicion not later than 24 hours after forming the suspicion.
- Section 2011 (19)(A) of the ACA defines “serious bodily injury.”
 - Extreme physical pain;
 - With the possibility of loss or impairment of a bodily member, mental faculty, or an organ;
 - A risk of death; or
 - That may require surgery, hospitalization, or rehabilitation.
- The reporting timeline is based on clock time, not business hours.

The time frames for reporting (*continued*)



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

- Both of the above criteria must be met to be classified as an injury of unknown source.
 - * “Immediately” means as soon as possible, but not to exceed 24 hours after discovery of the incident.

The time frames for reporting (*continued*)



- 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 **24 hours**.
 - Any missing resident to the department within **24 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 LTC in South Dakota.***

For any questions, please contact our office:

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- Email doholccomplaint@state.sd.us.



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