

Question & Answers

Nursing Home Incident Reporting System

October 26, 2011

- 1. Does the incident reporting system allow mandated reporting under the Elder Justice Act to demonstrate to DOH that they have reported a reasonable suspicion of a crime to a law enforcement agency, as required by the Elder Justice Act?** The new reporting form includes an incident reporting tab, which will allow nursing home staff to indicate that law enforcement has been notified of a reasonable suspicion of a crime. Any reasonable suspicion of a crime must be reported to at least one local law authority. The form asks for a case number, if available. For further clarification, refer to CMS S&C letter 11-30.
- 2. Please clarify when an injury of unknown origin is reportable.** An injury of unknown origin is reportable when two (2) elements are present: 1) Injury without known incident, and 2) the facility is unable to rule out abuse or care plan violation. If during the investigation, the facility determines the cause, and/or abuse neglect and mistreatment have been ruled out, then the incident is not reportable. If the facility is unable to determine the cause, and cannot rule out abuse, neglect and mistreatment, then it is reportable. (See page 26 of the manual)
- 3. Bruise of Unknown Origin: is there a size that dictates if you have to report?** There is no specific reporting parameter for the size of a bruise. The emphasis is on whether or not abuse occurred, which is based on a facility investigation.
- 4. Injury of Unknown Origin: If we have a reasonable assumption that an injury occurred, i.e., a skin tear occurred because of a piece of equipment, do we have to report it?** If misuse of equipment or faulty equipment results in a resident accident, this is reportable under Quality of Care. To be reported under Malfunction or Misuse of Equipment, the two following elements are needed for report to the DOH: 1.) Malfunction or intentional or unintentional misuse of equipment, AND 2.) Adverse effects related to use of equipment. (See page 34 of the manual)
- 5. Incident of bruise on Resident who has blood taken and is on blood thinners: is it reportable?** No, because the cause is known. If it is determined that abuse may have occurred during the process of drawing blood or during the use of equipment, it may be reportable.
- 6. Will the DOH accept medications such as "Plavix", as a reason for a bruise?** The facility has always been responsible to investigate all bruises. If abuse is ruled out, the facility must refer to the manual's elements to determine if it is reportable.

- 7. Are we calling in only bruises that were caused by Abuse, Neglect or Mistreatment? Do we need to call it in within 24 hours?** Bruising caused by misuse of equipment or faulty equipment that results in a resident accident is reportable under Quality of Care. Bruising related to abuse, neglect or mistreatment is reportable once the facility reaches the reasonable cause threshold and should be reported within 24 hours of reaching that conclusion. With no care plan issues, no suspected abuse and no equipment issues, the simple fact that the resident has a bruise is not in itself reportable.
- 8. If a facility has no internet access at the time of a report and they have to mail the form in, do they have to complete it On-line when their internet service becomes available? What if available staff has no access to the HCS?** Facility staff should never report an incident by mail. If a facility cannot access the on-line form, an incident must be called into the Intake Hotline at 1-888-201-4563. DOH staff will expect that once internet service is reestablished, that subsequent reports will be submitted on-line. If weekend supervisors do not have HCS access, and the facility suspects abuse, neglect or mistreatment, a report can be made to the hotline at 1-888-201-4563. Incidents that are not related to abuse, neglect or mistreatment can be reported on the next business day.
- 9. If a facility wants to add information, can we enter information into the HCS with our original report?** The facility should not add or modify an incident report after it is submitted to DOH, but instead the facility should call the hotline at 1-888-201-4563 to make any updates to the incident report. Facility staff can always save and update a report before submitting the report to DOH.
- 10. Whose instructions do you follow: Police or DOH? Example: Police requests that facility not suspend an employee accused of abuse.** The facility has a responsibility to protect residents under all circumstances and should take all necessary steps to protect the residents. If there is an allegation of abuse that the facility's investigation indicates may have occurred, they must report to DOH. If Police indicate an employee should not be suspended the facility needs to assure the employee has no contact with residents.
- 11. What if we call the police for a crime and they do not respond?** CMS and DOH require that crimes be reported to local law enforcement. If the agency does not respond, document the facility's attempt to make a report, including identifying information of law enforcement contact person on the incident report form when it is submitted to NYSDOH

12. How do we submit documents with our investigation? Is there the ability to attach parts of the investigation, i.e., a plan to prevent recurrence? The form requires that basic information be included in the report. This includes information about the incident, the preliminary investigation, as well as the plan for immediate intervention and prevention. If more documents are needed, they will be requested of the facility by investigators.

13. Provide clarification on what justifies reporting within 24 hours; one business day; and conducting an investigation in 5 working days? Clarify what initiates the reporting period?

- a. Violations of the Public Health Law, Section 2803-d, abuse neglect, mistreatment or misappropriation are to be reported within 24 hours, once the reasonable cause threshold is achieved.
- b. Incidents that do not involve abuse, neglect, mistreatment, or misappropriation are to be reported the next business day, once the reasonable cause threshold is achieved.

The facility has 5 working days from when the incident actually occurred, to complete their investigation. The entire process must be complete within 5 working days of the occurrence of an incident. Please note that it is not necessary for providers to submit investigation documents to DOH unless they are requested.

The following are examples of applying these requirements:

- Example 1: If a potential reportable incident occurs on a Friday evening, then you should begin to investigate immediately to determine if abuse, neglect, or mistreatment occurred. If on Saturday at noon you determine there is reasonable cause to believe that a reportable incident may have occurred involving abuse, neglect, or mistreatment, you shall have until noon on Sunday (i.e., **24 hours**) to report the incident. Your investigation must be completed by Friday, 5 working days from when the incident actually occurred.
- Example 2: If a potential reportable incident occurs on a Friday evening, then you should begin to investigate immediately to determine if abuse, neglect, or mistreatment occurred. If on Saturday at noon you determine there is reasonable cause to believe that a reportable incident may have occurred, but the incident does not involve abuse, neglect, or mistreatment, you shall have until Monday (i.e., **next business day**) to report the incident. Your investigation must be completed by Friday, 5 working days from when the incident actually occurred.

- 14. What do we do if we cannot report on-line using the new system?** If you are unable to access the on-line form on or after 10/17/11 for any reason, please call the hotline at 1-888-201-4563. Complaint staff will enter your complaint via the hotline, or assist you with the new incident reporting system.
- 15. Will we be speaking to an investigator after we submit the form? Who will the case number be emailed to?** The facility will receive the case number by email. The email will be sent to the email entered on the online form. If the case requires further action, the investigator will contact you if we need further information or clarification, or to request documents. If the facility has questions, DOH staff can be contacted via the hotline at 1-888-201-4563 or via e-mail at nhintake@health.state.ny.us
- 16. If falls are not related to abuse, neglect or mistreatment, are they reportable?** Falls are reportable if it is identified that the care plan was violated, or abuse or mistreatment occurred.
- 17. Please clarify reporting requirement for failure to follow the care plan without injury. Some small violations with injury haven't been reported by facility staff. The previous standard for reporting a care plan violation under the neglect statute was that a failure to follow the care plan was reportable only if there was injury or there were repeated violations of the care plan without injury.** Failure to follow the care plan without injury for the first time is not reportable; however, it is expected that a nursing home investigate these types of incidents, and monitor them in the event of any systemic issues in care. When a care plan is not followed repeatedly, or failure to follow the care plan results in injury, then the incident should be investigated, and reported to the Department. This is consistent with the past policies regarding reporting incidents related to following the care plan.
- 18. For physical plant issues that are pre-planned, should facilities report ahead of time?**
Yes.
- 19. What is the time frame for reporting service outages?** The manual (page 35) clarifies that one of the following elements is needed for report to the DOH: 1.) Loss of service lasting or expected to last 4 or more hours, OR 2.) There is no back-up system in place OR 3.) The back-up system fails to work.

- 20. Page 39 of the Power Point states a witness should write their own statement. Is there a requirement for staff to write their own statement? Is it still appropriate for someone else to write it out and the staff member to sign the statement?** This question refers to the PowerPoint training for facility staff to use, entitled “Conducting a Facility Investigation.” Yes, it is appropriate for someone else to write out a statement, and a staff member to sign the statement. However, the Department prefers to have individuals complete their own statements whenever possible.
- 21. Where and when will the Manual, Form Instruction, and PowerPoint be available?** This information has been posted to the HCS under the Dear Administrator Letter section for nursing homes, and also on the DOH public website under “Dear Administrator Letters” http://www.nyhealth.gov/professionals/nursing_home_administrator/index.htm . The form will be accessible on 10/17/11 via the HCS under Nursing Home Surveillance where you find other forms, e.g., the Weekly Bed Census Survey.
- 22. Can facilities print the investigation or confirmation page? If in the middle of filling out the form, can I print the form to review or can I print a blank form?** There is an option to print your incident report through: 1.) Printable Form button located within the form; OR 2. PDF Form button located within the form. You can use these options at any time to print any data that has been entered and saved. Once the facility has “Previewed the Data to be Submitted”, and successfully submitted the form data to DOH, then you will see a RED message saying **“Thank you. Data has been submitted to the Department of Health.”**; this can be printed by using the standard windows print option located in your browser.
- 23. When you submit the form, can you print out the red message that states it was successful?** Yes. Keep in mind, your submission has not been sent to DOH **UNLESS** you see the red warning indicating that it was received.
- 24. Are Adult Day Health Care Programs (ADHCPs) and Transitional Care Units (TCUs) required to report through the new incident reporting form?** ADHCPs and TCUs are not required to report via the online system. ADHCPs and TCUs should continue to report incidents via the Complaint Hotline. The online form is unavailable for these program types.

- 25. We have a service wing in which residents are generally not allowed. We have 2 residents that are care planned to be able to be back within the area for specific volunteer work, which they choose to do at the facility. Other than those 2 residents, if any other residents are in the service wing, is this considered an elopement or does it fall under another category?** Yes, this is reportable under Accidents as a resident should not be unattended in non-resident areas, including but not limited to... equipment rooms, stairwells, kitchen areas, janitor areas, utility areas or utility basements. If this occurs, it is reportable, regardless of the presence of actual injury. For the incident to be considered Elopement one (1) of the following elements is needed for report to the DOH: 1.) Resident is at risk for elopement and remains missing after search of building conducted OR 2.) Resident with cognitive impairment leaves facility undetected OR 3.) Resident on outing or appointment with staff and elopes from staff oversight OR 4.) Resident fails to return from outing, with pass. (see page 32 of the manual.)
- 26. When you mention faulty equipment, what does that cover? If I have one of my boilers not working at 100% or a dryer break or anything of that nature, are these things that have to be called in?** Two (2) elements are needed for report to the DOH: 1.) Malfunction or intentional or unintentional misuse of equipment, AND 2.) Adverse effects related to use of equipment.
- 27. In the manual under “What should the facility have readily available?” it states that we should have photos of injuries whenever available... is this for all injuries that we call in, or just injuries falling under abuse, and what do we do if we have a resident unable (or unwilling) to give consent for a photo to be taken, because it is my understanding that we need resident or family permission to take their photos? Does the facility need to ask for, and receive consent in order to take a photograph in the situation?** If photos are important to supporting your investigation and if they are available, you should have them available when DOH requests further information. The facility would need to ask for, and receive, consent in order to take a photograph of the resident.
- 28. Our star ratings are greatly affected by the amount of things we report. While we certainly want to be compliant, I am apprehensive about what all these reports will do to our star rating. Will all of these things be figured in like the old system?** We do not anticipate the implementation of the automated reporting system to increase the number of incidents you report. If we receive a report of an incident that is not a reportable incident, it will be entered as a “No Action Necessary” case which will not affect your star rating, or be displayed on the Nursing Home Profile site.

29. I have heard that a webinar will be available. Do you have any information on that and when will the tabs in the new reporting system be available so that we can take a further look at the system? If you go to the HCS site and type in NH Incident Form it will take you to the Incident Reporting Manual, PowerPoint, and Form Instructions. These documents also can be found on the DOH public website under Dear Administrator Letters section:

http://www.nyhealth.gov/professionals/nursing_home_administrator/index.htm.

For additional information please contact our hotline at 1-888-201-4563 or send an e-mail to nhintake@health.state.ny.us

30. Who can submit incident for our nursing home? The person needs an HCS account through your facility's HCS coordinator. The HCS coordinator needs to setup the person under the "Nursing Home Data Reporter" role, under the facility's "PFI". Multiple individuals may be assigned this role for data entry.

31. What tabs must be entered on the reporting form? After adding the basic information for the incident please enter: 1.) NH Incident Report information; 2.) Incident Overview tab information; 3.) Residents tab information for affected resident; 4.) Witness tab for individuals that witnessed the incident; 5.) Accused tab if the incident involves a staff person; 6.) And, all applicable Incident type tab(s) information should be entered according to the incident type(s) which were checked on the NH Incident Report information. You must "Preview the Data to be Submitted", and submit the report to the Department of Health. Once the facility has "Previewed the Data to be Submitted", and successfully submitted the report to DOH, then you will see a RED message saying **"Thank you. Data has been submitted to the Department of Health."** For further form instructions please click on "Instructions" on the incident form.

32. Is the hotline still available to report incidents; should high priority incidents still be reported via the phone, even though the online system is available? All facilities should use the online reporting system to report their incidents regardless of the priority level. The hotline will still be available for questions and provide assistance regarding incidents. Staff will direct facility staff to use the online form; however, if facility staff is unable to enter an incident using the online form, then hotline staff will accept an incident over the phone. Each facility should have their HCS coordinator use the "Nursing Home Data Reporter" role under their "PFI" for any staff that need to report an incident to the Department.