

**COMMONWEALTH of VIRGINIA***Department of Health*

E. Anne Peterson, M.D., M.P.H.  
State Health Commissioner

Center for  
Quality Health Care Services and  
Consumer Protection

For The Hearing Impaired  
TDD 1-800-828-1120

Suite 216, 3600 W. Broad St.  
Richmond, Virginia 23230-4920  
FAX 1-804-367-2149

April 17, 2000

## MEMORANDUM

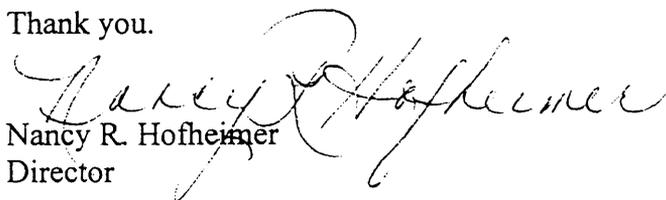
Dear Colleague:

Not long ago, we had occasion to remind our federally certified licensed nursing facilities of their obligation to report, to this office, incidences of resident mistreatment, neglect, abuse, and/or misappropriation of personal property occurring on their premises. This is one of the requirements for receiving federal reimbursement. Along with the requirements for reporting these incidences, the mailing also contained attachments describing other reportable categories and definitions.

During a recent meeting with a constituent group, we were requested to also provide this information to our sister agencies so there would be common understanding of definitions and terms used to identify resident mistreatment episodes in long-term care facilities. A copy of the memorandum has been enclosed. I am requesting its distribution to your staff.

If there are questions or concerns related to the memorandum or a facility's responsibility to report resident mistreatment, please feel free to contact the Center's Complaint Unit at (804) 367-2122.

Thank you.

  
Nancy R. Hofheimer  
Director

NRH/CCE

xc: Connie Kane, Director – Long Term Care  
Long-term Care and Complaint Supervisors

## **BASIC DEFINITIONS**

**ABUSE** includes, but is not limited to, the following:

### **A. Physical Abuse**

- 1) Striking the resident with a part of the body or with an object; nontherapeutic shoving, pushing, pulling, or twisting any part of the resident's body; burning; or sticking a resident with an object.
- 2) Physical contact intentionally or through carelessness that results in or is likely to result in death, physical injury, pain or psychological harm to the resident. Indications of psychological harm include a noticeable level of fear, anxiety, agitation or emotional distress in the resident.
- 3) Use of any restraints, involuntary seclusion, or isolation of a resident as a method of punishing a resident.
- 4) Use of any restraints in an unreasonable manner, such as tying the hands or legs together.
- 5) Use of physical restraints for prolonged periods of time.
- 6) Acts of physical retaliation, even in response to a physical attack.

**NOTE:** Accidental injury due to self-defense or to prevent injury to another resident would not normally be considered abuse. An example would be a skin tear occurring when a staff member grabbed a resident's wrist to prevent the resident from striking the staff member or another resident.

### **B. Verbal Abuse**

- 1) Statements made to a resident which result in ridicule or humiliation of the resident. Inappropriate verbal reaction to a resident's attack would not necessarily be considered abuse unless the staff member had a pattern of responding this way. Non-malicious teasing does not constitute verbal abuse unless it causes the resident to feel degraded.
- 2) Any use of oral, written or gestured language that includes cursing, disparaging and derogatory terms to other residents or visitors within hearing range, to describe residents, regardless of their age, ability to comprehend, or disability.

Basic Definitions, con't.

**C. Sexual Abuse**

- 1) Sexual harassment.
- 2) Sexual coercion.
- 3) Sexual assault or allowing a resident to be sexually abused by another.
- 4) Inciting any of the above.

**D. Psychological/Emotional Abuse**

- 1) Humiliation, harassment, malicious teasing, threats of punishment or deprivation.
- 2) Not giving reasonable consideration to a resident's wishes; unreasonably restricting contact with family, friends or other residents; or ignoring resident needs for verbal and emotional contact.
- 3) Violation of a resident's right to confidentiality by discussing a resident's condition, treatment or personal affairs with anyone who does not have a right to such information.

**E. Neglect**

- 1) Failure to provide adequate nutrition and fluids.
- 2) Failure to take precautionary measures to protect the health and safety of the resident.
- 3) Intentional lack of attention to physical needs including, but not limited to, toileting and bathing.
- 4) Failure to provide services that result in harm to the resident, such as not turning a bedfast resident or leaving a resident in a soiled bed.
- 5) Failure or refusal to provide a service for the purpose of punishing or disciplining a resident, unless withholding of a service is being used as part of a documented integrated behavioral management program.
- 6) Failure to notify a resident's legal representative in the event of a significant change in the resident's physical, mental or emotional condition that a prudent person would recognize.

Basic Definitions, con't.

- 7) Failure to notify a resident's legal representative in the event of an incident involving the resident, such as failure to report a fall or a conflict between residents that result in injury or possible injury.
- 8) Failure to report observed or suspected abuse, neglect or misappropriation of resident property to the proper authorities.
- 9) Failure to adequately supervise a resident known to wander from the facility without staff knowledge.

NOTE: Such things as failure to comb a resident's hair on occasion would not necessarily constitute a **reportable** incidence of neglect. However, continued omission in providing daily care and/or failure to address and resolve the omission could constitute neglect.

**F. Misappropriation of Personal Property**

- 1) Theft or attempted theft of a resident's money or personal property.
- 2) Theft of a resident's medication.
- 3) Inappropriate use of resident funds or property.
- 4) Use of a resident's telephone without their expressed permission.



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April 5, 2000

## MEMORANDUM

TO: Federally Certified Nursing Facilities

FROM:  Nancy R. Hofheimer  
Director

SUBJECT: Facility Reported Incidences

As you know, in order for a facility to receive federal reimbursement from Medicare and/or Medicaid, the facility is expected to follow certain criteria established by the Health Care Financing Administration (HCFA). One of those criteria is known as the Facility Reported Incident or FRI (42 CFR 483.13(c) and Tag 226 of Appendix P). It is apparent, however, that facilities are not fully complying with HCFA's criteria.

We recommend that each facility review and revise, where appropriate, their policies, protocols and practices to ensure compliance with federal requirements. In addition, survey staff have been instructed to carefully adhere to Survey Protocol 5G, "Abuse Prohibition Review," of Appendix P to assure that facilities are in compliance with the requirements.

A facility is expected to implement written policies and procedures that prohibit resident mistreatment, neglect, abuse, and/or misappropriation of personal property. When alleged violations involving resident mistreatment, neglect, abuse, and/or misappropriation of personal property occur, a facility is required to self report those incidences immediately to the Center and to any other state officials as required by state law<sup>1</sup>. Reports are to be faxed (804/367-2804) to the Complaint Unit of the Center.

<sup>1</sup> In addition to the Center, facilities are required to file reports with: i) the Department of Health Professions (DHP) for incidences involving nurse aides, RNs, LPNs, physicians, or other persons licensed or certified by DHP, ii) Adult Protective Services of the Department of Social Services for any suspicions of resident abuse, mistreatment or neglect; and iii) the appropriate local law enforcement authorities (i.e., police or sheriff's office) for any incident of resident abuse, mistreatment, neglect or misappropriation of personal property. For questions regarding reporting criteria of other state agencies or local jurisdictions, the facility should contact that particular agency or jurisdiction.

DIRECTOR  
(804) 367-2102

ACUTE CARE  
(804) 367-2104

COPN  
(804) 367-2126

**VDH** VIRGINIA  
DEPARTMENT  
OF HEALTH  
Protecting You and Your Environment

COMPLAINTS  
1-800-955-1819

LONG TERM CARE  
(804) 367-2100

After an initial report of the incident, the facility must investigate the incident, implement corrective action, and file a written report of the completed investigation to the *Center within 5 working days of the incident*. These reports are reviewed by Center staff to verify that appropriate corrective action was taken to guard against the incident happening again. Decisions about further investigation by the Center, either administrative review or onsite survey, vary according to several factors, including, but not limited to: i) the nature and severity of the incident, ii) the facility's response, and iii) the frequency of such reports from a facility.

Included in this mailing are "Other Reportable Categories;" definitions for abuse, neglect and misappropriation of property; and "Reporting of Abuse and Injuries of Unknown Origin," a chart that summarizes the reporting criteria. This information is intended as additional reference that may be helpful in determining whether a *reportable event* has occurred. This material is not all-inclusive. We expect facilities to follow best practices and good clinical protocols in determining whether to report an incident.

For questions regarding material contained herein, the facility should contact the Complaint Unit at (804) 367-2122.

Thank you.

NRH/CCE

xc: M. Melton, Vice President, Virginia Association of Nonprofit Homes for the Aging  
B. Soble, Vice President, Virginia Health Care Association  
S. Ward, Vice President, Virginia Hospital & Healthcare Association  
C. Kane, Director – Long-Term Care  
C. Eddy, Policy Analyst  
C. McLennan, Training Coordinator  
LTC and Complaint Supervisors  
LTC and Complaint Inspectors

## Other Reportable Categories

### **Allegations of Resident Neglect, Abuse, or Misappropriation of Property by Staff Providing Services to a Resident.**

Facilities must report all alleged or suspected instances of mistreatment when facility staff is suspected of mistreatment, neglect, abuse (including injuries of unknown origin), or misappropriation of resident property. Facility staff includes any employee, volunteer, or contractor of the facility such as facility administrators, administrative staff, physicians, RNs, LPNs, nurse aides, podiatrists, dentists, beauticians, housekeepers, dietary, laundry, maintenance staff, and laboratory personnel.

### **Injuries of Unknown Origin**

Injuries of unknown origin should be handled the same as an allegation of mistreatment, neglect or abuse and must be reported to the Center if there is reasonable cause to believe or suspect that an injury has been inflicted upon a resident by a nurse aide or other facility staff. If there is no reasonable cause to believe or suspect that an injury has been inflicted upon a resident or that the resident has been neglected, then the facility does not have to report the incident. The facility must establish a protocol or procedure for determining whether injuries such as skin tears, bruises, abrasions and other events occurring in the facility are abusive or neglectful or whether these occurrences are unavoidable.

NOTE: The facility is not relieved of its responsibility to investigate the incident, regardless of the circumstances, and complete a report. Facility documentation should support the decision not to report a specific incident or accident to the Center. If, in the course of an investigation, the facility determines that the incident is reportable, the facility is expected to file a report with the Center.

### **Resident to Resident**

Resident to resident altercations do not have to be reported *if the facility takes immediate and appropriate actions* to intervene in the situation and provides sufficient supervision and monitoring to limit the probability of recurrence. Residents who are abusive to other residents must be monitored and must have a care plan that addresses the abusive behavior. Those who are victims of abuse must be protected from further injury or mental anguish.

NOTE: Resident to resident altercations in which a resident is injured and requires physician intervention and/or transfer or discharge to a hospital must be reported to the Center.

### **Facility Visitor to Resident Abuse**

Individuals visiting the facility and who are abusive to, or mistreat, residents must be monitored and the resident or residents must be protected to assure that further abuse or mistreatment does not occur. In all cases of visitor to resident abuse, mistreatment, or misappropriation of property, the appropriate law enforcement agency must be notified.

Other Reportable Categories, con't.

### **Unusual Occurrences**

CQHCCP recommends facilities add unusual incidents or occurrences to their reporting criteria and report any such occurrences *immediately*. Examples of unusual occurrences include:

- Any event involving a resident that is likely to result in legal action;
- Medication errors that result in the resident being hospitalized or dying;
- Suicides - attempted or successful;
- Death or serious injury associated with the use of restraints;
- Ingestion of toxic substances requiring medical intervention;
- Accidents or injuries of known origin that are unusual, such as a resident falling out of a window, a resident exiting the nursing home and sustaining an injury on facility property, or a resident being burned;
- A resident procuring and ingesting enough medication to result in an overdose; and
- Any unusual event involving a resident or residents that may result in media coverage.

**REPORTING OF ABUSE AND INJURIES OF UNKNOWN ORIGIN**

<b>INCIDENT:</b>	<b>REPORT TO CQHCCP:</b>
INJURY OF UNKNOWN SOURCE	Yes
MISAPPROPRIATION OF RESIDENT PROPERTY	Yes
NEGLECT	Yes
MISTREATMENT	Yes
<b>ABUSE:</b>	
Resident-Resident (no physician contact/intervention)	Varies by situation
Resident-Resident (physician contact/intervention)	Yes
Nurse Aide-Resident	Yes
Other persons on the facility's staff	Yes
Family/Visitor to Resident (no physician contact/intervention)	Varies by situation
Family/Visitor to Resident (physician contact/intervention)	Yes
UNUSUAL EVENTS	Yes

<b>REPORTING TO CQHCCP/VDH:</b>	<b>HOW:</b>	<b>WHEN:</b>
Initial Report of Incident	Faxed to 804/367-2804	Immediately
Results of Investigation	Written	5 Working Days

**Reports to VDH/CQHCCP**  
 Fax: 804/367-2804  
**Virginia Department of Health**  
 Center for Quality Health Care Services and Consumer Protection  
 3600 Centre - Suite 216, 3600 West Broad Street  
 Richmond, Virginia 23230