Nursing Home Incident Reporting Manual

Bureau of Intake Management
Division of Residential Support
Center for Residential Surveillance
Office of Aging and Long-Term Care
New York State Department of Health

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Nursing Home Incident Reporting Manual

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Introduction

This Manual is available to all Nursing Home staff responsible for reporting service disruption, alleged violations of mistreatment, neglect and abuse, including injuries of unknown source and misappropriation of resident property, to the New York State Department of Health ("Department"). This Manual is intended to provide clarification and guidance on reportable incidents including how those incidents should be reported and will be updated as required due to changes in federal regulations, State statute and/or regulations, or wherever additional practical clarification is determined necessary.

Nothing in this Manual affects the requirement for Nursing Homes to report emergencies and disasters to the New York State Watch Center operated by the New York State Office of Emergency Management: https://www.dhses.ny.gov/emergency-management-regional-offices.

Nursing Homes are strongly encouraged to take note of the following Department contacts. During normal business hours (Monday through Friday, 8:30am through 4:45pm), please contact the appropriate Regional Office of the Department.

Office	Telephone	Counties Covered
Capital District	(518) 408-5372	Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington
Central New York	(315) 477-8472	Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, Tompkins
Western New York Buffalo	(716) 847-4320	Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Livingston, Niagara, Orleans, Steuben, Wyoming
Western New York Rochester	(585) 423-8020	Genesee, Monroe, Ontario, Schuyler, Seneca, Wayne, Yates
Metropolitan Area NYC	(212) 417-4999	Bronx, Kings, New York, Queens, Richmond
Metropolitan Area New Rochelle	(914) 654-7058	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester
Metropolitan Area Long Island	(631) 851-3611	Nassau, Suffolk

For off-hours public health emergencies, the Duty Officer is available at **(866) 881-2809**.

Section 1: Reporting Requirements

Nursing Home residents are to be protected from abuse, neglect, exploitation, and misappropriation of property. In addition, the Nursing Home must develop and maintain an emergency preparedness plan, updated annually, that includes a communication strategy to share the facility's occupancy and needs with the authority having jurisdiction. The Department of Health ("Department") requires that Nursing Homes immediately report to the Department any anticipated or actual termination of vital facility services. The term "immediately" depends on the individual circumstance.

Resident and staff safety is paramount, appropriate deployment of the Nursing Home's emergency management protocols is expected, and reporting to the Department following the expectations outlined herein is a pivotal component of the Nursing Home's regulatory compliance.

Report Immediately: Physical Plant Issue or Loss of Service

Any malfunction or misuse of equipment with adverse effects, physical plant issues, loss of service such as a power outage, smoke and/or fire situation, and evacuation, are reportable incidents.

After-hours issues in this category should be reported to the **Medical Operations Coordination Center at (917) 909-2676.**

Malfunction or Misuse of Equipment

If misuse of equipment or faulty equipment results in a resident accident, this is reportable. The following two elements must **both** be present to be reportable:

- ✓ Malfunction or intentional or unintentional misuse of equipment.
- ✓ Adverse effects related to use of equipment.

Physical Plant Issues/Loss of Service, Smoke/Fire, or Evacuation

This refers to situations that are planned, such as for evaluation or repair, as well as situations that are unplanned, unexpected or emergent in nature.

The Nursing Home must report planned and unintentional loss of service for telephones, electricity, heat, air conditioning, water, and concerns affecting kitchen sanitation. Additionally, the Nursing Home must report building issues that affect resident care or safety such as, but not limited to, bomb threats, storm damage and flooded areas.

Any of the following elements must be present to be reportable:

- ✓ Unexpected service loss lasting or expected to last at least four (4) hours.
- ✓ Planned service loss lasting or expected to last at least four (4) hours.
- ✓ There is no back-up system in place.
- ✓ There is a back-up system in place, but it failed.
- ✓ Planned or unexpected events that may affect resident care.

After-hours issues in this category should be reported to the **Medical Operations Coordination Center at (917) 909-2676.**

Smoke and Fire

Smoke or fire in any area of the building is reportable.

After-hours issues in this category should be reported to the **Medical Operations Coordination Center at (917) 909-2676.**

Evacuation

The Nursing Home must report any planned or unexpected situation that requires evacuation of residents out of the building, or relocation within the building of the entire nursing unit, floor or building. The Nursing Home must report any occurrence involving structural issues, repair, illness, sewage backup, flooding, or temperature (too hot or too cold) that requires evacuation.

Any of the following elements must be present for an incident to be reportable:

- ✓ Evacuation of Nursing Home unit, floor or building.
- ✓ Isolated incidents that require movement of residents.

After-hours issues in this category should be reported to the **Medical Operations Coordination Center at (917) 909-2676.**

Time-bound Reporting: Federal Requirements

Title 42 Code of Federal Regulations § 483.5 defines abuse as

> "…*the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish.*
>
> *Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology.*
>
> ***Willful**, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm..."*

Title 42 of the Code of Federal Regulations at § 483.12 indicates that the resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart. This includes, but is not limited to, freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms. It requires reporting of allegations of abuse, neglect, exploitation, or mistreatment, including injuries of unknown source and misappropriation of resident property. Reporting must be made to the Nursing Home Administrator and to other officials including to the Department.

Timeframes for reporting follow:

- Immediately, but **not later than 2 hours after the allegation is made**, if the events that cause the allegation involve abuse or result in serious bodily injury.
- **Not later than 24 hours** if the events that cause the allegation do not involve abuse and do not result in serious bodily injury.

Additional reporting of all investigations to the Administrator or their designated representative **and** to the Department, is required within 5 working days of the incident.

Time-bound Reporting: Elder Justice Act

The Elder Justice Act under Section 1150B of the Social Security Act, as established by Section 6703(b)(3) of the Patient Protection and Affordable Care Act of 2010, requires specific individuals in applicable Nursing Homes to report any reasonable suspicion of a crime against a resident of the Nursing Home to at least one local law enforcement agency of jurisdiction **and** the Department. Specific individuals affected by the law include the facility owner, operator, employee, manager, agent or contractor.

The Attorney General's Office, Medicaid Fraud Control Unit has jurisdiction to safeguard elderly and disabled New Yorkers from abuse and neglect in Nursing Homes and other health care facilities and qualifies as a local law enforcement agency purposes of compliance with this law.

Timeframes for reporting follow:

- Incidents resulting in serious bodily injury must be reported **within two (2) hours** after forming the suspicion.
- All other incidents must be reported within 24 hours.

The Nursing Home must have policies and procedures that comply with this law.

The law prohibits retaliation by a Nursing Home against any individual who makes such a report and establishes distinct penalties, including a fine of up to $200,000 and up to $300,000 if an individual's failure to report within the above-noted timeframes exacerbates harm to the crime victim. The Nursing Home is required to conspicuously post notice to all employees informing them of their reporting obligations and annually provide personal notice of such obligations to those employees subject to the reporting obligations. Further information can be found in the letter from the Centers for Medicare and Medicaid Services titled "Reporting Reasonable Suspicion of a Crime in a Long-Term Care Facility (LTC): Section 1150B of the Social Security Act."

If a crime is suspected, it **must** be reported to local law enforcement.

Timebound Reporting: Patient Abuse Reporting Law

The Patient Abuse Reporting Law, Public Health Law Section 2803-D was enacted in 1977 to protect persons living in Nursing Homes from physical abuse, mistreatment or neglect, and from the misappropriation of personal property. The law requires every Nursing Home employee, including Administrators and Operators, and all licensed professionals whether or not employed by the Nursing Home, to report to the Department of Health ("Department") when there is reasonable cause to believe that a resident has been physically abused, mistreated or neglected. **Such reports must be made to the Department within 48 hours.**

The Law requires the Department to investigate all such allegations and outlines penalties for individuals found guilty of these acts and anyone who is required but failed to report.

Reasonable Cause

Title 10 of New York Codes, Rules and Regulations, Section 81.1(d) defines "reasonable cause" to mean that *"…upon a review of the circumstances, there is sufficient evidence for a prudent person to believe that physical abuse, mistreatment or neglect has occurred…"*

Circumstances that may lead to a reasonable cause conclusion may include, but are not limited to:

- A statement that physical abuse, mistreatment or neglect has occurred.
- The presence of a physical condition (such as a bruise) that is inconsistent with the resident's history or course of treatment.
- The visual or auditory observation of an act or condition of physical abuse, mistreatment or neglect.

Information from the Nursing Home's review of the circumstances must be maintained in the Nursing Home.

If the reasonable cause threshold is unmet, notification to the Department is not required.

Safe Medical Devices Act

The Safe Medical Devices Act of 1990 amended the Food and Drug Administration regulation at section 519(a) of the Food and Drug and Cosmetic Act to include the Medical Device Reporting regulation at Title 21 of the Code of Federal Regulations, Part 803. The Law requires that "user facilities" including Nursing Homes, report deaths, serious injuries, and malfunctions of medical devices to the manufacturer and to the Food and Drug Administration. Nursing Homes submit annual summaries and monthly updates, and are required to report when a device may have caused or contributed to harm or could cause harm if the malfunction were to recur.

Medical Device Reporting (MDR) is the mechanism for the Federal Food and Drug Administration to receive significant medical device adverse event reports from manufacturers, importers and user facilities so they can be detected and corrected quickly. User facilities including hospitals

and Nursing Homes are required to report suspected medical device-related deaths to both the Food and Drug Administration and the manufacturers.

- User facilities report medical device-related serious injuries only to the manufacturer.
- If the medical device manufacturer is unknown, the serious injury is reported by the facility to the Food and Drug Administration.

Health professionals within a user facility should familiarize themselves with their institution's procedures for reporting adverse events to the Food and Drug Administration and medical device manufacturers.

Section 2: Incident Categories and Reporting Scenarios

Reporting scenarios, in the form of questions and answers, are provided for each category to assist in determining whether the reasonable cause threshold for incident reporting was met. These reporting scenarios include examples and are not all-inclusive.

The Nursing Home is responsible for investigating all incidents and maintaining records of each investigation.

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Abuse, Mistreatment, Neglect, Misappropriation

Abuse

Any inappropriate physical contact resulting in injury or that is likely to harm a resident constitutes a reportable incident.

- Federal Definition: The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.
    - Willful, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.

- State Definition: Inappropriate physical contact with a resident of a residential health care facility, while the resident is under the supervision of the facility, which harms or is likely to harm the resident. Inappropriate physical contact includes, but is not limited to, striking, pinching, kicking, shoving, bumping and sexual molestation.

Physical Abuse

Physical abuse can be:

- Resident to resident.
    - This refers to an aggressive act, including inappropriate physical contact that is harmful or likely to cause harm.
    - Incidental touching or non-aggressive contact is not considered to be abuse.
- Staff to resident.
- Family/visitor to resident.

Sexual Abuse

Sexual Abuse can be:

- Resident to resident.
- Staff to resident.

- Family/visitor to resident.

To qualify as reportable, any of the following elements must be present:

- ✓ Non-consensual sexual intrusion or penetration.
- ✓ Non-consensual sexual contact of any type with a resident.
- ✓ Touching intimate body parts or the clothing covering intimate body parts.
- ✓ Observation or photographs of another person's intimate body parts.

Verbal Abuse

Per Appendix PP of the State Operations Manual, verbal abuse may be considered a type of mental abuse, and includes the use of oral, written, or gestured communication, or sounds, to residents within hearing distance, regardless of age, ability to comprehend, or disability. Examples may include:

- Harassment
- Mocking
- Insulting
- Ridiculing
- Threatening
- Yelling at a resident with an intent to intimidate

To qualify as reportable, any of the following elements must be present:

- ✓ Threat or physical action (including threatening gesture or intimidation).
- ✓ Fear of imminent, serious bodily injury.
- ✓ Use of foul, threatening, disparaging or derogatory language.
- ✓ Evidence of psychological harm.

Mental Abuse

Mental abuse may occur through either verbal or nonverbal conduct which causes or has the potential to cause the resident to experience humiliation, intimidation, fear, shame, agitation, or degradation.

To qualify as reportable, the following element must be present:

- ✓ Taking unauthorized photographs or recordings of residents in any state of dress or undress using any type of equipment (e.g., cameras, smart phones, and other electronic devices) and/or keeping or distributing them through multimedia messages or on social media.

Reporting Scenarios Frequently Asked Questions Resident to Resident
Q. Resident #1, who has a diagnosis of Alzheimer's Disease, hits Resident #2 and causes a bruise. Is this reportable? **A.** *Yes, this is reportable. The facility has a responsibility to protect all residents from abuse. The Department would review the facility response to the incident in terms of care planning.*

Reporting Scenarios Frequently Asked Questions
Resident to Resident

Q. Two residents are involved in an altercation. Staff hear the residents yelling and find Resident #1 standing over Resident #2 in Resident #1's room. Resident #1 is shouting, "I told you to stay out of my room!" Resident #2 is lying on the floor and has a 1cm laceration to his left arm. When questioned, Resident #1 states that he struck Resident #2 when he failed to leave the room. Resident #2 has a history of wandering and Resident #1 has a history of being very territorial. Is this reportable?

A. *Yes, this is reportable. Resident #1 had an altercation with Resident #2 which resulted in injury.*

Q. In front of the nurse's station, Residents #1 and 2 bump into each other's wheelchairs. Is this reportable?

A. *This is reportable if there was aggression. If the incident was accidental and no aggression occurred, this is an example of incidental touching or contact and is not reportable.*

Q. Two residents are seated near one another in the dining room. Resident #1 attempts to remove food from Resident #2's tray and Resident #2 slaps Resident #1's hand away. Is this reportable?

A. *Yes, this is reportable if aggression occurred. If no aggression occurred, this is an example of incidental touching or contact that is not reportable.*

Q. It is observed that Resident #1 frequently enters Resident #2's room and rearranges personal items or touches Resident #1 on the arm to say hello. Is this reportable?

A. *No, this is not reportable. Abuse did not occur; however, there is a concern for Resident #1's right to private space and a dignified existence. The facility has a responsibility to care plan accounting for such occurrences and patterns of behavior and to evaluate that plan periodically with the intention of preserving both residents' rights.*

Q. A staff member observes male Resident #1 fondling the breasts of female Resident #2, who has severe dementia and cannot be interviewed. Resident #1 has a psychiatric diagnosis but is cognitively aware and able to be interviewed. Resident #1 denies fondling Resident #2. Is this reportable?

A. *Yes, this is reportable. This is an example of non-consensual sexual contact.*

Q. Employee A reports finding a male Resident #1 in a female Resident #2's room stroking the Resident #2's breast and leg. When questioned by Employee A to determine whether this activity was consensual, Resident #2 voiced no complaint. Both Residents #1 and 2 are on friendly terms and continue to be for the next several days. Then, Resident #2 reports that she considers the behavior of Resident #1 to be inappropriate. Upon interview, Resident #1 states that Resident #2 encouraged the behavior. Is this reportable?

A. *Yes, this is reportable. Once a resident states that a sexual act is non-consensual or is otherwise inappropriate, it is reportable.*

Q. Staff overhears Resident #1, who is alert and oriented, shout at his roommate Resident #2, "Shut the f*** up! You moan all the time! Shut up or I'll shut you up!" Staff intervened

Reporting Scenarios Frequently Asked Questions Resident to Resident
immediately. Resident #2 has a dementia diagnosis and a BIMS score of 9. Immediately following the incident, Resident #2 stops talking, which staff believe might be related to the incident. Is this reportable? **A.** *Yes, this is reportable. The scenario meets all the elements for verbal abuse. Resident #1 directly threatened Resident #2 and did so using foul language and threat of bodily injury. Although Resident #2 could not verbalize fear, his behavior suggested that he was fearful.*

Reporting Scenarios Frequently Asked Questions Staff to Resident
Q. Employee A states that she observed Employee B, a female, with her hand between the legs of Resident #1, a female, during the night shift. Resident #1 has a BIMS of 11. No other staff were present. Employee B denies the allegation. Is this reportable? ***A.*** *Yes, this is reportable. An allegation was made that contained the element of non-consensual sexual contact.* **Q.** Female Resident #1 complains to Employee A that while she was in physical therapy, Employee B touched her breast. This is unrelated to any treatment modality. Resident #1 reports that she believes this was a purposeful act. ***A.*** *Yes, this is reportable. The element of non-consensual sexual contact was present. The facility must conduct a complete and thorough investigation to determine if the staff person was providing legitimate medical assessment or care, as opposed to inappropriate touching*. **Q**. Resident #1 is cognitively intact and is combative with care, acts out and has bruised the arms of staff. Yesterday, Resident #1 said staff intentionally hurt him. Is this reportable? ***A****. Yes, this is reportable. There was an allegation of inappropriate physical contact that resulted in harm.* **Q**. Resident #1 exhibits inappropriate behavior toward staff, including grabbing at body parts when staff pass by. Is this reportable? ***A.*** *No, this is not reportable. The facility must conduct a complete and thorough investigation to determine the possible causes of behavior, including a medical exam, if applicable.* **Q.** Employee A overhears Employee B say to Resident #1, "I'm getting tired of having to come here all the time to clean you up. You are a pain." Resident #1 appears fearful of Employee B, and this observation is reported to the Director of Nursing. Is this reportable? ***A.*** *Yes, this is reportable. Resident #1 was spoken to in a derogatory manner and is fearful.* **Q.** Employee A is showering an alert and oriented 75-year-old female Resident #1. Resident #1 shouts that the water is too cold and yells, "Damn it, warm it up!" Employee A replies, "Shut the hell up and let's get this over with," shaking her fist. Is this reportable? ***A.*** *Yes, this is reportable. The scenario contains elements of foul language and physical gestures.*

Reporting Scenarios Frequently Asked Questions Staff to Resident
Q. Employee A is found taking pictures of residents in the dining room. Is this reportable? ***A.*** *Yes, this is reportable if this is unauthorized and there is no written consent from each resident or the resident's designee.* **Q.** It has come to your attention that a Licensed Practical Nurse, Employee A, posted a picture of herself and Resident #1 on Employee A's personal social media account. You see the post and note both Employee A and Resident #1 are smiling. Is this reportable? ***A.*** *Yes, this is reportable if Employee A does not have written authorization from Resident #1 or their designee giving permission to take the picture and post it to a personal social media account.*

Reporting Scenarios Frequently Asked Questions Family/Visitor to Resident
Q. Last weekend, a family member was observed to have hit Resident #1 in the dining room and subsequently, was observed poking Resident #1 at the dining table. Is this reportable? **A.** *Yes, this is reportable. The actions of the family member are considered abuse and should be reported and investigated with the goal of protecting the resident from further abuse by the family member.* **Q.** A family member had sexual contact with Resident #1. Is this reportable? **A.** *Yes, this is reportable if the element of non-consensual sexual contact was present. Sexual relations between consenting adults (who are capable of consent) are not reportable. If the facility determines non-consensual activity occurred, the facility must conduct a thorough investigation and protect the resident from further abuse by the family member. Moreover, if the act was witnessed by a non-consenting adult, reporting requirements may be triggered.* **Q.** Staff overhear a visitor yelling at Resident #2 and accusing Resident #2 of breaking the belongings of Resident #1. The visitor is shaking his finger at Resident #2. Resident #2 appears fearful. Is this reportable? **A.** *Yes, this is reportable. The facility has knowledge that a family member verbally abused the resident.*

Mistreatment

Mistreatment includes the inappropriate use of medications, inappropriate isolation or inappropriate use of physical or chemical restraints on a resident while the resident is under the supervision of the facility.

To qualify as reportable, the following element must be present:

- ✓ The inappropriate use of isolation, medications, physical or chemical restraints on a resident of a Nursing Home while the resident is under the supervision of the Nursing

Home.

Reporting Scenarios Frequently Asked Questions
Q. Employee A finds Resident #1 tied to the bed with a sheet. It is determined that another Employee B used the sheet to restrain Resident #1 to limit activity. Is this reportable? **A.** *Yes, this is reportable. The example demonstrates inappropriate use of physical or chemical restraint on a resident.*

Neglect

Generally, the federal definition of neglect reflects the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness. The State's definition reflects the failure to provide timely, consistent, safe, adequate and appropriate services, treatment and/or care to a resident while the resident is under the supervision of the facility including, but not limited to nutrition, medication, therapies, sanitary clothing and surroundings, and activities of daily living.

Neglect may include, but is not limited to:

- Failure to carry out physician orders, medication omission, treatment omission or failure to follow the care plan or provide emergency services.
- Failure to adequately supervise whereabouts and activities of residents.
- Failure to provide adequate hydration and nutrition.

Any of the following elements must be present for an incident to be reportable:

- ✓ Failure to follow the care plan, which results in injury.
- ✓ Failure to follow the care plan on more than one occasion, with or without injury.
- ✓ Failure to provide timely, consistent, safe, adequate and appropriate services.

Reporting Scenarios Frequently Asked Questions
Q. Employees A and B witness Resident #1 fall. Resident #1 is assessed, and no injury is noted. Resident #1 does not complain of pain. Neither Employee A nor B documented the fall and did not pass the information on to the next shift. For the next two days, Resident #1 complains of pain. After two days, a physician is notified and X-rays are taken, which confirms a fracture. Is this reportable? **A.** *Yes, this is reportable. Staff were aware of the fall and potential for injury but failed to provide timely and appropriate services.* **Q.** Resident #1 requires an assistive device for lift transfers. Employees A and B transfer Resident #1 without the lift. Resident #1 falls and sustains a fracture. The Hoyer lift was available, but Employees A and B were hurried and chose not to use it. Is this reportable? **A.** *Yes, this is reportable. Employees A and B should have been knowledgeable about, and followed, the resident's care plan indicating that the resident requires a Hoyer lift for transfers. This failure resulted in an injury to Resident #1.*

Misappropriation of Property

The federal definition of misappropriation of property references the deliberate misplacement, exploitation, or wrongful temporary or permanent use of a resident's belongings or money without the resident's consent. The State's definition includes theft, unauthorized use or removal, embezzlement or intentional destruction of a resident's personal property including, but not limited to money, clothing, furniture, appliances, jewelry, works of art, and such other possessions and articles belonging to the resident regardless of assumed or assessed monetary value.

At least one of the following elements must be present for an incident to be reportable to the Department:

- ✓ Deliberately misplacing, theft, exploiting, destruction, or wrongful use of a resident's property.
- ✓ A pattern of misplacing, theft, exploiting, destroying, or wrongful use of a resident's property.

If an allegation is made against a staff member and the Nursing Home has reasonable cause to believe that misappropriation occurred, it is reportable.

If the resident reports to the Nursing Home misappropriation by a family member, it is not reportable to the Department unless the family member is an employee of, or staff under contract with, the Nursing Home.

Reporting Scenarios Frequently Asked Questions
Q. The daughter of Resident #1 reports that her mother's ruby ring, which she last saw two days ago, is missing. Resident #1 has mild dementia, but the daughter insists that Resident #1 did not misplace it and implies that a staff member is responsible. Is this reportable? **A.** *No, at this point, this is not reportable. The Nursing Home has no evidence of deliberate misplacement, theft, destruction, or wrongful use of the ring. The ring could be lost or misplaced. The Nursing Home must conduct a complete, thorough investigation and search for the ring.* **Q.** Following a search, Resident #1's ruby ring has not been found. The daughter observes Employee A wearing what she believes to be her mother's ring, and notified the police. Is this reportable? **A.** *Yes, this is reportable. There is reasonable cause to believe a staff member may have taken the ring.* **Q.** A Nursing Home receives $25 from three different resident families on Wednesday for an outing on Friday. Employee A at the desk gives the $75 to Nurse B, who locks it in the business office. On Friday morning, Social Worker C asks Nurse B for the money. There is no money in the business office. Is this reportable? **A.** *Yes, this is reportable. Deliberateness is implied because the money was given to staff and secured, and only staff have a key to the business office.* **Q.** Resident #1 reports that Employee A is using her personal cell phone for other residents without her permission. Is this reportable?

Reporting Scenarios Frequently Asked Questions
A. *Yes, this is reportable. The resident did not give permission for use of his/her personal property by others in the Nursing Home.*

Quality of Care

Medication Error/Drug Diversion

Any of the following elements must be present for an incident to be reportable to the Department:

- ✓ Medication or treatment error with harm.
- ✓ A deliberate decision made by a nurse not to administer medication or a treatment, or a pattern of omission of medications or treatment and/or including falsification of records.
- ✓ Missing controlled substances that are not a documentation error and have potential for (or result in) a negative resident outcome.

Nursing Homes **must** report any diversion of controlled substances to the New York State Department of Health Bureau of Narcotic Enforcement **and** the New York State Education Department's Office the Professions if applicable.

Reporting Scenarios Frequently Asked Questions
Q. How do I notify the Bureau of Narcotic Enforcement of an incident or alleged incident of theft, loss or possible diversion of a controlled substance? ***A.*** *Submit form DOH-2094 to narcotic@health.ny.gov within one (1) business day of the incident.* **Q.** We just discovered loss of a controlled substance that looks to have occurred about two months ago. Should the Bureau of Narcotic Enforcement be notified? ***A.*** *Yes. Submit form DOH-2094 within one (1) business day from the date the incident was discovered.* **Q.** When should local law enforcement be notified of an incident or alleged incident of theft, loss or possible diversion of a controlled substance? ***A.*** *If you suspect an incident of theft or diversion, you should contact local law enforcement and document relevant information within the DOH-2094.* **Q.** Should we wait to send in the DOH-2094 until we complete an investigation internally? ***A.*** *No. You should send in the DOH-2094 as soon as you are aware of an incident and continue your internal investigation while awaiting a response from the Bureau of Narcotic Enforcement.* **Q.** If I have questions or need additional information, who should I contact? ***A.*** *You can email narcotic@health.ny.gov with your questions.*

Reporting Scenarios Frequently Asked Questions
Q. Nurse A makes a dosage error of an anticoagulant over a few days. Resident #1 exhibits excessive bruising and a very high International Normalized Ratio, is hospitalized and requires Vitamin K treatment. Is this reportable? ***A.*** *Yes, this is reportable. Harm occurred in the form of bruises and high International Normalized Ratio which required hospitalization and additional medical intervention.* **Q.** A unit dose package of an opioid is missing. Staff report that only one nurse has the key to the narcotic box. The medication count was correct at shift change, but incorrect at the next shift. Is this reportable? ***A.*** *Yes, this is reportable. The nurse may have diverted the medication. In addition to being a medication safeguarding concern, this could possibly be considered neglect. This incident should be reported to the Department and to the Bureau of Narcotic Enforcement, New York State Education Department's Office of the Professions, and Attorney General's Office.* **Q.** Nurse A fails to administer treatments to residents on the unit to which he is assigned. Is this reportable? ***A.*** *Yes, this is reportable. The failure of Nurse A to administer treatments affects many residents and there is a potential for harm. In addition, physician orders and care plans were not followed. Signing for medications and/or treatments not administered is considered falsification of records.*

Injury of Unknown Origin

An injury should be classified as an “injury of unknown source” when both of the following conditions are met:

- ✓ The source of the injury was not observed by any person, or the source of the injury could not be explained by the resident.
- ✓ The injury is suspicious because of the extent or location of the injury, or the location of the injury (e.g., the injury is in an area not generally vulnerable to trauma), or the number of injuries observed at one particular point in time, or incidences of injuries over time.

Reporting Scenarios Frequently Asked Questions
Q. Resident #1 was found with bruising to both upper extremities but cannot be interviewed. Is this reportable? ***A.*** *Yes, this is reportable if the Nursing Home’s preliminary investigation determined that elements of abuse, mistreatment or neglect were present.* **Q.** Resident #1 was found with a fractured hip of unknown origin. Is this reportable? ***A.*** *Yes, if the Nursing Home is unable to determine the cause of the fracture, there is a care plan violation and/or abuse, neglect or mistreatment is not ruled out, this is reportable*.

The Nursing Home should seek input from the Medical Director and/or the resident's physician to determine if there is any underlying medical condition that may help to explain an injury of unknown origin.

Burns

Any instance resulting in a burn to the body surface must be reported to the Department.

Reporting Scenarios Frequently Asked Questions
Q. Resident #1, an 80-year old male resident, is outside smoking. Resident #1 uses oxygen via nasal cannula. Employee A discovers Resident #1 is red and blistered around the mouth and nose, and his beard is singed. Is this reportable? ***A.*** *Yes, this is reportable. The resident sustained a superficial partial thickness (superficial second-degree) burn related to an accident.* **Q.** Resident #1 spilled hot coffee on his lap, resulting in a blistered area. Is this reportable? ***A.*** *Yes, this is reportable. The resident sustained a burn related to an accident*. **Q.** Following application of a hot pack, Resident #1 develops a red blistered area. Is this reportable? ***A.*** *Yes, this is reportable. The resident sustained a burn related to an accident.*

Attempted Suicide or Death or Injury Related to Suicide, Restraints, Equipment or Death Related to Fall

At least one of the following elements must be present for an incident to be reportable to the Department:

- ✓ Resident attempt at suicide.
- ✓ A death occurred that is reportable to law enforcement as unexplained or suspicious.
- ✓ A death related to an accident.
- ✓ An incident or accident related to entrapment or use of equipment.

Reporting Scenarios Frequently Asked Questions
Q. Resident #1 identifies they witnessed Resident #2 attempt to commit suicide, but there is no evidence of such. Is this reportable? ***A.*** *Yes, this is reportable. All suicides and suicide attempts are reportable. A resident's report of a suicide attempt with or without evidence of a suicide attempt is reportable.* **Q**. Resident #1 was stopped in the act of attempting to commit suicide and all injuries were avoided. Is this reportable?

Reporting Scenarios Frequently Asked Questions
A. *Yes, all suicides and suicide attempts must be reported.* **Q.** Employee A was observed using a restraint on Resident #1, but Resident #1 is not injured. Is this reportable? ***A.*** *Yes, this is reportable with or without injury. Restraints are considered abuse.* **Q.** Resident #1 fell but does not appear to be injured. A few days later, Resident #1 complained of pain in the area of the body affected by the fall. Is this reportable? ***A.*** *Yes, this is reportable, even if the injury or pain was not evident at the time of the fall.* **Q.** Resident #1 is injured using a Hoyer lift and sustains subdural hematoma. Is this reportable? ***A.*** *Yes this is reportable. The injury is related to the use of equipment. If equipment failure is identified, the facility must complete and forward a report according to the Safe Medical Devices reporting guidelines.* **Q.** Resident #1 using a chair equipped with an enabling device falls and is injured. Is this reportable? ***A.*** *Yes, any injury related to the use of equipment is reportable.* **Q.** Resident #1 uses upper side rails for positioning, turns in bed, and gets a leg wedged between the side rail and mattress. Should this be reported? ***A.*** *Yes, this is reportable regardless of outcome.*

Accidents/Choking

The following element must be present for an incident to be reportable to the Department:

- ✓ Accident related to choking with a care plan violation with regard to incorrect consistency being consumed, or incorrect feeding technique used by staff.

Reporting Scenarios Frequently Asked Questions
Q. Resident #1 is on a Level 1 thickened liquid therapeutic diet but is instead served a Level 3 thickened meal. Is this reportable? ***A.*** *Yes, this is reportable if Resident #1 choked and required staff interventions. If the staff prevented ingestion of the item, and Resident #1 was not negatively affected, this would not be reportable to the Department.* **Q.** Resident #1 repeatedly coughs and has difficulty managing prescribed food consistency. Is this reportable? ***A.*** *Yes, this is reportable if the Nursing Home did not assess the resident to determine if a change in consistency is necessary.*

Residents in a Non-Resident Area

The following element must be present for an incident to be reportable to the Department:

- ✓ Resident found in a potentially hazardous non-resident area.

Reporting Scenarios Frequently Asked Questions
Q. Resident #1, who is ambulatory, is found unattended in a non-resident area in the Nursing Home which has machinery, equipment and toxic supplies. Is this reportable? ***A.*** *Yes, this is reportable. Residents should not be unattended in non-resident areas, including, but not limited to, equipment rooms, kitchen areas, janitor areas, utility areas, basement, roof or climbs out of a window. If this occurs, it is reportable, regardless of the presence of actual injury.* **Q.** Resident #1 was found in the stairwell by a visitor. Is this reportable? ***A.*** *Yes, this is reportable if Resident #1 was able open a stairwell door without an alarm sounding, if injury occurred or resident is at a high risk for elopement.*

Administration of Life Saving Care

At least one of the following elements must be present for an incident to be reportable to the Department:

- ✓ Life Saving Care was not provided when it was required.
- ✓ Life Saving Care was provided against a resident's wishes.
- ✓ Life Saving Care was initiated and stopped when staff became aware of the resident's wishes.

Reporting Scenarios Frequently Asked Questions
Q. Resident #1 has a Do Not Resuscitate order and is found without breath or pulse. Employee A initiated Cardiopulmonary Resuscitation and successfully restored Resident #1's breathing and pulse. Resident #1 was transferred to the hospital. Is this reportable? ***A.*** *Yes, this is reportable. Administering resuscitative care was in direct opposition to the resident's wishes. This may indicate that the Nursing Home's plan to make the resident's wishes known to all may have failed.* **Q.** A few days after the incident with Resident #1 above, Resident #2 is found without breath or pulse. Employee A decided not to initiate resuscitative care, and Resident #2 expired. Resident #2 has on file a Medical Orders for Life-Sustaining Treatment with Section B indicating "Attempt Cardio-Pulmonary Resuscitation." Is this reportable? ***A.*** *Yes, this is reportable. Employee A's decision not to provide resuscitative care was incorrect and in direct opposition to the resident's wishes.*

Elopement (outside the facility)

At least one of the following elements must be present for an incident to be reportable to the Department:

- ✓ Resident with cognitive impairment or elopement risk leaves the Nursing Home undetected or elopes from physician, other outside appointment, or facility outing.
- ✓ Resident, despite cognition, is at risk of elopement and remains missing after search of the building is conducted.
- ✓ Resident with a pass fails to return from outing.

Reporting Scenarios Frequently Asked Questions
Q. A Nursing Home receives a call from the local hospital stating that Resident #1 was brought to the hospital after being found by the police. A review of the Nursing Home's records shows that Resident #1 was last observed during the nightly medical pass (5:00pm). The Nursing Home did not know Resident #1 was missing until notification from the hospital at 7:00pm the following day. Is this reportable? ***A.*** *Yes, this is reportable. The fact that the Nursing Home did not initiate a search because they did not know the resident was missing does not relieve the Nursing Home of its responsibility to report. If a resident is missing from the Nursing Home for more than 24 hours, it is reportable.* **Q.** Resident #1, who is cognitively intact, attends an appointment at an offsite physician's office with Employee A. While there, Resident #1 leaves the office building undetected, but is found unharmed at the Nursing Home approximately four hours later. Is this reportable? ***A.*** *Yes, this is reportable. Staff had a responsibility to ensure that the resident was supervised and safely returned to the Nursing Home.* **Q.** Resident #1 left the Nursing Home at 9:00am to spend the day with family. At 8:00pm, Employee A identifies that Resident #1 is not in their room and confirms that Resident #1 has not returned to the Nursing Home. Calls to the Resident #1's family go unanswered. At 9:00am the next day, Resident #1 still has not returned. Ongoing outreach to the family is unsuccessful. Is this reportable? ***A.*** *Yes, this is reportable. Although the Nursing Home knows that the resident left to spend the day with family, the resident's whereabouts have been unknown for more than 24 hours with unsuccessful outreach to the family.* **Q**. Receptionist A is new to their role at the front desk. An individual presents to the front desk as a visitor and asks to leave. Receptionist A opens the door and the individual departs. Later, Receptionist A learns this individual was Resident #1. Is this reportable? ***A.*** *Yes, this is reportable. Having a receptionist is a part of the Nursing Home's elopement prevention policy, but the system failed.* **Q.** A cognitively impaired Resident #1 approaches an alarmed door, the alarm sounds and Employees A and B respond, retrieving Resident #1 without harm. Resident #1 is safe and returns to her unit. Is this reportable? ***A****. No, this is not reportable. If the resident was able to exit the building undetected and staff was unaware, this is reportable.* **Q.** A cognitively impaired Resident #1 exits the Nursing Home but is found on the campus. Is this reportable?

Reporting Scenarios Frequently Asked Questions
***A**. Yes, this is reportable. Once the resident exits the Nursing Home undetected it is considered an elopement.*

Section 3: Facility Investigation

Consistent with QSO-22-19-NH and Chapter 5 of the State Operations Manual, the facility's Investigation Summary Report must be submitted to the Department of Health ("Department") no later than five (5) business days after the incident or accident. In this Report, the facility must provide sufficient information to describe the results of their investigation and indicate any correction action/s taken if the allegation was verified. The facility should include updates to information in its initial Facility-Reported Incident Report and the following, at minimum:

- Additional/Updated information related to the reported incident.
- Steps taken to investigate the allegation.
- A conclusion.
- Corrective action(s) taken.
- The name of the facility investigator.

To meet this expectation, the facility should begin its investigation immediately upon discovery of an incident. The investigation must be complete and thorough, and further potential abuse, incidents or accidents must be prevented while the investigation is in progress. Documents associated with the facility investigation may include, but are not limited to:

- ✓ Witness statement(s);
- ✓ Resident statement(s);
- ✓ Accused statement(s);
- ✓ Facility investigation report;
- ✓ Resident(s) medical record;
- ✓ Care plan(s) and diagnoses;
- ✓ Resident cognition evaluation;
- ✓ Employee personnel and training records;
- ✓ Report/case ID number from law enforcement, if reported;
- ✓ Pictures, if taken;
- ✓ Video surveillance;
- ✓ Police or other public safety reports; and
- ✓ Plan to prevent recurrence.

Section 4: Facility Reported Incident Submission Instructions

Initial Facility Incident Report

Facility-Reported Incidents are submitted to the Department electronically. To submit an initial Nursing Home incident report, go to: https://apps.health.ny.gov/pubpal/builder/survey/nys-nh-facility-incident-report. It is important that the Nursing Home provides as much information as possible at the time of the submission. Please note that Incident Reports should be submitted based on the standards referenced in this Manual.

1. The first page captures the details of the incident.

- Complete all required fields, marked with *.
- Fields with a **v** indicates that there is a pre-populated choice. Click on the **v** to select the appropriate choice.
- If you choose the “no” answer to a question, the subsequent questions are unavailable.
- If you choose the “yes” answer, you must answer the required questions.
- You may answer “unknown” or “Not Applicable” where appropriate.
- Date fields contain a icon that allows you to choose the correct date.
- Time fields contain a icon. Time is in hours and minutes AM and PM.
- After completing all required fields on the first page, you must scroll down to the bottom and click Next Page >.

2. The second page captures reporting to other agencies.

- If you reported the incident to an outside agency, select “yes”.
- Please enter the name of the individual handling the report. If Law Enforcement or Other, please enter organization name and individual. Please enter as many additional entries as necessary.

3. When you have completed the report. Click Submit.

Investigative Summary Report (5-day)

To submit the Investigative Summary Report (5-DAY), due 5 working days from the date that the incident was submitted, go to: https://apps.health.ny.gov/pubpal/builder/survey/nys-nh-facility-incidentfollowup.

When completing the Investigative report, the submitter must enter the appropriate iQIES case number and Facility ID (PFI). Complete all the required fields, marked with *.

Complete all eight sections noted below:

1. Facility and Case Information
2. Additional/Updated Information Related to the Reported Incident
3. Steps taken to investigate the allegation
4. Conclusion
5. Corrective Action(s) Taken
6. Facility investigator Information
7. Submitter Information.
8. Click Submit. The last section will state complete once form is completed. You must indicate if the allegation has been Verified, Not Verified or Inconclusive and a brief description of the conclusion of your investigation.

The Investigative Report cannot be saved and must be fully completed and submitted prior to closing the internet browser. It is recommended that the individual preparing the Report save a copy prior to submission.

Need Help?

Questions about Incident Reporting can be directed to:

Bureau of Intake Management
Division of Residential Support
Center for Residential Surveillance
Office of Aging and Long-Term Care
New York State Department of Health
nhFRI@health.ny.gov