

New Mexico Department of Health

Reporting Abuse, Neglect and Exploitation and Injuries of Unknown Origin in Licensed and/or Certified Facilities

Division of Health Improvement Statewide
Training June 1 – June 30, 2009



Purpose

- I. Understanding federal and state regulations relating to Incident Management/Abuse Prohibition
- II. Understanding components of an Incident Management System
- III. Recognizing indicators of Abuse/Neglect/Exploitation (A/N/E)
- IV. Understanding the investigation process
- V. Identifying common provider pitfalls

7.1.13 NMAC SCOPE

- Licensed Facilities
 - ✓ Adult Residential, End Stage Renal Disease, Hospice, ICF/MR, Nursing, Skilled Nursing
- Centers
 - ✓ Surgical, Diagnostic and Treatment, Limited Diagnostic and Treatment Center
- Hospitals
 - ✓ General, Acute, Special and Limited Service, Infirmary
- Rural Health Clinics

IMS Principles

A provider's incident management system must emphasize prevention and staff involvement in order to provide safe environments for the individuals they serve

IMS Principles

Staff must be competent and trained to respond to, report, and document incidents in a timely and accurate manner

Individuals should have a quality of life that is free of abuse, neglect, and exploitation

IMS Principles

Any individual who, without false intent, reports an incident or makes an allegation of abuse, neglect or exploitation will be free of any form of retaliation

Identifying Patterns of Abuse or Neglect

- There are three basic ways individuals become aware that abuse, neglect, or exploitation may have occurred:
 - ✓ Personal observation of the incident
 - ✓ Evidence of the incident such as bruises, burns, or missing money, etc.
 - ✓ An individual tells about the abuse, neglect, or exploitation

7.1.13 NMAC ABUSE

Means the **willful** infliction of injury, unreasonable confinement, intimidation or punishment with resulting **physical harm, pain or mental anguish**

42 CFR 488.301

Possible Indicators of Physical Abuse

- Bruises-bilateral, clustered, old and new
- Bruises to the genital or breast area
- Bruises with a distinct pattern (handprint)
- Bruises that do not resemble the explanation given for the cause

Examples of Abuse

- Punishing for real or imagined actions
- Coercing to involve in sexual assaults
- Calling demeaning names
- Inappropriately using mechanical or chemical restraints

7.1.13 NMAC NEGLECT

Means the **failure** to provide goods and services necessary to avoid physical harm, mental anguish or mental illness

42 CFR 488.301

Examples of Neglect

- Spends long periods of time in own feces or urine
- Malnourished or dehydrated
- Is dirty or smells
- Has untreated medical conditions
- Has bed sores (pressure sores)
- Has unhealed sores or untreated injuries

7.1.13 NMAC Misappropriation of Property (aka Exploitation)

Means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent

42 CFR 488.301

Examples of Exploitation

- Uses the resident/client finances to meet caregiver's needs
- Coerces resident/client to become their power of attorney, guardian, representative payee

Identifying Patterns

- Financial—

Look for:

- ✓ Personal items not purchased in a timely manner
- ✓ Expenditures not authorized by consumer or consumer's budget
- ✓ Pattern of overdraft charges

Injuries of Unknown Origin

- §483.13(c), F224-F225
- Serious Injuries, extensive or large bruises, fractures, etc.
- Unwitnessed with no explanation for injury
- Unheard is a component
- Injuries that defy explanation

Policies and Procedures

- What is the action?
- How is the policy implemented?
- Who will perform each action?
- When will the action be done?
- Where will the action take place?
- Who supervises and evaluates?

Policies and Procedures

- A policy is a written principle
- Procedure is action
- Procedures operationalize policies

Abuse Prohibition (continued)

These include policies and procedures for the following:

Screening of potential hires;

- Training of employees (both for new employees, and ongoing training for all employees);
- Prevention policies and procedures;
- Identification of possible incidents or allegations which need investigation;
- Investigation of incidents and allegations;
- Protection of residents during investigations; and
- Reporting of incidents, investigations, and facility response to the results of their investigations.

Screening

- Does the facility assess staffing level, staff skills, staff organization and the environment for abuse/neglect fostering conditions?
- Does the facility compare the resident's needs to its setting and resources?
- Does the facility comprehensively assess residents?

7.1.9 NMAC Caregivers Criminal History Screening Requirements

- All caregivers (including paid family members must have a criminal history screening prior to working with any residents/patients/clients
- The criminal history screening must be done with every change of employment

Abuse Prohibition (continued)

- Obtain a list of all employees hired within the previous 4 months, and select five from this list. Ask the facility to provide written evidence that the facility conducted pre-screening based on the regulatory requirements at 42 CFR 483.13(c).

IMS Written Training Curriculum

- Each employee must be trained annually
- All new employees shall receive training within 30 days of the initial hire date
- The facility must have a signed statement with the date, time and place training was received for each employee
- Documentation must be maintained for 12 months or 6 months after termination

IMS Written Training Curriculum

- Training must be given in a language the employee understands
- Curriculum must be available on the provider's premises
- Documentation must be immediately available to the state

Abuse Prohibition (continued)

- If staff are trained in and are knowledgeable about how to appropriately intervene in situations involving residents who have aggressive or catastrophic reactions.
- NOTE: Catastrophic reactions are extraordinary reactions of residents to ordinary stimuli, such as the attempt to provide care. One definition in current literature is: “. . . catastrophic reactions [are] defined as reactions or mood changes of the resident in response to what may seem to be minimal stimuli (e.g., bathing, dressing, having to go to the bathroom, a question asked of the person) that can be characterized by weeping, blushing, anger, agitation, or stubbornness. “Catastrophic reactions and other behaviors of Alzheimer residents: Special unit compared to traditional units.” Elizabeth A Swanson, Meridean L. Maas, and Cathleen Buckwalter. Archives of Psychiatric Nursing. Vol. VII No. 5 (October 1993). Pp. 292-299.

Training

- Managers are taught and exhibit model behaviors
- Staff education is a continuous loop of experience and learning through example, direction, correction, redirection, praise, and constructive criticism
- Managers always treat residents and staff with respect
- Is the training effective?

Prevention

- Identify and analyze risk factors (risk management)
- Quality review of specific incidents to identify “lessons learned” and to see if policies and procedures work
- Supervise and evaluate employee-staff interactions and performance in relation to resident needs, 24/7

Prevention

- Base staffing ratios on resident needs, size and physical layout of facility, and experience and turnover of staff
- Monitor routinely for inappropriate behavior, residents at high risk for abuse or neglect, and employee stressors on the job or at home.
- Assess from the resident's perspective

Prevention

- The facility cannot prevent, if it ignores indicators, reports, and evidence
- The facility cannot prevent if it fails to investigate
- The facility cannot prevent if it fails to implement corrective action

Identification

- Where are the risks?
- Where are the vulnerable residents?
- Where are the aggressive residents?

Identification

- The facility must identify those residents whose personal histories render them at risk for abusing other residents
- The facility must develop intervention strategies to prevent occurrences
- Monitor for changes that would trigger abusive behavior
- Reassess these interventions on a regular basis

Identifying Patterns

- Daily progress notes

Look for:

- ✓ Issues that should be reported
- ✓ Statements about staffing- were the appropriate number of staff present
- ✓ Documented health issues or concerns not addressed
- ✓ Behavioral issues not handled appropriately

IMS Reporting Requirements

- Written Incident Report (IR) form
 - ✓ Fill out hard copy of IR to fax or
 - ✓ Fill out IR form on-line and submit by email
- Person with most knowledge makes the report
- The reporters must have immediate access to the IR form to allow them to respond to, report and document incidents accurately and in a timely manner

IMS Reporting Requirements

- Send completed IR with all required information to Health Facility Licensing & Certification (HFL&C) within 24 hours of incident

IMS Posters

- Post 2 or more posters
- If larger than 60 beds, post 3 posters
- Post in **prominent public location**
- Place where employees report each day and carry out their activities
- Posters should not be defaced, altered, removed or covered by other material

Common Provider Pitfalls

- Incomplete Incident Report forms
 - ✓ Remember the:
 - Who
 - What
 - Where
 - When
 - Why
 - How

IMS Quality Improvement System

- Includes a process for reviewing alleged complaints and incidents including determining the cause
- Maintains documentation of thorough investigation of alleged violations
- Takes action to prevent further incidents
- Includes written documentation of corrective/preventative actions taken

IMS Quality Improvement System

Questions to keep in mind
as you develop a Plan...

- What is the area of improvement?
- Where do you want to be?
- How are you going to get there?
- How will you know when you get there?
- Did it work? (Did you get there?)

Access and Cooperation

- The provider shall facilitate **immediate** physical or in-person access to all records, regardless of media,

The Investigation Process

What is Needed during the Investigation

- Complete cooperation by the agency
- Access to all required documents
- A private room to work in, with access to a phone.

Common Provider Pitfalls

- Late Reports
- Failure to report
- Not completing an internal investigation that is thorough and has a summary of corrective action
- Corrective action that is individual based instead of addressing systemic issues
- Not implementing or acting upon the corrective action

Consequences of Noncompliance

- Sanctions may be imposed if the provider
 - ✓ Fails to report
 - ✓ Fails to provide or maintain evidence of an existing incident management system
 - ✓ Fails to provide or maintain employee training documentation

Federal and State Regulations Related to Incident Management

Federal: <http://cms.hhs.gov/manuals/Downloads/som107>

7.1.13 NMAC - Incident Reporting

7.1.9 NMAC - Caregivers Criminal History
Screening Requirements

7.1.12 NMAC – Employee Abuse Registry

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Details for 100-07

Return to List

Shown below are the details for the item you selected from the list.

Publication # 100-07

Title State Operations Manual

Downloads

- [Chapter 1 - Program Background and Responsibilities \[PDF, 207 KB\]](#)
- [Chapter 2 - The Certification Process \[PDF, 1,167 KB\]](#)
- [Chapter 3 - Additional Program Activities \[PDF, 433 KB\]](#)
- [Chapter 4 - Program Administration and Fiscal Management \[PDF, 434 KB\]](#)
- [Chapter 5 - Complaint Procedures \[PDF, 580 KB\]](#)
- [Chapter 6 - Special Procedures for Laboratories \[PDF, 2,100 KB\]](#)
- [Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities \[PDF, 1,639 KB\]](#)
- [Chapter 8 - Standards and Certification \[PDF, 116 KB\]](#)
- [Exhibits Table of Contents \[PDF, 348 KB\]](#)
- [Appendices Table of Contents \[PDF, 57 KB\]](#)

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7.1.13 NMAC Deaths

in Licensed Facilities

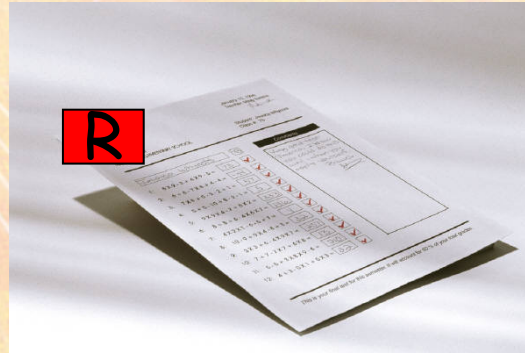
- Only deaths related to A/N/E
- Hospitals only - deaths involving restraint or seclusion
 - ✓ Requirements are not specific to any treatment setting but to the situation the restraint is addressing
 - ✓ A psychiatric health setting does NOT determine if restraint or seclusion use falls under standard (f)

7.1.13 NMAC Deaths

for Licensed Facilities

- Hospital Restraint Deaths, Continued
 - ✓ Standard (f) addresses restraint or seclusion used to manage a person's violent behavior
 - ✓ If restraint or seclusion is used for behavior management, the death of any patient, for any reason, while in restraint or seclusion **MUST** be reported to CMS Regional Office

When In Doubt. . .



**Report, Report, Report
To
DHI and HFL&C**

Contacts and Resources

DHI Reporting Mechanisms

- Health Facility Licensing and Certification
 - Fax: 1-888-576-0012
 - Email/Online Reporting:
 - <http://dhi.health.state.nm.us>

Contacts and Resources

Website:

<http://dhi.health.state.nm.us>

Health Facility Licensing and Certification

Main Phone Number:

(505) 476-9025

7.1.9 NMAC Caregivers Criminal History Screening Requirements

- Screening application must be submitted to CCHSP no later than 20 calendar days from first date of employment or effective date of contract
- After the provider has submitted necessary documents and paid necessary fees, the caregiver is given conditional supervised employment pending outcome of screening

7.1.9 NMAC Caregivers Criminal History Screening Requirements

- If the screening results in a disqualifying charge, the caregiver has 14 days to request a reconsideration
- If no reconsideration is requested or if the reconsideration upholds the disqualifying charge, the caregiver must be terminated immediately

7.1.12 NMAC

Employee Abuse Registry (EAR)

- Effective 1/1/2006
- Electronic registry of persons with substantiated instances of abuse, neglect or exploitation
- Supplements other pre-employment screening requirements (CCHS and CNA screening)

7.1.12 NMAC EAR

- Applies to all health care providers and employees and contractors of those providers
- Does not apply to NM licensed health care professionals practicing within the scope of a license or a CNA
- Requires that employers check registry prior to employing or contracting with someone

7.1.12 NMAC EAR

- A provider may not employ or contract with a person listed on the registry
- Persons referred to the registry may request a hearing
- Persons placed on the registry may petition for removal after 3 years