



JEB BUSH, GOVERNOR

RHONDA M. MEDOWS, MD, FAAFP, SECRETARY

March 6, 2003

Re: Reporting Requirements for Abuse and Neglect

Dear Nursing Home Administrator:

Federal requirements mandate the facility ensure all alleged violations involving abuse, neglect or exploitation are reported immediately to the Agency for Health Care Administration (Agency) and other entities as appropriate under state law such as Adult Protective Services and law enforcement. In addition, the facility must report the results of the ensuing investigation to the Agency by the 5th working day. Historically, reports were made to the field office manager for your region. Although we attempted to allow the state Adverse Incident report to satisfy this federal reporting requirement, due to confidentiality in state law and federal data entry requirements, we are unable to continue this option.

Federal Reporting Requirement

New federal requirements mandate that information from facility reports of abuse and neglect be entered into a new federal data system maintained by the Agency. Therefore, we must modify the protocol for submission of incident reports as defined in CFR 483.13 (attached).

Immediate Report - Facilities must satisfy the "immediate" federal reporting requirement by notifying the appropriate field office (FO) of an incident (FO contact list attached).

5-Day Report - Facilities must satisfy the federal requirement to report the results of the investigation within 5 working days by submitting a report by the 5th working day to the Agency for Health Care Administration, Complaint Administration Unit (CAU) by fax at 850/488-6094 or by e-mail at cau@fdhc.state.fl.us. Currently, there are no mandated forms; however, we are entering the following information into the federal data system: Facility information, name of the reporter, a summary of the incident with the reporting investigation results, date of the incident, name of the resident or residents involved and any staff involved. We expect further guidelines from CMS for reporting requirements, which will be forwarded once available.

State Adverse Incident Reporting Requirement

The 1-Day and the 15-Day Adverse Incident reports required in Chapter 400, Florida Statutes (F.S.), must continue to be submitted to the Agency Facility Data Analysis Unit (FDAU). Contact information for FDAU can be found on the AHCA web site below as well as information regarding the electronic submission of adverse incidents:

http://www.fdhc.state.fl.us/MCHQ/Long_Term_Care/FDAU/index.shtml

If you have questions regarding the federal reporting requirement, please contact Barbara Dombrowski of the Complaint Administration Unit at 850/488-5514. If you have questions



regarding the state adverse incident reporting, please contact Jane Boerger of the Facility Data Analysis Unit at 850/922-6089.

Sincerely,

Elizabeth Dudek, Deputy Secretary
Division of Health Quality Assurance

ED/bjt

Attachments: Field Office Address List
CFR 483.13

cc: AHCA Field Offices
Florida Health Care Association
Florida Association of Homes for the Aging
Facility Data Analysis Unit
Complaint Administration Unit
Long Term Care Unit

AGENCY FOR HEALTH CARE ADMINISTRATION

*Division of Health Quality Assurance
Bureau of Field Operations*

Polly Weaver, Chief of Field Operations

Shannon Tyburski, OMC I, SC 994-0355 or 414-0355

2727 Mahan Drive, MS#25

Tallahassee, FL 32308

(850) 414-9796

850-487-6240 Fax

Complaint Administration Unit

Barbara Dombrowski, Manager

2727 Mahan Drive, MS # 49

Tallahassee, FL 32308

(850) 488-5514

(850) 488-6094 Fax

Tallahassee Field Office - Sec., Tiana Jackson

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2727 Mahan Drive, Bldg #2, Mail Stop 46

Tallahassee, FL 32308-5403

(850) 922-8844

(850) 922-9162 Fax

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Alachua, FL 32615-5669

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(386) 418-5300 Fax

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Bldg. A, Suite 115

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Jacksonville, FL 32209

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(904) 359-6054 Fax

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Sebring Building, Suite 410A

525 Mirror Lake Drive North

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Regional Services Center

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Ft. Myers, FL 33901

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(239) 338-2372 Fax

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Miami, FL 33166

(305) 499-2165

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Health Standards & Quality Unit

Admin Secretary - Earlean Roberts-Taylor

Susan Acker, Nursing Svcs Director

2727 Mahan Drive, Mail Stop 9 A

Tallahassee, FL 32308

(850) 922-9138

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§ 483.13

42 CFR Ch. IV (10-1-99 Edition)

§ 483.13 Resident behavior and facility practices.

(a) *Restraints.* The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

(b) *Abuse.* The resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.

(c) *Staff treatment of residents.* The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

(1) The facility must—

(i) Not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion;

(ii) Not employ individuals who have been—

(A) Found guilty of abusing, neglecting, or mistreating residents by a court of law; or

(B) Have had a finding entered into the State nurse aide registry concerning abuse, neglect, mistreatment of residents or misappropriation of their property; and

(iii) Report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the State nurse aide registry or licensing authorities.

(2) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property are reported immediately to the administrator of the facility and to other officials in accordance with State law through established procedures (including to the State survey and certification agency).

(3) The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.

(4) The results of all investigations must be reported to the administrator or his designated representative and to other officials in accordance with State law (including to the State sur-

vey and certification agency) within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken.

[56 FR 48870, Sept. 26, 1991, as amended at 57 FR 43924, Sept. 23, 1992]



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