



Nursing Home Incident Reporting Manual

**Division of Nursing Homes and ICF/IID Surveillance
Center for Health Care Provider Services and Oversight
Office of Primary Care and Health Systems Management**

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Section I: General Information about Incident Reporting

Introduction

This manual is available to all skilled nursing facility staff responsible for reporting 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 (NYS DOH). The manual is intended to provide clarification and guidance on what incidents are reportable and how they should be reported.

Nothing in this manual affects the requirement for facilities to report emergencies and disasters to the New York State Watch Center operated by the New York State Office of Emergency Management: <http://www.dhSES.ny.gov/oem/>.

Reporting Requirements

In December 2004, the Centers for Medicare and Medicaid Services (CMS) issued [clarification](#) on facilities' obligations to report allegations and results of the investigation of alleged violations involving mistreatment, neglect or abuse, including injuries of unknown origin and misappropriation of resident property. Federal ([42 CFR 483.13](#)) and State ([10 NYCRR 415.4](#)) regulations require the facility to report alleged violations of mistreatment, neglect and abuse, including injuries of unknown origin and misappropriation of resident property, **immediately** to the administrator of the facility and to other officials in accordance with State law (i.e., the NYS DOH). Per CMS, "immediately" means as soon as possible, but not to exceed **24 hours** after discovery of the incident ([State Operations Manual, Appendix PP, Interpretive Guidelines, Section 483.13\(c\)\(2\) and \(4\)](#)). The facility must simultaneously initiate an investigation and prevent further potential abuse while the investigation is in progress. The results of all investigations must be reported to the facility administrator and the NYS DOH, if requested, within five working days of the incident. If the alleged violation is verified, appropriate corrective action must be taken. Information from the investigation must be maintained in the facility.

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 long-term care facilities (nursing homes, etc.) to report any reasonable suspicion of a crime against a resident of the facility to at least one local law enforcement agency of jurisdiction and the NYS DOH. Affected individuals include the owner, operator, employee, manager, agent or contractor of the facility. The New York State 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 for this purpose.

Time frames for reporting are as follows:

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

The facility must have policies and procedures that comply with this law. The law prohibits retaliation by a long-term care facility against any individual who makes such a report and establishes distinct penalties, including a fine of up to \$200,000, for an individual's failure to report within the above-noted time frames (up to \$300,000 if such failure exacerbates the harm to the victim of the crime).

In addition, the facility 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 in this regard can be found in [CMS S&C: 11-30-NH, 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 under the requirements of the Elder Justice Law.

The Patient Abuse Reporting Law, [Public Health Law \(PHL\) Section 2803-d](#) was enacted in 1977 to protect persons living in nursing homes from physical abuse, mistreatment or neglect. 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 NYS DOH when there is reasonable cause to believe that a resident has been physically abused, mistreated or neglected. Such reports must be made within 48 hours.

The law requires the NYS DOH to investigate all such allegations, and also outlines penalties for individuals who are found guilty of these acts and anyone who is required to report, but fails to do so.

[10 NYCRR, 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 facility's review of the circumstances must be maintained in the facility.



If the reasonable cause threshold has not been met, notification to the NYS DOH is not required.

In addition to abuse, mistreatment, neglect and misappropriation, this manual contains a list of other specific incidents that must also be reported to the NYS DOH.

Summary of Reporting Requirements

- Investigate incident immediately upon discovery.
- Identify if abuse, neglect, mistreatment, misappropriation, injury of unknown origin and certain incidents occurred.
- Submit incident report via the Health Commerce System (HCS) immediately, once the reasonable cause threshold is met for abuse, neglect, and mistreatment.
- Report all other incidents via the HCS within 24 hours.
- Facilities have 5 days to complete their investigation.



Reporting incidents to the NYS DOH does not relieve the facility from its responsibility to report to other agencies.

The facility must begin an investigation immediately upon discovery of an incident. The investigation must be complete and thorough, and further potential abuse must be prevented while the investigation is in progress. Documents associated with the facility investigation include, but are not limited to:

- Complete electronic incident form on the HCS and have available:
- 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
- Plan to prevent reoccurrence

Nights, Weekends, Holiday Emergency Notification

To report a facility involvement in emergency and/or disaster on nights, weekends, or holidays call:

NYSDOH Duty Officer at 1-866-881-2809

During normal business hours Monday through Friday (8:00a.m. to 5:00p.m.), please continue to contact the NYSDOH Regional Office in the customary manner.

- Capital District Regional Office - 518-408-5372
- Central New York Regional Office - 315-477-8472
- Metropolitan Regional Office
 - New York City – 212-417-4999
 - Long Island – 631-851-3612
 - New Rochelle – 914-654-7058
- Western Regional Office
 - Buffalo – 716-847-4320
 - Rochester – 585-423-8020

The **NYSDOH Duty Officer** number will forward the call to a NYSDOH staff person. The bullets listed below outline the process that will follow your call to the Duty Officer:

- You will be prompted to leave a message and a number where you can be reached.
- The Duty Officer will call back promptly, so remain at that number.
- There is one Duty Officer on call for all of New York State. When your call is returned, he/she will ask for the type of emergency, and the type of facility (e.g. hospital, nursing home, adult home) involved.
- You will be routed to the Administrator on Duty for that program in the region where the facility is located.
- The Administrator on Duty will assist with facility response to the situation.



You must also file an incident report through HCS when the immediate danger to staff and residents has resolved.

Section II: Incident Categories and Reporting Scenarios with Questions and Answers

Section II of this manual outlines relevant incident categories. Each category is presented, along with the required element(s) that trigger reporting of an incident to the NYS DOH.

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.

The facility is responsible to investigate all incidents and maintain records of each investigation.



The reporting scenarios include examples, but are not all-inclusive.

Incident Categories

- Abuse, Mistreatment, Neglect, Misappropriation ([42 CFR 483.13](#))

- Quality of Care ([42 CFR 483.25](#))

Medication Error/Drug Diversion

Injury of Unknown Origin

Burns

Attempted Suicide or Death or Injury Related to Suicide

Restraints, Equipment or Death Related to Falls

Accidents Related to Choking

Resident Found in Non-Resident Area

CPR Concerns

Elopement

- Physical Environment ([42 CFR 483.70](#))

Malfunction or Misuse of Equipment

Physical Plant issues/Loss of Service

Smoke and Fire

Evacuation

ABUSE, MISTREATMENT, NEGLECT, MISAPPROPRATION

Abuse (Physical)

Federal (Abuse) Definition: The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

State (Abuse) 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 can be:

- Resident to resident abuse (*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

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

- Inappropriate physical contact resulting in injury or likely to harm a resident.

Reporting Scenarios Frequently Asked Questions

Resident to Resident

Q. A resident with Alzheimer's Disease hits another resident and causes an injury (bruise, skin tear, etc.) and/or pain. Is this reportable?

A. Yes, *this is reportable. The facility has a responsibility to protect all residents from abuse. The NYS DOH would review the facility response to the incident in terms of care planning.*

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

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

Q. Two residents bump into each other's wheelchair and move the chairs to open a path of egress. Is this reportable?

A. *Yes, this is reportable if aggression occurred. 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. Resident A attempts to remove food from Resident B's tray or slaps Resident B's hand. Is this reportable?

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

Q. It is observed that Resident A frequently enters Resident B's room and rearranges personal items or touches Resident A 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 A's right to private space and a dignified existence. The facility has a responsibility to care plan for such occurrences and patterns of behavior and evaluate that plan periodically, with the intention of preserving resident rights.*

Staff to Resident

Q. A cognitively intact resident is combative with care. The resident is acting out and staff is unable to provide care to him. The resident exhibits bruising to both lower arms. The resident alleges that staff intentionally hurt him. Is this reportable?

A. *Yes, this is reportable. There was an allegation of inappropriate physical contact, which resulted in harm.*

Q. A staff member reports that another staff member punched a resident. The resident is unable to give his/her version. Is this reportable?

A. *Yes, this is reportable. The existence of even one witness meets the reasonable cause threshold that abuse occurred.*

Family/Visitor to Resident

Q. A family member hits a resident or handles the resident roughly (poking, shaking, force feeding, etc.). 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.*

Abuse (Sexual)

Sexual abuse can be:

- Resident to resident
- Staff to resident
- Family/visitor to resident

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

- Non-consensual sexual intrusion or penetration.
- Touching intimate body parts or the clothing covering intimate body parts.
- Examination or treatment of the resident for other than bona fide medical purposes.
- Observation or photographs of another person's intimate body parts.

Reporting Scenarios Frequently Asked Questions

Resident to Resident

Q. A staff member observes a male resident fondling the breasts of a female resident. The female resident is interviewed, but has severe dementia and cannot convey what happened. The male resident has a psychiatric diagnosis, but is cognitively aware and able to be interviewed. The male resident denies fondling the resident. Is this reportable?

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

Q. A staff member reports finding a cognitively intact male resident in a cognitively intact female resident's room stroking the female resident's breast and leg. When questioned by the staff member to determine whether this activity was consensual, the female resident voiced no complaint. Both residents are on friendly terms and continue to be for the next several days. The female resident then reports that she considers the male resident's behavior to be inappropriate. The male resident is interviewed and states that the female encouraged the behavior. Is this reportable?

A. *Yes, this is reportable. Once a resident states that a sexual act is not consensual or is otherwise inappropriate, it is reportable.*

Staff to Resident

Q. A CNA states that she observed a male nurse on the Alzheimer's Unit fondling a female resident (his hand was between the resident's legs) during the night shift. No other staff was present. The male nurse denies the allegation. The female resident could not be interviewed, nor were any other residents on the unit interviewed due to their levels of cognitive impairment.

A. Yes, this is reportable. An allegation was made that contained the element of non-consensual sexual contact.

Q. A cognitively intact female resident complains to a staff member that while she was in physical therapy, a male staff member touched her breast. This is unrelated to any treatment modality. The resident 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. A cognitively impaired resident exhibits inappropriate behavior toward staff. Is this reportable?

A. No, this is not reportable. The facility must conduct a complete and thorough investigation to determine the possible causes for the behavior, including a medical exam, if indicated. Care planning is essential to assure that the resident is not compromised.

Family/Visitor to Resident

Q. A family member has sexual contact with a resident. Is this reportable?

A. Yes, this is reportable if the element of non-consensual sexual contact was present. Sexual relations between consenting adults 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.

Q. Staff notes that a moderately cognitively impaired female resident has a change in her perineal area and verbalizes that a family member hurt her. The resident expresses fear and does not want to be alone with a male family member. Female and male family members have been known to check the resident's brief with gloved and ungloved hands. Is this reportable?

A. Yes, this is reportable. The resident verbalized that she was hurt and in pain. This is considered abuse.

Abuse (Verbal)

Federal Definition (Interpretive Guidelines SOM Appendix PP- 483.13 (b)(c) :

“Verbal abuse” is defined as the use of oral, written or gestured language that willfully includes disparaging and derogatory terms to residents or their families, or within their hearing distance, regardless of their age, ability to comprehend, or disability.

Examples of verbal abuse include, but are not limited to: threats of harm; saying things to frighten a resident, such as telling a resident that he/she will never be able to see his/her family again.

Verbal abuse can be:

- Resident to resident (*Refers to an aggressive act, including inappropriate verbal exchange that is harmful or likely to cause harm; not just name calling*).
- Staff to resident
- Family/visitor to resident

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

- 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.

Reporting Scenarios Frequently Asked Questions

Resident to Resident

Q. Staff overhears Resident A, who is alert and oriented, shout at his roommate (Resident B), “Shut the hell up. You moan all the time. Shut up or I’ll shut you up.” Staff intervenes immediately. Resident B is demented. Immediately following the incident, Resident B stops talking, which staff believe might be related to the incident. Is this reportable?

A. *Yes, this is reportable. The scenario meets all of the elements for verbal abuse. Resident A directly threatened Resident B and did so with foul language and fear of imminent bodily injury. Although Resident B could not verbalize that he was afraid, his behavior indicated that he was fearful.*

Staff to Resident

Q. A staff member overhears another staff member say to a resident, “I’m getting tired of having to come in here all the time to clean you up. You are a pain.”

Resident appears fearful of the staff member and this is reported to the charge nursing. Is this reportable?

A. Yes, this is reportable. The resident was spoken to in a derogatory manner and is fearful.

Q. A resident meets with the facility social worker and states that one staff member has continually spoken to the resident in a derogatory way during the course of daily care and remains upset. Is this reportable?

A. Yes, this is reportable. The scenario meets the definition of verbal abuse.

Q. A staff member is showering an alert and oriented 75-year-old female resident. The resident shouts that the water is too cold and yells, "Damn it, warm it up!" The staff member 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 the elements of foul language and physical gesture.

Family/Visitor to Resident

Q. Staff overhear visiting husband yelling at his wife's roommate (resident B) and accusing her of breaking his wife's belongings. He is shaking his finger at her. Resident B appears fearful. Is this reportable?

A. Yes, this is reportable as he took physical action (shaking a finger) and Resident B was fearful.

Q. A family member verbally abuses a resident. Is this reportable?

A. Yes, this is reportable. The facility has knowledge that a family member verbally abused the resident. In addition, the facility must take action to protect the resident from further abuse by the family member.

Mental Abuse

Freedom from Abuse: Each resident has the right to be free from all types of abuse, including mental abuse. Mental abuse includes, but is not limited to, abuse that is facilitated or caused by nursing home staff taking or using photographs or recordings in any manner that would demean or humiliate a resident(s).

Federal Definition: 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.

S&C: 16-33-NH

The following element must be present for the incident to be reportable to NYS DOH:

- 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 networks

Reporting Scenarios Frequently Asked Questions

Q. A CNA is found taking pictures of residents eating in the dining room. Is this reportable?

A. *Yes, this is reportable if this is unauthorized and there is no written consent by each resident or the resident's designee.*

Q. It has come to your attention that an LPN posted a picture of herself and a demented resident on Facebook. You see the post and note both the LPN and resident are smiling. Is this reportable?

A. *Yes, this is reportable if the nurse does not have written authorization from the resident designee giving her permission to take the picture and post it on Facebook.*

Mistreatment

Federal Definition: There is no definition at this time. Federal regulations address involuntary seclusion as a separation of a resident from other residents or from his room or confinement to his room against his will or the will of his representative.

State Definition: The inappropriate use of medications, inappropriate isolation or inappropriate use of physical or chemical restraints on a resident of a residential health care while the resident is under the supervision of the facility.

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

- The inappropriate use of isolation, medications, physical or chemical restraints on a resident in a residential health care facility, while the resident is under the supervision of the facility.

Reporting Scenarios Frequently Asked Questions

Q. A CNA finds a resident tied to the bed with a sheet. It is determined that another CNA used the sheet to restrain the resident in order to limit activity. Is this reportable?

A. *Yes, this is reportable. The example demonstrates inappropriate use of a physical or chemical restraint on a resident.*

Neglect

Federal Definition: Failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness.

State Definition: The failure to provide timely, consistent, safe, adequate and appropriate services, treatment and/or care to a resident of a residential health care facility 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.

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

- 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. Staff on the evening shift witness a resident fall. The resident is assessed and no injury is noted. The resident does not complain of pain. Staff does not document the fall and does not pass the information on to the next shift. For the next two days, the resident complains of pain. After two days, the physician is notified and x-rays are taken, which confirm a fracture. Is this reportable?

A. *Yes, this is reportable. Staff was aware of the fall and potential for injury, but failed to provide timely and appropriate services.*

Q. A resident requires a Hoyer lift for transfers. Two staff members transfer the resident without the lift. The resident falls and sustains a fracture. The Hoyer lift was available, but the staff were in a hurry and chose not to use it. Is this reportable?

A. Yes, this is reportable. The staff should have been knowledgeable about the resident's care plan indicating that the resident requires a Hoyer lift for transfers and followed the plan. This failure resulted in an injury to the resident.

Q. Staff on the night shift fail to assure that a resident's bed alarm is working properly. The resident attempts to get out of bed and falls, fracturing a hip. Is this reportable?

A. Yes, this is reportable. The staff failed to assure that the safety device was in proper working order. If staff had not been trained on this device, the facility could incur culpability for failure to appropriately train staff.

Q. Staff on the morning shift discover a resident's call light unplugged. Interviews with the resident and other staff determine that a CNA unplugged the call light because the resident was using it frequently during the night. The resident was not harmed. Is this reportable?

A. Yes, this is reportable. The resident is entitled to a call light and needs it to obtain assistance with activities of daily living and in an emergency. This conduct also constitutes reportable mistreatment in that the resident is now being inappropriately isolated.

Q. Staff on the evening shift notes that a resident is experiencing a high fever, chest pain and is coughing and lethargic. Staff calls the attending physician a total of five times, starting at 7 30 p.m. The physician returns the call at 8 a.m. the next morning. Is this reportable?

A. Yes, this is reportable. While the facility reached out to the physician, when the call was not returned, the facility took no action to contact the Medical Director and made no attempt to provide timely and appropriate medical intervention.

Misappropriation

Federal Definition: The deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent.

State Definition: The theft, unauthorized use or removal, embezzlement or intentional destruction of the 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 monetary value.

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

- Deliberate misplacing, theft, exploiting or wrongful use of a resident's property.
- A pattern of misplacing, theft, exploiting or wrongful use of a resident's property.

If an allegation is made against a staff member and the facility has reasonable cause to believe that misappropriation occurred, it is reportable. If the resident reports misappropriation by a family member to the facility, it is not reportable to the NYS DOH unless the family member is an employee of or staff under contract with the facility.

Reporting Scenarios Frequently Asked Questions

Q. A resident's daughter reports that her mother's ruby ring, which she last saw two days ago, is missing. The resident has mild dementia, but the daughter insists that the resident did not misplace it. The daughter implies that a staff member is responsible. Is this reportable?

A. *No, this is not reportable at this point. The facility has no evidence of deliberate misplacing, theft or wrongful use of the ring. The ring could be lost. The facility must conduct a complete and thorough investigation and a search.*

Q. In the above scenario, following a search, the ring has not been found. The daughter observes a staff member wearing what she believes to be her mother's ring. The daughter notifies 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 facility receives \$25 from three different families on Wednesday for its family members to go on a resident outing on Friday. The staff person at the desk takes the money and gives it to the nurse, who locks it in the business office. On Friday morning, the facility social worker asks the nurse for the money for the three

residents to go on the outing. 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. A resident reports that night shift staff is using her personal cell phone for other residents without her permission. Is this reportable?

A. Yes, this is reportable. The resident did not give permission for use of his/her personal property by others in the facility.

QUALITY OF CARE

Medication Error/Drug Diversion

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

- 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.



Facilities must report any diversion of controlled substances to the NYS DOH [Bureau of Narcotic Enforcement](#) and the [New York State Education Department's Office of the Professions](#), if applicable.

Reporting Scenarios Frequently Asked Questions

Q. A nurse makes an error on a dose of Coumadin over a few days. The resident exhibits excessive bruising and a very high INR. The resident is hospitalized and requires Vitamin K treatment. Is this reportable?

A. *Yes, this is reportable. Harm occurred in the form of bruises and high INR, which required hospitalization and additional medical intervention.*

Q. A unit dose package of Oxycontin 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 NYS DOH as an incident and also to the NYS DOH's Bureau of Narcotic Enforcement, New York State Education Department's Office of the Profession and Attorney General's Office.*

Q. A nurse fails to administer treatments to residents on the unit to which she is assigned. Is this reportable?

A. *Yes, this is reportable. The nurse's failure 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

Federal regulation: 42 CFR 483.13

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 the extent or location of the injury, or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma), or the the number of injuries observed at one particular point in time, or incidences of injuries over time

The following two elements must be present for an incident to be reportable to the NYS DOH:

- Injury without known incident.
- Facility unable to rule out abuse or care plan violation.

Reporting Scenarios Frequently Asked Questions

Q. A resident is found with bruising to both upper extremities. The resident is not interviewable. Is this reportable?

A. *Yes, this is reportable if the facility’s preliminary investigation determined that elements of abuse, mistreatment or neglect were present.*

Q. A resident is found with a fractured hip of unknown origin. Is this reportable?

A. *Yes, if the facility is unable to determine the cause of the fracture, there is a care plan violation and/or abuse, neglect and mistreatment is not ruled out, this is reportable*



The facility should seek guidance from the physician to determine if there is any underlying medical condition that may explain an injury of unknown origin.

Burns

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

- Accident resulting in a burn to the body surface.

Reporting Scenarios Frequently Asked Questions

Q. An 80-year-old male resident is outside smoking. He has oxygen on via nasal cannula. When staff returns, they discover that the resident is red and blistered around the mouth and nose. The resident's beard is burned. Is this reportable?

A. *Yes, this is reportable. The resident sustained a superficial partial thickness (superficial second-degree) burn related to an accident.*

Q. A CNA puts a 30-year-old female resident with Multiple Sclerosis into a bathtub. The resident adds hot water to the tub when the CNA leaves the room. Upon return, the CNA takes the resident out of the tub and discovers that the resident is red and has blisters from the waist down. Is this reportable?

A. *Yes, this is reportable. The resident sustained a deep partial thickness burn (deep second-degree) related to an accident.*

Q. A resident spills hot coffee onto his lap, which results in a blistered area. Is this reportable?

A. *Yes, this is reportable. The resident sustained a burn related to an accident.*

Q. A resident develops a red blistered area after application of a hot pack or curling iron. 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 NYS DOH:

- Resident attempt at suicide resulting in injury or death.
- 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. Is a suicide, or attempted suicide occurring on the premises of a residential facility reportable?

A. It is reportable if the death, or attempted suicide, occurred while the resident is under the supervision of the facility. If attempted suicide occurs, the facility investigation should document mental status and the facility's planned intervention.

Q. A resident is injured during a Hoyer lift transfer, and sustains a subdural hematoma.

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. A resident uses upper side rails for positioning, turns in bed, and gets a body part wedged in between the side rail and mattress. Is this reportable?

A. Yes, this is reportable regardless of outcome.

Accidents (Choking)

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

- 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. A resident is served (or manages to obtain) food of incorrect consistency. Is this reportable?

A. *Yes, this is reportable if the resident choked and required staff interventions. If the staff prevented ingestion of the item, and the resident was not negatively affected, this would not be reportable.*

Q. A resident requires thickened liquids and was served or managed obtain liquids of an incorrect consistency. Is this reportable?

A. *Yes, this is reportable if the resident choked and required staff intervention. If the staff prevented ingestion of the item, and the resident was not negatively affected this is not reportable.*

Q. A resident repeatedly coughs and has difficulty managing prescribed food consistency. Is this reportable?

A. *Yes, this is reportable if the facility did not assess the resident to determine if a change in consistency is necessary.*

Residents in Non-Resident Area

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

- Resident found in potentially hazardous non-resident area.

Reporting Scenarios Frequently Asked Questions
<p>Q. A resident who is ambulatory is found unattended in a non-resident area in the facility. The area has machinery, equipment and toxic supplies. Is this reportable?</p>
<p>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 a window. If this occurs, it is reportable, regardless of the presence of actual injury.</p>
<p>Q. A resident is found in the stairwell by a visitor. Is this reportable?</p>
<p>A. Yes, this is reportable if the resident was able open a stairwell door without an alarm sounding, if injury occurred or resident is at a high risk for elopement.</p>

CPR Concerns

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

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

Reporting Scenarios Frequently Asked Questions
<p>Q. A resident with a DNR order is found without breath and pulse. Staff respond by providing CPR. Is this reportable?</p>
<p>A. Yes, this is reportable. Providing CPR was in direct opposition to the resident's wishes. This may indicate that the facility plan to make the resident's wishes known to all may have failed.</p>
<p>Q. A resident with no DNR order is found without breath and pulse. Staff decides not to provide CPR. Is this reportable?</p>
<p>A. Yes, this is reportable. The staff's decision not to provide CPR is incorrect and in direct opposition to the resident's wishes.</p>

Elopement (out of the building)

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

- Resident with cognitive impairment or elopement risk leaves the facility undetected or elopes from physician, other outside appointment or facility outing.
- Resident, despite cognition, is at risk for 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 facility receives a call from the local hospital stating that one of the facility's residents was brought to the hospital after being found by the police. The facility did not know the at-risk resident was missing, so they did not initiate a search. The resident was found within eight hours. Is this reportable?

A. *Yes, this is reportable. The fact that the facility did not initiate a search because they did not know the resident was missing does not relieve the facility of its responsibility to report. If a resident is missing from the building, it is reportable.*

Q. A cognitively impaired resident is sent to an outside physician's office with staff. While there, the resident leaves the office building, undetected by staff. Is this reportable?

A. *Yes, this is reportable. Staff had a responsibility to assure that the resident was supervised and safely returned to the facility.*

Q. A security guard is at the front desk, when a resident who appears to be healthy and appears to be a visitor, approaches the desk and asks to leave. The guard allows the individual to leave, but then discovers that the man is a resident. Is this reportable?

A. *Yes, this is reportable. Having a security guard is a part of the facility elopement prevention policy, but the system failed.*

Q. A cognitively impaired resident approaches an alarmed door. The alarm sounds and staff respond, retrieving the resident without harm. The resident 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 gets out of the facility but is found on the campus. Is this reportable?

A. *Yes, this is reportable. Once the resident exits the facility undetected it is considered an elopement.*

PHYSICAL ENVIRONMENT

Malfunction or Misuse of Equipment

If misuse of equipment or faulty equipment results in resident accident, this is reportable under quality of care.

The following two elements must be present for an incident to be reportable to the NYS DOH:

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

Physical Plant Issues/Loss of Service

The facility must report planned and unintentional loss of service for telephones, electricity, heat, air conditioning, water, and structural damage effecting resident care, and concerns effecting kitchen sanitation.

The facility must report building issues that affect resident care or safety, such as, but not limited to, bomb threats, storm damage and flooded areas.

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

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

- Loss of service lasting or expected to last 4 or more hours.
- There is no back-up system in place; or
- The back-up system fails to work.
- Planned or unexpected events that may affect resident care.

Smoke and Fire

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

- Smoke or fire in any area of the building

Evacuation

The facility 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 facility must report any occurrence involving structural issues, building repair, illness, sewage back up, flooding or temperature (too hot or too cold) that require evacuation.

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

- Evacuation of nursing unit, floor or building.
- Isolated incidents that require movement of residents



Please see Page 4 of this manual for directions on additional reporting requirements in an emergency and/or disaster that occurs on nights, weekends, or holidays.

ADDITIONAL REPORTING

Safe Medical Device Act

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

User facilities (hospitals, nursing homes, etc.) are required to report suspected medical device-related deaths to both the FDA 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 to the FDA by the facility. Health professionals within a user facility should familiarize themselves with their institution's procedures for reporting adverse events to the FDA and medical device manufacturers.

Section III: HCS Incident Reporting Instructions

Facility incidents must be reported to the NYS DOH through the Health Commerce System (HCS). Incidents may be reported 24 hours a day, seven days a week. All incidents reported are considered confidential. If the facility loses internet access, the incident may be reported through the NYS DOH Nursing Home Complaint Hotline at 888-201-4563. If a report is taken by phone, it is not necessary to report again via the HCS.



To obtain detailed presentation on how to file an incident report please email NHIntake@health.ny.gov.

HCS Access

To log onto the HCS, type the following address into your web browser:
<https://commerce.health.state.ny.us>.

Enter your User ID and Password into the HCS Login and click on *Sign In*.

Under *My Applications*, click on *HERDS FOR HOSPITALS* (Health Electric Response Data System) to access the electronic Nursing Home Incident Reporting Form



Save data periodically. The system will "time out" after 60 minutes of inactivity. Unsaved data will be lost!

Submission

Submission of the incident is a **two-step process**: review, then submit.

- 1) Click on *Preview Data to be Submitted*.
- 2) Review the data then click on *Proceed to Submit Data to DOH*.

When the incident has been submitted, you will receive the following message:
Thank you. Data has been submitted to the Department of Health.



Unless and until you see the above message, your submission has not been transmitted.

The facility will be issued a case number on the next business day following submission.

Once the incident has been submitted, do not edit or enter additional information. The NYS DOH will not be alerted to any edits or additional information and will not be able to view the new information. Any changes or additions to the information should be provided through the Nursing Home Complaint Hotline at 888-201-4563 or via e-mail at NHintake@health.ny.gov.

Managing HCS Accounts

The facility's HCS Coordinator has the responsibility and authority to request and manage HCS accounts and manage roles in the Communications Directory. Changes can be made through the *Coordinator's Update Tool* under *My Applications*.

Need Help?

Problems with your HCS account can be reported by contacting the HCS Help Desk at 866-529-1890 or via e-mail at hinhpn@health.ny.gov.

Questions about the Nursing Home Incident Reporting Manual can be directed to:

New York State Department of Health
Nursing Home Complaint Program
Division of Nursing Homes and ICF/IID
Surveillance
875 Central Avenue
Albany, New York 12206
518-402-5447
nhinfo@health.ny.gov