Mandatory Reporting and Investigation

INVESTIGATION & REPORTING TRAINING

NOVEMBER 2015
Assisted Living and Skilled Nursing Facilities are required to:

- Be in compliance with all applicable minimum licensing requirements at all times.
- Cooperate with inspections, investigations, and on-site visits of regulatory bodies.
RCW 74.34.020
"MANDATED REPORTER"

- An employee of the department
- Law enforcement officer
- Social worker
- Professional school personnel
- Individual provider
- An employee of a facility
- An operator of a facility
- A employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency
- County coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.
Chapter 18.130 RCW
REGULATION OF HEALTH PROFESSIONS — UNIFORM DISCIPLINARY ACT

INCLUDING, BUT NOT LIMITED TO...

- Dispensing opticians licensed and designated apprentices
- Midwives
- Ocularists
- Massage practitioners
- Dental hygienists
- Persons registered as nursing pool operators
- Nursing assistants registered or certified or medication assistants
- Health care assistants
- Dietitians and nutritionists
- Chemical dependency professionals and chemical dependency professional trainees
- Sex offender treatment providers and certified affiliate sex offender treatment providers
- Orthotists and prosthetists
'Permissive reporter' means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.
Permissive reporters **MAY** report to the department or a law enforcement agency when there is reasonable cause to believe that a vulnerable adult is being or has been abandoned, abused, financially exploited, or neglected.
Guess What??

The Ombuds is a permissive reporter.
When there is **reasonable cause to believe** that abandonment, abuse, financial exploitation, or neglect of a **vulnerable adult** has occurred, mandated reporters **shall immediately report** to the department.
Who is and how do you report to the department?

- "Department" means the Department of Social and Health Services (DSHS)

- Complaint Resolution Unit (CRU)
  - Phone 1-800-562-6078
  - Fax 360-725-2644
  - Online
WHAT IS A “REASONABLE CAUSE TO BELIEVE?”

- REASONABLE CAUSE TO BELIEVE as referenced in RCW 74.34.035 means a mandated reporter thinks it is probable that an incident of abuse, abandonment, neglect, or financial exploitation happened.

- “Probable” means that based on information or evidence readily obtained from various sources, it is likely the incident occurred.
Sources of information may include:

- Personal observation of the incident;
- The resident who is subject of incident;
- Resident records – active, inactive, or closed;
- Other persons who may have relevant information;
- Resident behavior;
- Other relevant information.

A mandated reporter may rely upon one or more of the above sources.
What is IMMEDIATELY???

IMMEDIATELY MEANS NOW, as soon as the resident victim is protected from further harm!
WHO IS A VULNERABLE ADULT?

"Vulnerable adult" includes a person:

- Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or
- Found incapacitated under chapter 11.88 RCW; or
- Who has a developmental disability as defined under RCW 71A.10.020; or
- Admitted to any facility; or
- Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or
- Receiving services from an individual provider; or
- Who self-directs his or her own care and receives services from a personal aide.
When there is reason to suspect that physical assault has occurred or there is reasonable cause to believe that an act has caused fear of imminent harm, mandated reporters shall immediately report to the department.
—REASON TO SUSPECT
as referenced in RCW 74.34.035 means a mandated reporter thinks, based on information readily obtained from various sources, it is possible that an incident of sexual or physical assault could have happened.

Sources of information may include:
Personal observation of the incident;
The resident who is subject of incident;
Resident records – active, inactive, or closed;
Other persons who may have relevant information;
Resident behavior; and
Other relevant information.
Know the definitions and what constitutes abuse, neglect, and exploitation!

Know the mandatory reporting requirements.

Ensure your facility has policies and procedures in place to prevent and address all alleged or suspected abuse, neglect, or exploitation.

Ensure all staff are trained and implement policies and procedures.

YOUR’S IS A GREAT RESPONSIBILITY.
When there is reason to suspect that sexual assault has occurred, mandated reporters shall IMMEDIATELY report to the appropriate law enforcement agency and to the department.
Reportable Incidents Happen!

- Calling the hotline does not mean that you or a staff person are “tattling” on the facility or on your staff.
- Calling the hotline demonstrates an effective, responsive system to prevent and address abuse/neglect/exploitation and events/incidents that effect residents’ lives.
Number #1 Priority

PROTECT THE RESIDENT!!!
What is a thorough investigation?
What is a thorough investigation?

- It is timely!
- Is unbiased and objective.
- Gathers data in a systematic process.
  - Observations
  - Interviews
  - Record Review
Investigating Incidents - What investigations are the responsibility of a nurse? Who is the best person to complete the investigation?

- While the task of investigating incidents does not require a licensed nurse, it is important to consider any health-related issues that could have led to the incident.
  - All alleged abuse, neglect, or exploitation MUST be investigated
  - All incidents that have the potential to affect or jeopardize a resident MUST be investigated
  - All investigations must be thoroughly documented
  - All investigations must be conducted in a timely manner
  - Investigations should determine the cause/circumstances of the allegation and/or incident
  - Identify appropriate inventions to prevent repeat incidents and protect residents
Investigation needs to?

- Answer the questions,
- Who?
- What?
- When?
- Where?
- Analysis of the data gathered?
- Measures to prevent repeat incidents?
When do you start an investigation?
The Timeliness of the Investigation

The facility must begin the investigation in order to collect accurate data related to the incident. Any delay in starting the investigation can cause valuable information to be either lost or altered.

The first phase of an investigation should occur within the first 24 hours.
WHO?

- Identify WHO was involved in the alleged event/incident?
  - Name all the people that may have information about the incident?
  - Think about who to interview first, how to gather your interviews should be thought out and a process.
- What questions are you going to ask them?
- May help to write out questions before hand, have a plan.
- Ask them if there is anything else you should know or ask about. Often, later when information comes to light...the person will state you didn’t ask me that question.
What?

- What is the alleged incident or event?
- What was observed?
- Interviews need to be conducted with all parties to determine the what? Use direct quotes if necessary. Include preceding and post events.
- Include all data gathered including vital signs, pain description, injuries, non-verbal
- What was staff response to the allegation/incident?
When?

- When did the alleged incident or event occur?
  - BE AS SPECIFIC AS POSSIBLE
  - Narrow down time frames
  - Identify other events that may have led to the incident.
Where did the incident occur?

- Be specific, the details matter. It is not ok, to just identify that the alleged incident took place in the assisted living or the skilled nursing facility.
- Did the incident occur in the East hallway? The resident’s own room or apartment, bathroom?
- The more detail the better.
Always, always, always interview the resident. Even with cognitive difficulties or dementia. Document you attempted to interview the resident. What was said?

Ask open-ended questions. Don’t assume to know the answer.

Clarify questions when needed.

Interviews need to begin as soon as possible after the allegation/event. Memories and details become hazy over time.
It is ok to have the interviewee start by writing down what they know and remember of the events so not to lose the information. However, go back to that person and interview them to clarify the information. Helpful, to interview face to face if possible. Especially with the alleged perpetrator, often helpful to save for last or come back to the AP for clarification.

Body language says a lot.

Phone interviews are ok too, important just to get the information.
Observations

- What physical evidence could there be? Equipment, room, environment? Do you need to take pictures? If so, need to train staff on how to handle and have P&P.

- Do you need to secure the environment for law enforcement?

- Reenact the alleged event. Often useful with falls and/or injuries. Does it make sense?

- Physical assessment of resident? Do you need to send the resident out of facility for evaluation? Does it require an additional professional to interview or assess the resident? Is there a trusted person the resident will talk to?
Record Review

- Conduct a thorough resident record review
- If incident involves staff, need to review employee records. Look at training, prior issues, background check.
- What other documents should be reviewed? Hospital, MD, H&P, etc.
THINK LIKE A INVESTIGATOR. WHAT WOULD THEY LOOK AT? If you find something, put a plan in place to address it.

It is that one piece of information not obtained that can result in inability to determine the circumstances of the alleged incident/event.
An investigation must always be objective and unbiased.

- If you are going to err, err on the side of resident protection and safety.
- Trust your gut instinct.
- See additional resources/information as necessary, i.e. MD or other professional input, resident history, hospital records, etc.
- Think like an investigator.
- ALWAYS EVALUATE FOR PREVENTATIVE MEASURES and initiate as necessary.
PHASE TWO: EXTENDED INVESTIGATION
(After the first 24 hours)

- Further investigation is required if the first phase of the facility investigation did not establish reasonable cause or source of allegation or injury within 24 hours.
The following elements may need to be included and considered:

- Interviews of expanded sample of witnesses, historians
- Expand the time frame surrounding the incident for collecting data
- Follow up on new information
- Obtain related professional expertise
- If the suspected perpetrator is staff, interview the other residents the staff person was assigned to
In order to complete a thorough investigation, you must obtain the necessary data and analyze what you’ve gathered.

Ask yourself, can you rule out abuse, neglect, exploitation? Would a reasonable person not related to the incident come to the same conclusion?

You must DOCUMENT your findings and your analysis. If not able to determine the circumstances and rule out abuse, neglect, exploitation then need to expand your investigation.
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