302 GENERAL ADMINISTRATION

306 REPORTING SUSPECTED ABUSE, NEGLECT, EXPLOITATION, INCIDENTS, ACCIDENTS, DEATHS FROM VIOLENCE AND MISAPPROPRIATION OF RESIDENT PROPERTY

Pursuant to federal regulation 42 CFR 483.13 and state law Ark. Code Ann. § 5-28-101 et seq. and 12-12-501 et seq., the facility must develop and implement written policies and procedures to ensure incidents, including:

a) alleged or suspected abuse or neglect of residents;
b) accidents, including accidents resulting in death;
c) unusual deaths or deaths from violence;
d) unusual occurrences; and,
e) exploitation of residents or any misappropriation of resident property, are prohibited, reported, investigated and documented as required by these regulations.

A facility is not required under this regulation to report death by natural causes. However, nothing in this regulation negates, waives or alters the reporting requirements of a facility under other regulations or statutes.

Facility policies and procedures regarding reporting, as addressed in these regulations, must be included in orientation training for all new employees, and must be addressed at least annually during in-service training for all facility staff.

306.1 NEXT-BUSINESS-DAY REPORTING OF INCIDENTS

The following events shall be reported to the Office of Long Term Care by facsimile transmission to telephone number 501-682-8551 of the completed Incident & Accident Intake Form (Form DMS-7734) no later than 11:00 a.m. on the next business day following discovery by the facility.

a. Any alleged, suspected or witnessed occurrences of abuse or neglect to residents.
b. Any alleged, suspected or witnessed occurrence of misappropriation of resident property, or exploitation of a resident.
c. Any alleged, suspected or witnessed occurrences of verbal abuse. For purposes of this regulation, "verbal abuse" means the use of oral, written, or gestured language that willfully includes disparaging and derogatory terms to residents, 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 or she will never be able to see his or her family again.
d. Any alleged, suspected or witnessed occurrences of sexual abuse to residents by any individual.
In addition to the requirement of a facsimile report by the next business day on Form DMS-7734, the facility shall complete a Form DMS-762 in accordance with Section 306.2.

306.2 INCIDENTS OR OCCURRENCES THAT REQUIRE INTERNAL REPORTING ONLY - FACSIMILE REPORT OR FORM DMS-762 NOT REQUIRED.

The following incidents or occurrences shall require the nursing facility to prepare an internal report only and does not require a facsimile report, or form DMS-762 to be made to the Office of Long Term Care. The internal report shall include all content specified in Section 306.3, as applicable. Nursing facilities must maintain these incident record files in a manner that allows verification of compliance with this provision.

a. Incidents where a resident attempts to cause physical injury to another resident without resultant injury. The facility shall maintain written reports on these types of incidents to document “patterns” of behavior for subsequent actions.
b. All cases of reportable disease, as required by the Arkansas Department of Health.
c. Loss of heating, air conditioning or fire alarm system of greater than two (2) hours duration.

306.3 INTERNAL-ONLY REPORTING PROCEDURE

Written reports of all incidents and accidents included in section 306.2 shall be completed within five (5) days after discovery. The written incident and accident reports shall be comprised of all information specified in forms DMS-7734 and 762 as applicable.

All written reports will be reviewed, initialed and dated by the facility administrator or designee within five (5) days after discovery. All reports involving accident or injury to residents will also be reviewed, initialed and dated by the Director of Nursing Services or other facility R.N.

Reports of incidents specified in Section 306.2 will be maintained in the facility only and are not required to be submitted to the Office of Long Term Care.

All written incident and accident reports shall be maintained on file in the facility for a period of three (3) years.

306.4 OTHER REPORTING REQUIREMENTS

The facility's administrator is also required to make any other reports of incidents, accidents, suspected abuse or neglect, actual or suspected criminal conduct, etc. as required by state and federal laws and regulations.

306.5 ABUSE INVESTIGATION REPORT

The facility must ensure that all alleged or suspected incidents involving resident abuse, exploitation, neglect or misappropriations of resident property are thoroughly investigated. The facility's investigation must be in conformance with the process and documentation requirements specified on the form designated by the Office of Long Term Care, Form DMS-762, and must prevent further potential incidents while the investigation is in progress.
The results of all investigations must be reported to the facility's administrator, or designated representative, and to other officials in accordance with state law, including the Office of Long Term Care. Reports to the Office of Long Term Care shall be made via facsimile transmission by 11:00 a.m. the next business day following discovery by the facility, on form DMS-7734. The follow-up investigation report, made on form DMS-762, shall be submitted to the Office of Long Term Care within 5 working days of the date of the submission of the DMS-7734 to the Office of Long Term Care. If the alleged violation is verified, appropriate corrective action must be taken.

The DMS-762 may be amended and re-submitted at any time circumstances require.

306.6 REPORTING SUSPECTED ABUSE OR NEGLECT

The facility’s written policies and procedures shall include, at a minimum, requirements specified in this section.

306.6.1 The requirement that the facility’s administrator or his or her designated agent immediately reports all cases of suspected abuse or neglect of residents of a long-term care facility as specified below:

a. Suspected abuse or neglect of an adult (18 years old or older) shall be reported to the local law enforcement agency in which the facility is located, as required by Arkansas Code Annotated 5-28-203(b).

b. Suspected abuse or neglect of a child (under 18 years of age) shall be reported to the local law enforcement agency and to the central intake unit of the Department of Human Services, as required by Act 1208 of 1991. Central intake may be notified by telephone at 1-800-482-5964.

306.6.2 The requirement that the facility’s administrator or his or her designated agent report suspected abuse or neglect to the Office of Long Term Care as specified in this regulation.

306.6.3 The requirement that facility personnel, including but not limited to, licensed nurses, nursing assistants, physicians, social workers, mental health professionals and other employees in the facility who have reasonable cause to suspect that a resident has been subjected to conditions or circumstances which have or could have resulted in abuse or neglect are required to immediately notify the facility administrator or his or her designated agent.

306.6.4 The requirement that, upon hiring, each facility employee be given a copy of the abuse or neglect reporting and prevention policies and procedures and sign a statement that the policies and procedures have been received and read. The statement shall be filed in the employee’s personnel file.

306.6.5 The requirement that all facility personnel receive annual, in-service training in identifying, reporting and preventing suspected abuse/neglect, and that the facility develops and maintains policies and procedures for the prevention of abuse and neglect, and accidents.
309 RESTRraint of rEsidents

Patients shall not be unduly restrained. Patients shall not be confined to rooms or restrained except when necessary to prevent injury to the patient or others and when alternative measures are not sufficient to accomplish these purposes. In any event, no locked doors or locked restraints are to be used at any time to restrain a patient. Doors (screen type), or the lower one half of a dutch door or approved type louvered doors may be hooked on the hall side of the door. Restraints, of the non-locking type, may be used only upon the order of a physician. In the event the order is obtained by phone, the signature of a physician shall be obtained within five days. (Note: The aforementioned restraining type doors shall be installed in addition to the regular door to the room. They shall be removed during periods when they are not needed for the restraint of patients.) Upon the advice of the attending physician, unruly or excessively noisy patients shall be transferred from the home to an institution equipped for such patient care, since this type patient creates a disturbance for other patients in the home.

The written policy and procedures governing the use of restraints shall specify which staff member may authorize the use of restraints and clearly delineate at least the following:

- Orders indicating the specific reasons for the use of restraints.
- Their use is temporary, and the resident will not be restrained for an indefinite amount of time.
- Orders for restraints shall not be enforced for longer than twelve (12) hours, unless the patient’s condition warrants.
- Restraints must be checked every thirty (30) minutes and loosened every two (2) hours for range of motion to restrained extremities.

516 Nursing Care Requirements

516.1 Charting

516.1.e.4 Use of physical restraints to include the type applied, time of application, checks, releases and exercise of resident, (Flow sheet may be used.);

3000 Residents’ Rights

...3028 Residents shall be free from mental and physical abuse, chemical and physical restraints (except in emergencies) unless authorized, in writing, by a physician, and only for such specified purposes and limited time as is reasonably necessary to protect the resident from injury to himself or others.

3029 Mental abuse includes humiliation, harassment, and threats of punishment or deprivation.

3030 Physical abuse refers to corporal punishment or the use of restraints as a punishment.
Drugs shall not be used to limit, control, or alter resident behavior for convenience of staff.

Physical restraint includes the use of devices designed or intended to limit residents' total mobility.

Physical restraints are not to be used to limit resident mobility for the convenience of staff, as a means of punishment, or when not medically required to treat the resident's medical symptoms. If a resident's behavior is such that it will result in injury to himself or others any form of physical restraint utilized shall be in conjunction with a treatment procedure designed to modify the behavioral problems for which the resident is restrained and only after failure of therapy designed or intended to modify the threatening behavior.

The facility's written policy and procedures governing the use of restraint shall specify which staff members may authorize the use of restraints and must clearly specify the following:

a. Orders shall indicate the specific reasons for the use of restraints.
b. Use of restraints must be temporary and the resident will not be restrained for an indefinite or unspecified amount of time.
c. Application of restraints shall not be allowed for longer than 12 hours unless the resident’s condition warrants and specified medical authorization is maintained in the resident’s medical record.
d. A resident placed in restraints shall be checked at least every thirty (30) minutes by appropriately trained staff. A written record of this activity shall be maintained in the resident’s medical record. The opportunity for motion and exercise shall be provided for a period of not less than ten (10) minutes during each two (2) hours in which restraints are employed, except at night.
e. Reorder, extensions or re-imposition of restraints shall occur only upon review of the resident’s condition by the physician, and shall be documented in the physician’s progress notes.
f. The use of restraints shall not be employed as punishment, the convenience of staff, or a substitute for supervision.
g. Mechanical restraints must be employed in such manner as to avoid physical injury to the resident and provide a minimum of discomfort.
h. The practice of locking residents behind doors or other barriers also constitutes physical restraint and must conform to the policies and procedures for the use of restraints.