



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene
Office of Health Care Quality
Bland Bryant Building • Spring Grove Center
55 Wade Avenue • Catonsville, Maryland 21228

MEMORANDUM

DATE: November 21, 2005
TO: Administrators
Comprehensive and Extended Care Facilities
FROM: Wendy Kronmiller
Acting Director, Office of Health Care Quality
SUBJECT: Part I. Required Screening of Potential Employees
Part II. Abuse Reporting Follow-Up

I. Required Screening

The Centers for Medicare and Medicaid Services (CMS) requires that nursing homes employ qualified nurse aides who are properly trained, appropriately tested, and have no adverse findings against them of abuse, neglect, or misappropriation of property. The purpose of this memorandum is to remind nursing homes of the responsibilities related to screening potential hires, including the responsibility to check the nurse aide registry. This memorandum also provides contact information for nurse aide registries in every State.

Nursing homes are required to develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents, and misappropriation of their property. This responsibility includes screening potential employees for a history of abuse, neglect or mistreating residents by obtaining information from previous employers and/or current employers, and checking with the appropriate licensing boards and registries. These requirements are enforced by the Office of Health Care Quality; failure to screen potential employees will result in State and Federal deficiencies.

Nursing homes are required to check the nurse aide registry. Current Federal regulations prohibit nursing homes from employing individuals who have been found guilty of abusing, neglecting, or mistreating residents by a court of law or have had a finding entered into the State nurse aide registry concerning resident abuse, neglect or misappropriation of property. In addition, nursing homes must check the nurse aide registries of other States the potential employer believes might contain information about an individual. The regulations require that before allowing an individual to serve as a nurse aide, a facility must seek information from every State registry established under sections 1819(e)(2)(A) or 1919(e)(2)(A) of the Social Security Act the facility reasonably believes will include information on the individual.

To support this nursing home responsibility, attached is a list of contact information for all State nurse aide registries that may assist nursing home employers in verifying information from other nurse aide registries. The Centers for Medicare & Medicaid Services (CMS) has posted the attached list at its link to the Web site, "Sharing Innovations in Quality (SIQ) Repository of Clinical Standards and Quality." Users can access the repository of information through the current Web site address - <http://www.cms.hhs.gov/medicaid/survey-cert/siqhome.asp>. The attached State Nurse Aide Registry List is located under the CMS Policies and Memos section of the repository.

Also, we want to remind nursing homes that Federal regulations allow individuals enrolled in an approved nurse aide training and competency evaluation program to work up to four months, performing only those skills for which their trainer has determined proficiency, before successfully passing their nurse aide competency evaluation examination and being included on the nurse aide registry.

Ref: S&C-05-46

II. Abuse and Neglect Reporting

As we have previously notified you by an April 12, 2005 Memorandum sent from this Office, Survey and Certification Letter 05-09, December 16, 2004 and the Federal Regulations 42 C.F.R. 483.14 require that a facility must report all allegations of resident abuse or neglect, including injuries of an unknown source and misappropriation of resident property as soon as possible, but no later than 24 hours after discovery of the incident to the State Survey and Certification Agency (which in Maryland is the Office of Health Care Quality ("OHCQ")). The results of all investigations must be reported to OHCQ within five working days of the alleged violation.

As you are aware, Md. Code Ann., Health-General Article, §19-347 requires a facility to report allegations of abuse or neglect to an appropriate law enforcement agency, the Secretary (OHCQ) or Department of Aging. Facilities should be mindful that, while they are not required to report to all 3 agencies, sound practice would dictate that the nursing home notify law enforcement and the Ombudsman, under appropriate circumstances, as each agency serves a different purpose.

The Ombudsman's office shares our concern about resident conditions and care and are particularly skillful at mediating disputes between residents, families, and facilities. Locate your local Ombudsman office on the web (www.mdoa.state.md.us/ombudsman.html). OHCQ would anticipate notification to law enforcement as a responsible component of a facility's abuse investigation when there is a concern about criminal activity or abuse. In addition to calling law enforcement, you may find it appropriate to call the Office of Attorney General, Medicaid Fraud Control Unit which has concurrent jurisdiction with your local State's Attorneys' Office and has the authority to investigate and criminally prosecute allegations of abuse or neglect in facilities that receive Medicaid Funds. The MFCU may also be called directly at 410-576-6521 to report allegations of abuse or neglect.