

ISDH Long Term Care
Newsletter Issue #
11-18
August 31, 2011

In Today's Issue:
- Reporting of Crimes
Against
a Resident

ADVISORY ISSUE: REPORTING A REASONABLE SUSPICION OF A CRIME AGAINST A RESIDENT

Reporting of Reasonable Suspicion of a Crime Against a Resident

This issue of the Indiana State Department of Health (ISDH) Long Term Care Newsletter focuses on a new Federal law requiring the reporting of a reasonable suspicion of a crime against a resident. The ISDH is providing information related to the state implementation of the regulations.

Overview

[Section 6703\(b\)\(3\)](#) of the Patient Protection and Affordable Care Act, in part, amends Title XI of the Social Security Act by adding a Section 1150B. Section 1150B requires long term care facilities that receive at least \$10,000 in Federal funds under the Act during the preceding year to annually notify each covered individual of their obligation to report to the State Survey Agency and at least one local law enforcement entity "any reasonable suspicion of a crime," as defined by local law, committed against an individual who is a resident of, or is receiving care from, the facility.

Required to Report

Covered individuals must timely report any reasonable suspicion of a crime against a resident of, or who is receiving care from, a long term care facility. A "covered individual" is defined at Section 1150B(a)(3) as each individual who is an owner, operator, employee, manager, agent, or contractor of such long term care facility.

The long term care facilities included in this reporting requirement are:

- Nursing facilities (NFs)
- Skilled nursing facilities (SNFs)
- Hospices that provide services in long term care facilities
- Intermediate Care Facilities for the Mentally Retarded (ICF/MR)

Covered Individual Responsibilities

The reporting of reasonable suspicion of crimes falls on each covered individual not the facility. Covered individuals are those individuals with a reasonable suspicion of a crime against a resident.

Reporting of Crimes: Guidance and Advisories

On June 17, 2011, the Centers for Medicare and Medicaid Services (CMS) issued Survey and Certification Letter 11-30-NH. The guidance letter was effective immediately upon release. The [CMS Survey and Certification Letter 11-30-NH Revised](#) was released on August 12, 2011, to add questions and answers.

To provide assistance to facilities and covered individuals in implementing the Federal regulations, the ISDH is providing [ISDH Long Term Care Program Advisory Letter LTC-2011-01](#). The Advisory Letter provides information on the reporting process in Indiana for the reporting of suspected crimes against a resident.

The ISDH compiled an [Implementation Checklist for Facilities](#) of required and recommended actions to assist facilities in implementing the reporting regulation.

In an attempt to further assist facilities and covered individuals, the ISDH created [questions and answers](#) concerning the State reporting process. The ISDH will attempt to add answers to the document as questions arise.

The ISDH is providing these advisory documents based on our current understanding of Federal regulations and guidance. The documents are subject to change at any time based on updated Federal guidance.

Reporting of Crimes: Notice Templates

The facility must conspicuously post, in an appropriate location, a notice for its employees specifying the employees' rights, including the right to file a complaint under this statute. The notice must include a statement that an employee may file a complaint with the ISDH against a long term care facility that retaliates against an employee as well as include information with respect to the manner of filing such a complaint. As part of its guidance letter, CMS included an attachment highlighting notice requirements but did not create a notice template.

The ISDH has not prescribed a specific notice to be posted in a facility. A facility may create its own notice. To assist facilities, however, the ISDH created an [Indiana Notice Template](#) that may be used by facilities to fulfill the notice requirement.

To assist covered individuals in properly reporting suspected crimes against a resident, the ISDH recommends that facilities post contact information for the reporting of suspected crimes. The ISDH created a [template of a notice providing contact information](#) for reporting. The document is in Word format. Once the facility has identified contact information for the local law enforcement entity, that information should be added to the document as indicated on the template.

Reporting of Crimes: Reporting to ISDH

The ISDH has amended its [Incident Report Form](#). The same form may be used for reporting of all incidents. The amended form may be used by health care facilities for required reporting of reportable unusual occurrences (incidents) pursuant to the ISDH Reportable Unusual Occurrences Policy. The amended form may also be used by health care facility staff (covered individuals) for the reporting of a reasonable suspicion of a crime against a resident.

Reporting of Crimes: Additional Information

The ISDH has updated its [Incident Reporting Web Page](#). All of the documents included in this newsletter have been added to the page.



Terry Whitson
Assistant Commissioner
Indiana State Department of Health

Do you know someone who could benefit from this newsletter?

