

NURSING FACILITY REPORTED INCIDENTS (FRI)

**Changes to Guidelines
and Updates to
Reporting Requirements
August 2023**



AGENDA

Changes to Facility Reported Incident (FRI) Form.

Definitions According to the State Operations Manual (SOM)

Abuse & Neglect Reporting Requirements.

Ch. 5 - Changes to Response Timelines



FRI FORM

- Located: Oregon Department of Human Services Website under Mandatory Reporting:
<https://www.oregon.gov/odhs/licensing/nursing-facilities/Documents/facility-reported-incident-apd-2803.pdf>
- Please download and save the blank FRI template for use. Completed each FRI in full and identify the contact person for follow-up. **DO NOT** fill out and attempt to submit the form via the website.
- NFSU Complaint Intake Line: 1-877-280-4555
- Email for facility incident reporting & follow-up investigations:
FRI.Incidents@odhsoha.Oregon.gov

Nursing Facility Reported Incident (FRI) Form



Purpose of form: A nursing facility must ensure all **alleged violations** are reported **immediately** to the administrator of the facility and to other officials, including the State Survey Agency (SSA), in accordance with §483.12(c)(1). A nursing facility should use this form to report FRIs that meet §483.12(c)(1) to Oregon's SSA, Safety, Oversight and Quality (SOQ), Nursing Facility (NF) Complaint Intake Unit.

Reporting time frames:

Immediately but no later than **2 HOURS** after the allegation is made - If the **alleged violation** involves **abuse** (refer to Federal abuse definitions) or results in **serious bodily injury** (refer to Federal definition) or reasonable suspicion of a **crime** if the events that cause the suspicion result in serious **bodily injury**.

No later than **24 HOURS** after the allegation is made - If the **alleged violation/crime does not** involve **abuse and does not** result in **serious bodily injury**.

Please complete all sections of this form.

What Alleged Violation are You Reporting: (Choose all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Mistreatment | <input type="checkbox"/> Abuse |
| <input type="checkbox"/> Exploitation | <input type="checkbox"/> Injuries of Unknown Source |
| <input type="checkbox"/> Neglect | <input type="checkbox"/> Misappropriation of Resident Property |
| <input type="checkbox"/> Suspected Crime | |

Has the alleged violation resulted in serious bodily injury: ☐ Yes ☐ No

Facility Information:

Today's date: _____ Time: _____ ☐ a.m. ☐ p.m.

Facility's complete (full) name: _____

Facility's CCN Number: _____

Address: _____

City: _____ State: _____ ZIP code: _____

Phone number: _____

Name of person reporting this incident to the NF Complaint Intake Unit for the facility: _____

Last: _____ First: _____

Title: _____ Email: _____

Incident Details:

Incident date: _____ Time: _____ ☐ a.m. ☐ p.m.

Incident time unknown: ☐ Incident location (be as specific as possible): _____

Incident date unknown: ☐

Date and time staff first aware of incident: Date: _____ Time: _____ ☐ a.m. ☐ p.m.

Incident Reporting:

First: _____

Name of person who reported incident to facility administration: Last: _____

Staff title or relationship to resident: _____ Date reported: _____

Date and time Administrator notified of incident: Date: _____ Time: _____ ☐ a.m. ☐ p.m.

Description of Incident – All parts of this section must be completed.

Describe the incident: _____

Describe outcome to the involved resident/s: identify any physical, psychosocial, or behavioral, adverse effect or injury to the resident/s: _____

Describe what immediate protective measures were put in place to prevent this incident from recurring to the resident or other resident(s): _____

List All Residents Involved in the Incident:

Resident 1

Name: Last: First: Gender: Date of birth: Medicaid: ☐ Yes ☐ No Medicaid number (if applicable): Relevant diagnosis:

Has Resident 1 been involved in a similar allegation or incident before: ☐ Yes ☐ No

Is Resident 1 still in the facility: ☐ Yes ☐ No If no, where is Resident 1 now:

Resident 2

Name: Last: First: Gender: Date of birth: Medicaid: ☐ Yes ☐ No Medicaid number (if applicable): Relevant diagnosis:

Has Resident 2 been involved in a similar allegation or incident before: ☐ Yes ☐ No

If no, where is Resident 2 now:

Are there additional Residents: ☐ Yes ☐ No If yes, list name(s):

Reported Perpetrators (RP) (Do not list a resident as a reported perpetrator on this form)

Reported Perpetrator 1 (RP1) Name:

Last: First: Phone:

Staff title or relationship to resident:

License or certificate number:

If RP1 is a staff person, are they on administrative leave: ☐ Yes ☐ No

If RP1 is **not** a staff person, do they have access to the resident or other residents facility: ☐ Yes ☐ No

Reported Perpetrator 2 (RP2) Name:

Last: First: Phone:

Staff title or relationship to resident:

License or certificate number:

If RP2 is a staff person, are they on administrative leave: ☐ Yes ☐ No

If RP2 is **not** a staff person, do they have access to the resident or other residents facility: ☐ Yes ☐ No

If more than two RPs are involved, please list them here:

Witnesses:

Did anyone witness the incident: ☐ Yes ☐ No If yes, list witnesses:

Witness Name: Last: First: Phone:

Staff title or relationship to resident:

Witness Name: Last: First: Phone:

Staff title or relationship to resident:

Are there additional Witnesses: ☐ Yes ☐ No If yes, list name(s):

Please Answer of All the Following Questions

Is this incident a **crime**: ☐ Yes ☐ No

If yes, has law enforcement been notified: ☐ Yes ☐ No If yes, date and time notified:

Law enforcement agency and agency contact:

Case number, if known:

List anyone else contacted:

Phone:

The information provided and attached with this form assists with FRI triage prioritization. Please include other relevant documentation with this FRI, (e.g., care plan, applicable MARs, applicable progress notes, etc.) via secure email. Save a copy of the completed FRI form before sending. Ensure the form displays all information when faxing.

Name of person completing this form: Last:

First:

Title:

Date:

Please note: The facility must report the results of all alleged violation investigations to the SSA within 5 working days of the incident. (CFR §483.12(c)(4))

After clicking the "SUBMIT" button below, a new email message will appear, and the "To" section of the email message should automatically be filled in as, "Facility Reported Incidents" and the FRI form will be attached. Please:

1. Add the Facility's complete name to the Subject line of the email.
2. Send email via secure email.

Note: Your completed FRI Form will automatically attach to the email when you click the "SUBMIT" button below.

SUBMIT

If you are unable to use the "Submit" button as designed, please email the completed form to the Nursing Facility Complaint Unit via secure email to: FRI.Incidents@odhsoha.oregon.gov

If you are unable to email the form, please fax the completed form to the Nursing Facility Complaint Unit at Fax: 1-888-550-6788.

For questions regarding this form, please call: 1-877-280-4555.

REPORTING REQUIREMENTS F609:

What is to be reported:	<ol style="list-style-type: none"> 1. All <u>alleged violations</u> involving abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property. 2. The results of all investigations of alleged violations within 5 working days of the alleged incident. 3. Any reasonable suspicion of a crime against a resident or an individual receiving care from the facility.
Who is required to report:	The facility which includes any covered individual, which means the owner, operator, employee, manager, agent or contractor of the facility.
To Whom:	<ol style="list-style-type: none"> 1. The facility administrator. 2. State Survey Agency (SA) and one or more law enforcement entities for the political subdivision in which the facility is located (i.e., the full range of potential responders to elder abuse, neglect, and exploitation.)
When?	<p>All alleged violations or suspected crimes-</p> <ol style="list-style-type: none"> 1. <u>Immediately but not later than 2 hours</u> (if the alleged violation or crime involves abuse or results in serious bodily injury) 2. <u>Not later than 24 hours</u> (if the alleged violation or crime involves neglect, exploitation, mistreatment, or misappropriation of resident property; and does not result in serious bodily injury.

**Reporting requirements under this regulation are based on real (clock) time, not business.*

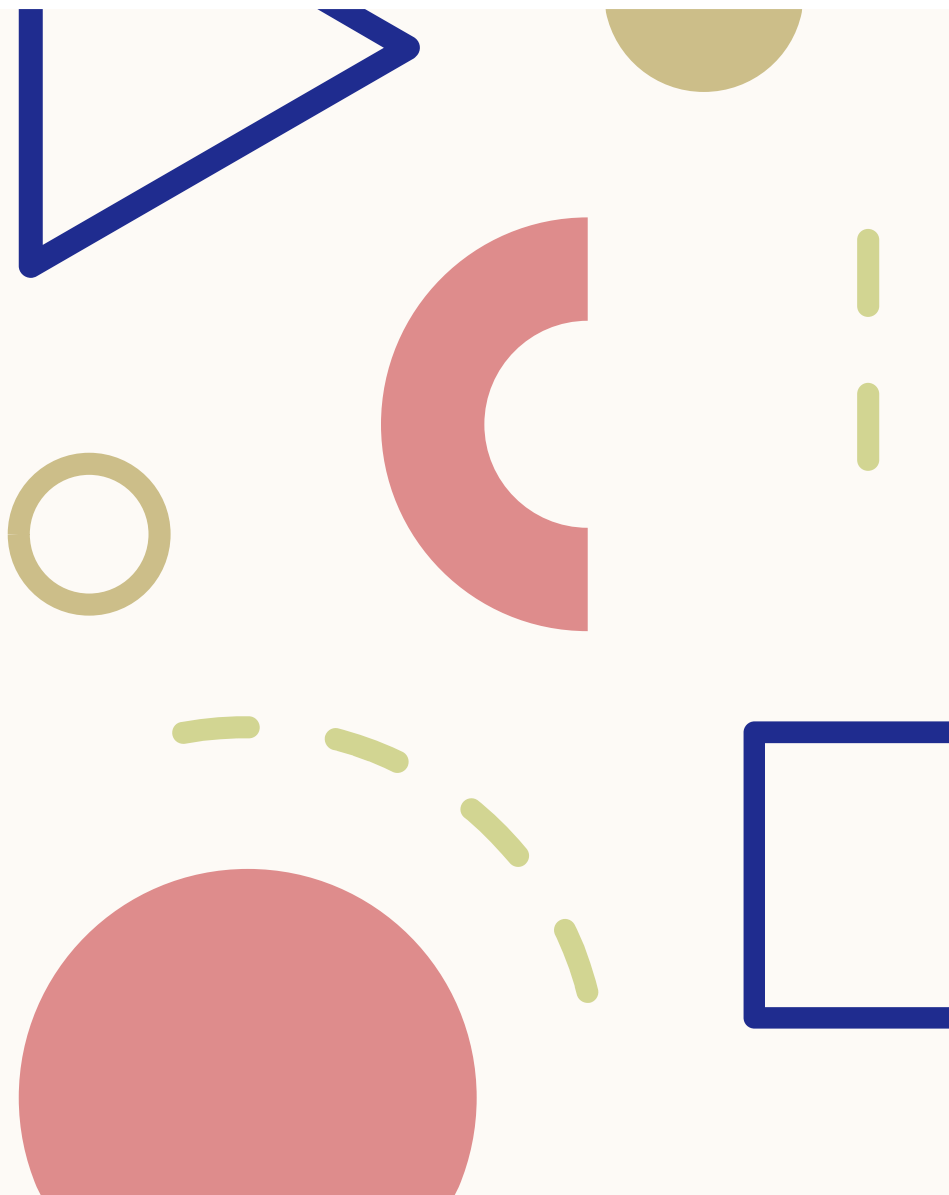


DEFINITIONS

Per The State Operations Manual (SOM)

Alleged Violation:

§CFR 483.12 (a-c) “is a situation or occurrence that is observed or reported by staff, resident, relative, visitor, another health care provider, or others but has not yet been investigated and, if verified, **could be** noncompliance with the Federal requirements related to mistreatment, exploitation, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property.”



DEFINITIONS CONT.

- **Serious Bodily Injury:** An injury involving extreme physical pain, substantial risk of death, protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or requiring medical intervention such as surgery, hospitalization, or physical rehabilitation.
- **Mistreatment:** Inappropriate treatment or exploitation of a resident.
- **Exploitation:** Taking advantage of a resident for personal gain, through the use of manipulation, intimidation, threats, or coercion.

ABUSE (F600)

The willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish – irrespective of a resident's mental or physical condition. Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being.

Includes:

- Verbal
- Mental
- Sexual
- Physical

WHAT DO WE MEAN BY WILLFUL?

The individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.

- Cognitively impaired resident who strikes out at a resident within reach= willful.
- Resident with a neurological disease has involuntary movements (writhing movements, etc.) and impacts a resident who is nearby = not willful

SEXUAL ABUSE

Non-consensual
sexual contact of
any type with a
resident.

Sexual abuse includes, but is not limited to:

- Unwanted intimate touching of any kind especially of breasts or perineal area;
- All types of sexual assault or battery, such as rape, sodomy, and coerced nudity;
- Forced observation of masturbation and/or pornography; and
- Taking sexually explicit photographs and/or audio/video recordings of a resident(s) and maintaining and/or distributing them (e.g., posting on social media).

SEXUAL ABUSE

NON- CONSENSUAL

Generally, sexual contact is non-consensual if the resident either:

- Appears to want the contact to occur, but lacks the cognitive ability to consent; or
- Does not want the contact to occur.
- Other examples of nonconsensual sexual contact may include, but are not limited to, situations where a resident is sedated, is temporarily unconscious, or is in a coma.

CAPACITY TO CONSENT

- Residents have the right to engage in consensual sexual activity. However, anytime the facility has reason to suspect that a resident may not have the capacity to consent, the facility must take steps to ensure that the resident is protected from abuse, including evaluating whether the resident has the capacity to consent to sexual activity.
- The legal standards and criteria for sexual consent vary across states (Lyden, 2007; Stavis et al., 1999). The most widely accepted criteria, which are consistent with those applied to consent to treatment, are:
 - Knowledge of relevant information, including risks and benefits;
 - Understanding or rational reasoning that reveals a decision that is consistent with the individual's values (competence); and
 - Voluntariness (a stated choice without coercion)

NOTE: For information related to determining consent, refer to “Assessment of Older Adults with Diminished Capacity: A Handbook for Psychologists –

<https://www.apa.org/pi/aging/programs/assessment/capacity-psychologist-handbook.pdf>

(Grisso, 2003; Kennedy, 1999; Stavis, 1991; Stavis et al., 1999; Sundram et al., 1993).

MENTAL/VERBAL ABUSE

- ❖ Mental abuse is the use of verbal or nonverbal conduct which causes or has the potential to cause the resident to experience humiliation, intimidation, fear, shame, agitation, or degradation.
- ❖ Verbal abuse includes the use of oral, written, or gestured communication, or sounds, to residents within hearing distance, regardless of age, ability to comprehend, or disability.

Examples of mental and verbal abuse include, but are not limited to:

- Harassing a resident;
- Mocking, insulting, ridiculing;
- Yelling or hovering over a resident, with the intent to intimidate;
- Threatening residents; and
- Isolating a resident from social interaction or activities.

PHYSICAL ABUSE

The willful action of inflicting bodily injury or physical mistreatment.

Includes, but is not limited to:

- Hitting;
- Slapping;
- Punching;
- Biting; and
- Kicking.
- It can also include corporal punishment, used to correct or control behavior (i.e., pinching, spanking, slapping of hands, flicking, or hitting with an object.)

INJURIES OF UNKNOWN SOURCE

A suspicious injury that could be indicative of abuse.

An injury should be classified as an “injury of unknown source” when ALL the following criteria are met:

1. The source of the injury was not observed by any person; **and**
2. The source of the injury could not be explained by the resident; **and**
3. The injury is suspicious because of:
 - a. The extent of the injury, or
 - b. The location of the injury (e.g., the injury is in an area not generally vulnerable to trauma), or
 - c. The number of injuries observed at one point in time, or
 - d. The incidence of injuries over time.



INJURIES OF UNKNOWN SOURCE- REQUIRED TO REPORT:

UNOBSERVED/UNEXPLAINED:

- Fractures, sprains or dislocations.
- Injuries that could have resulted from a burn.
- Bite marks.
- Scratches, skin tears, bruises, etc. found in suspicious locations.
- Patterned bruises (i.e., hand or finger marks, or an object pattern).
- Bilateral bruising to inner arms or thighs; “wrap around” bruises.
- Facial injuries.
- Bruising or other injuries in the genital area, inner thighs, or breasts.
- Injury requiring transfer to a hospital for examination and/or treatment.

INJURIES OF UNKNOWN SOURCE- NOT REQUIRED TO REPORT:

- Bruising in an area where the resident had recent medical tests/labs drawn and there is no indication of abuse or neglect.
- Injuries where the resident was able to explain or describe how he/she received the injury if there is no other indication of abuse or neglect.
- Injuries that were witnessed by staff, where there is no indication of abuse or neglect.

NEGLECT

The failure of the facility, its employees or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish or emotional distress.

Considerations

- Neglect may be the result of a pattern of failures or may be the result of one or more failures involving one resident and one staff person.
- Neglect of goods or services may occur when staff are aware, or should be aware, of residents' care needs but are unable to meet the identified needs due to other circumstances, including but not limited to:
 - Lack of training;
 - Lack of sufficient staffing;
 - Lack of supplies, or;
 - Staff lack of knowledge of the needs of the resident.



MISAPPROPRIATION F602

THE DELIBERATE MISPLACEMENT,
EXPLOITATION, OR WRONGFUL,
TEMPORARY, OR PERMANENT USE
OF THE RESIDENT'S BELONGINGS
OR MONEY WITHOUT THE
RESIDENT'S CONSENT.

Examples of misappropriation of resident property include, but are not limited to:

- Identity theft;
 - Theft of money from bank accounts;
 - Unauthorized or coerced purchases on a resident's credit card or from funds;
 - A resident who provides a "gift" to staff in order to receive ongoing care;
 - A resident who provides monetary assistance to staff (e.g., believes staff was in a financial crisis.)
 - Missing prescription medications or diversion of a resident's medication(s), including, but not limited to, controlled substances for staff use or personal gain.
-



REPORTING & INVESTIGATION REQUIREMENTS

F609- REPORTING

“In some situations, the facility may initially evaluate an occurrence to determine whether it meets the definition of an “alleged violation.”

For example, upon discovery of an injury, the facility must immediately take steps to evaluate whether the injury meets the definition of an “injury of unknown source,” Similarly, if a resident states that his or her belongings are missing, the facility may make an initial determination whether the item has been misplaced in the resident’s room, in the laundry, or elsewhere before reporting misappropriation of property.

However, if the alleged violation meets the definition of abuse, neglect, exploitation or mistreatment, the facility should not make an initial determination whether the allegation is credible before reporting the allegation.”

FAILURE TO REPORT

- Failure to report within the required timeframes for any alleged violation of abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property to the SA and/or failure to report a suspected crime to law enforcement can result in a citation at **F609**.
- Failure to submit the results of an investigation within **five working days** of the alleged incident can result in a citation at **F609**.
- Failure to complete a **thorough** investigation can result in a citation at **F610**.

REPORTING TO LAW ENFORCEMENT

Crime: Defined by law of the applicable political subdivision where the facility is located. A political subdivision would be a city, county, township or village, or any local unit of government created by or pursuant to State law.

Examples that would likely be considered crimes in all subdivisions would include but are not limited to:

- Murder;
- Manslaughter;
- Rape;
- Assault and battery;
- Sexual abuse;
- Theft/Robbery;
- Drug diversion for personal use or gain;
- Identity theft; and
- Fraud and forgery.

NOTE: Each State and local jurisdiction may vary in definitions of a crime.

Facilities should consult with local law enforcement to determine what is considered a crime.

THOROUGH INVESTIGATION - F610

In response to allegations of abuse, neglect, exploitation, or mistreatment, the facility must:

- Have **evidence** that all alleged violations are thoroughly investigated;
- Prevent further potential abuse, neglect, exploitation, or mistreatment while the investigation is in progress;
- If the alleged violation is verified, take appropriate corrective action; **AND**
- **As soon possible**, but within **5 working days of the incident**, the facility must provide sufficient information to describe the results of the investigation and indicate any corrective actions taken if applicable.

F610 Continued

**It is important the facility provide as much information as possible:
Who, What, Where, When, Why, How?**

A thorough investigation includes, but is not limited to:

- Date and time the incident occurred.
- Detailed description of the incident and all who were involved.
- Interviews including staff, residents, witnesses, the alleged perpetrator and victim, etc.
- Any observations made and records reviewed.
- Resident(s) history including medical conditions, behaviors, etc.
- Prior interventions (care plan followed?) or new implemented interventions as applicable.
- Preventative measures to prevent further potential abuse, neglect, etc.
- Summary of how the facility determined abuse, neglect, etc. was ruled out or verified.
- Any corrective action if the allegation was verified.



RESPONSE TIMELINES CHANGES

RESPONSE TIMELINES FOR IJ PRIORITY:

In cases where the initial report indicates the following, the State Survey Agency (SA) must initiate an onsite survey within three business days of receipt of the initial report:

1. The alleged noncompliance may have caused, or may likely cause, serious injury, harm, impairment, or death to a resident, **and**
2. The facility has not implemented adequate protection for all residents, or the SA has not received sufficient evidence to conclude that residents are adequately protected.

RESPONSE TIMELINES FOR IJ PRIORITY:

In cases where the initial report indicates the following, the SA must initiate an onsite survey within seven business days of receipt of the initial report:

1. The alleged noncompliance may have caused, or may likely cause, serious injury, harm, impairment, or death to a resident, **and**
2. The facility **has** potentially implemented adequate protection for all residents.

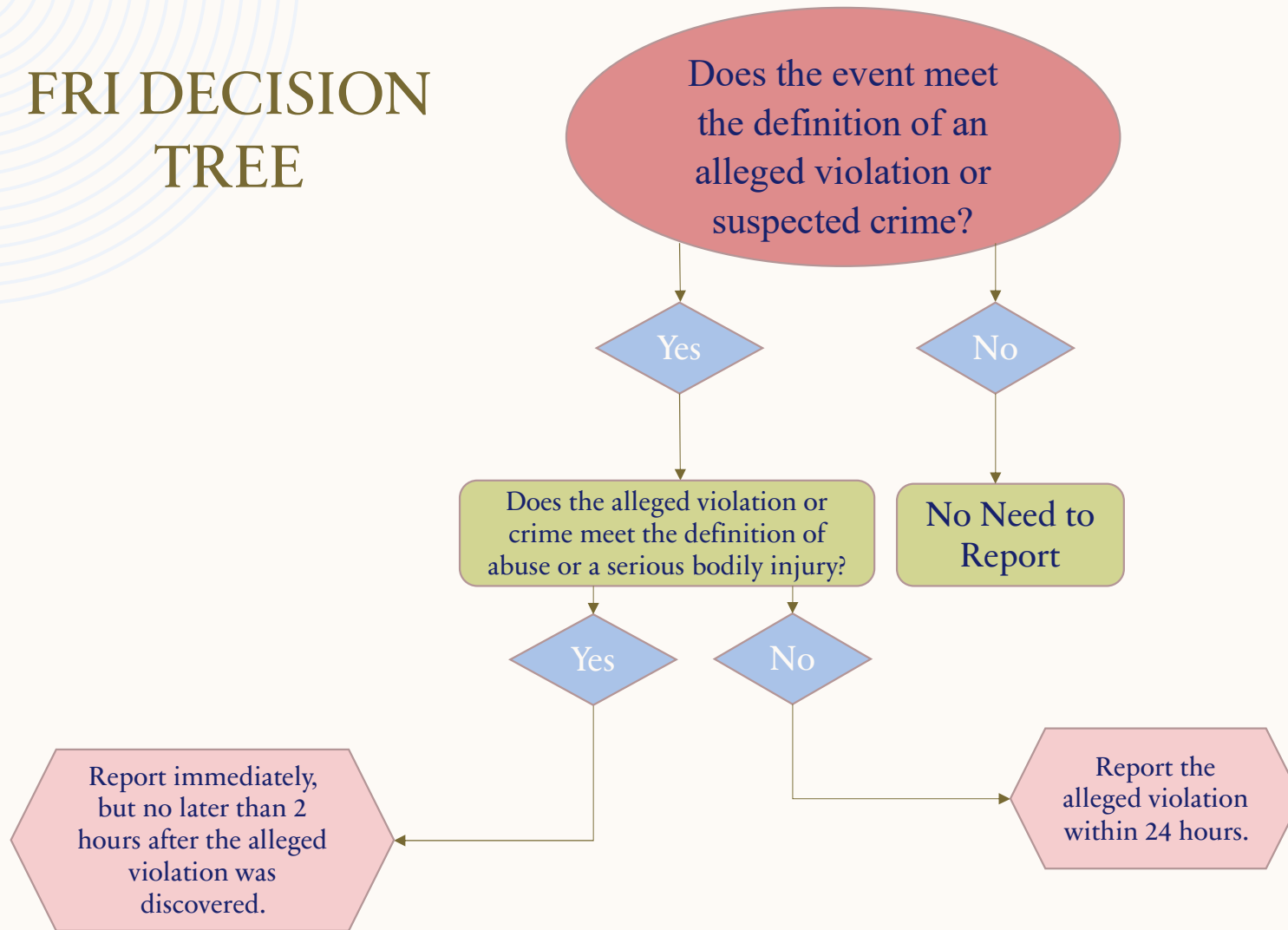
POTENTIALLY ADEQUATE PROTECTION

- Increased monitoring of the alleged victim, alleged perpetrator (if a resident) and/or other identified residents who are at risk.
- Evaluation of whether the alleged victim feels safe and if he/she does not feel safe, taking immediate steps to alleviate the fear, such as a room relocation, increased supervision, etc.
- Providing social services (e.g., emotional support and counseling) to the resident, as needed.
- Immediate assessment of the alleged victim and provision of medical treatment, as necessary.
- Removal of access by the alleged perpetrator to the alleged victim and other residents.

POTENTIALLY INADEQUATE PROTECTION

- The alleged perpetrator continues to have access to the alleged victim and/or other residents;
- Retaliation occurs against a resident who reports an alleged violation;
- A resident who repeatedly fondles other residents is moved to another unit, where he/she continues to exhibit the same behaviors to other residents;
- A resident with a history of striking a resident is left unsupervised with a resident who has been targeted in the past;
- The facility conducts an inadequate investigation and prematurely ceases resident protection measures that were implemented as a result of the alleged violation.

FRI DECISION TREE



*As defined at CFR 483.12 (a-c)

SCENARIO 1 FOR REPORTING

Resident 1 alleged to the charge nurse that Staff 1 CNA, stole \$100.00 from his wallet two days ago. Staff 1 could not be interviewed as he was on vacation and was not scheduled to work for two days.

Using FRI Decision Tree, please identify:

Alleged Violation: Abuse, neglect, exploitation or mistreatment, injuries of unknown source, misappropriation of resident property

Serious bodily injury: Yes or No

Report – less than 2-hr or Less than 24-hr

SCENARIO 2 FOR REPORTING

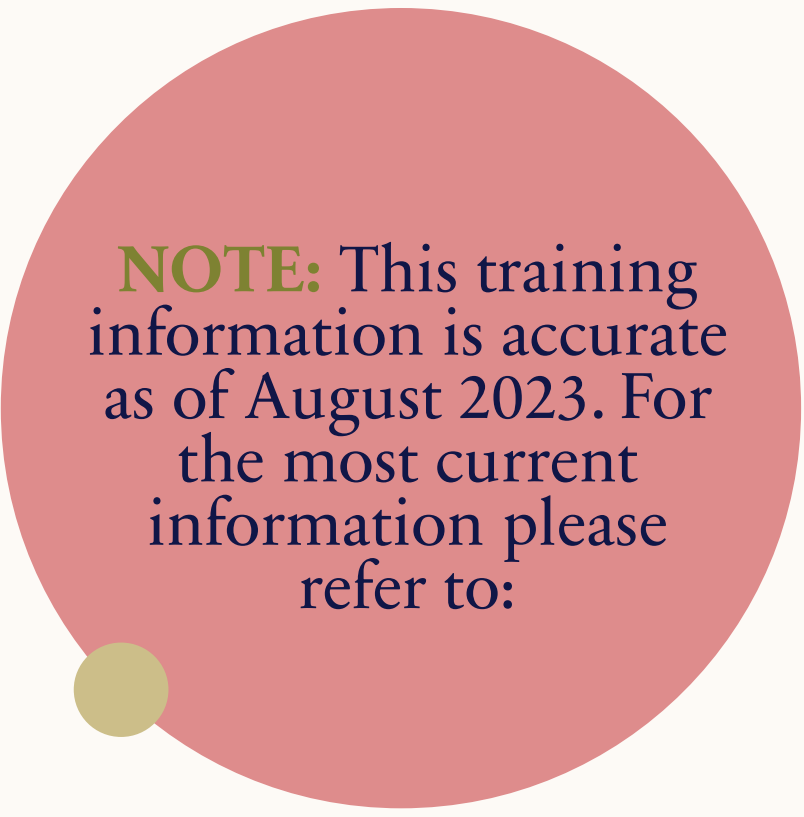
Resident 1 was care planned to require staff supervision when in group settings with other residents. Resident 1 had a history of aggressive physical behavior due to cognitive impairment. On one afternoon, a group of residents, including Resident 1, gathered in the dining room to play bingo. The activity director, who was the only staff in the room, left the dining room to gather additional supplies for the bingo game. The activity director was out of the dining room for 5 minutes. On her way back to the dining room the activity director heard a commotion in the dining room. When the activity director entered the room, she noticed Resident 1 standing over another male resident on the floor; blood was coming out from the resident's nose, and he was screaming in pain. Resident 1 was yelling at the resident on the floor stating, "I'll hit you again if you come near me."

Using FRI Decision Tree, please identify:


Alleged Violation: Abuse, neglect, exploitation or mistreatment, injuries of unknown source, misappropriation of resident property

Serious bodily injury: Yes or No

Report – less than 2-hr or Less than 24-hr



NOTE: This training information is accurate as of August 2023. For the most current information please refer to:



Centers for Medicare & Medicaid Services (CMS)— State Operations Manual (SOM) Chapter 5 and Appendix PP:

<https://www.cms.gov/medicare/provider-enrollment-and-certification/guidanceforlawsandregulations/nursing-homes>

THANK YOU!

QUESTIONS?

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