



RICK SCOTT
GOVERNOR

Better Health Care for all Floridians

ELIZABETH DUDEK
SECRETARY

October 14, 2011

TO: Long Term Care Facility Providers: Nursing Homes, Intermediate Care Facilities for the Mentally Retarded (ICF/MR), and Hospice Agencies

FROM: Polly Weaver, Chief Field Operations

SUBJECT: June 17, 2011-Revised 8/12/2011 Survey & Certification Memo from the Centers for Medicare and Medicaid Services (CMS) concerning “Reporting Reasonable Suspicion of a Crime in a Long-Term Care Facility (LTC)””; Section 1150B of the Social Security Act

The purpose of this memorandum is to inform you of the above referenced memo from CMS regarding “Reporting Reasonable Suspicion of a Crime in a LTC Facility.” Click [here](#) for the link to this memo. We recommend you carefully read the memo in order to assure your facility or agency is in full compliance with Section 1150B of the Social Security Act.

A summary of the above referenced memo includes:

- Covered individuals must timely report any reasonable suspicion of a crime against a resident of, or who is receiving care from, a LTC facility;
- If the event that causes the reasonable suspicion results in serious bodily injury, the report must be made immediately after forming the suspicion, but not later than two hours after forming the suspicion. Otherwise the report must be made not later than 24 hours after forming the suspicion;
- Covered individuals are subject to civil money penalty and exclusion sanctions for failure to meet the reporting requirements;
- Facilities must provide training annually to covered individuals of their reporting obligations, and may not retaliate, or in any way limit the reporting, and must post notice of employee rights posters;
- States will investigate as appropriate only the issues relative to the report itself using current regulations, but will not investigate a facility relative to the requirement to report itself.

Florida Nursing Homes are currently also required to report to the Agency for Health Care Administration (Agency) events that have been determined to meet the definition of “adverse incident” as defined in Section 400.147, F.S., including; but not limited to “An event that is reported to law enforcement or its personnel for investigation.” This reporting required by Florida law does not exclude the nursing home from following the Federal requirements outlined in the memo referenced above.



The nursing home continues to be responsible for assuring policies and procedures are in place and implemented for reporting and investigating allegations of abuse, neglect, injury of unknown source, and misappropriation of property, in accordance with existing federal requirement, CFR 483.13.

- For all other incidents in nursing homes, ICF/MR's and hospices, which may constitute "any reasonable suspicion of crimes against a resident of the facility" as defined by state law, such incidences should be reported to the Agency Complaint Administration Unit via email at FEDREP@ahca.myflorida.com. We request that the reporter note in the subject line "Reasonable Suspicion Report". Alternatively, the report may be filed via telephone by calling 1-888-419-3456, or by completing the online complaint form found on the Agency website at <http://apps.ahca.myflorida.com/hcfc/>. As noted with the email option above, it is important that the reporter note that the report is regarding reporting of a crime.

To reiterate a few key points in the CMS memo as noted under *Additional Advisable Functions* on Page 3 of the attachment:

"A facility that effectively implements Section 1150B will:

- a) ***Coordinate with Law Enforcement:*** Coordinate with the facility's State and local law enforcement entities to determine what actions are considered crimes in their political subdivision (including how to report crimes).
- b) ***Review Adherence to Existing CMS Policies:*** Review existing facility protocols and procedures to ensure adherence to existing CMS and State policies and procedures for reporting incidents and complaints. For example, participating nursing homes are already required to have policies and procedures in place to report abuse, neglect or misappropriation of resident property. During the course of a standard survey or complaint investigation, the identification of a possible crime may trigger a review of the LTC facility's policies and procedures for reporting as required under the Federal conditions and requirements for that provider type, and a review of the actions taken to make any required incident report.
- c) ***Develop Policies and Procedures for Section 1150B:*** Develop and maintain policies and procedures that ensure compliance with Section 1150B, including the prohibition of retaliation against any employee who makes a report, causes a lawful report to be made, or takes steps in furtherance of making a lawful report pursuant to the requirements of the statute."

If additional information from CMS is issued on this topic, it will be disseminated to LTC facility providers accordingly. Thank you in advance for your cooperation in this matter and if you have questions concerning this memo, please do not hesitate to contact Michelle Hart at (850) 412-4504.

CC:

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