

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State: Arizona

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for the Investigation of Allegations of Resident
Neglect and Abuse and Misappropriation of Resident Property

The State has in effect the following process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident's property by a nurse aide or a resident in a nursing facility or by another individual used by the facility in providing services to such a resident.

The survey and certification agency (ADHS) maintains a formal Administrative Policy and Procedure Manual for the Office of Health Care Licensure which includes the following procedures:

- a) Complaint Investigations;
- b) Facility Self-Reported Incidents, Including Abuse, Neglect and Exploitation of Property; and
- c) Client Abuse, Neglect and Misappropriation of Property by Nurse Aides.

The Administrative Policy and Procedures Manual is regularly reviewed and updated, as needed. The detailed Manual is available for inspection at the Office of Health Care Licensure, ADHS. Relevant portions of the policies identified above include, but are not limited to, the following general process:

1. Complaint Investigation

Any allegation of abuse, neglect or misappropriation of a resident's property is investigated by the survey and certification agency's Section Program Manager.

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Upon determining that the allegation merits further review by the survey and certification agency, a recommendation, complaint, field trip report and any other evidence is forwarded to the survey and certification agency's Nurse Aide (NA) Consultant. The NA Consultant reviews the allegation and initiates the process outlined in Section 1919 (g) of the Social Security Act.

A summary of the allegation is prepared and then reviewed by the survey and certification agency's Nurse Aide Compliance Review Committee (NACRC). At the request of the NACRC, the NA Consultant will prepare an investigative report for review by the Assistant Attorney General (AAG) who will review the report and notify the survey and certification agency of the AAG's recommendation. In the event of conflicting recommendations, the survey and certification agency shall make the final decision.

2. Notice Of Allegation

The NA Consultant shall send a certified letter to the Nurse Aide with notification that the survey and certification agency has found an act of client abuse, neglect or misappropriation of property to have merit. The letter shall include: a description of the conduct in question, the process for requesting a hearing and the notification of the Nurse Aide's right to make a statement if no hearing is requested.

3. Request For Hearing

The Nurse Aide must file a written request for a hearing with the survey and certification agency, Office of the Administrative Counsel, who shall subsequently schedule a hearing date. A notice confirming the hearing date, time and location shall be mailed to all involved parties.

4. Pre-Hearing Conference

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The NA Consultant shall act as a liaison and coordinate the pre-hearing activities with the AAG, investigating surveyors and witnesses.

5. Hearing and Findings

The survey and certification agency's Rules of Procedure for hearings shall apply to the hearing.

6. Notification of Findings To Nurse Aide

After the hearing and final decision, the NA Consultant shall send a certified letter informing the Nurse Aide of the findings of the hearing and the right to submit a written statement to the survey and certification agency which will be forwarded to the Board of Nursing for incorporation into the Nurse Aide Registry.

A letter shall also be sent if the Nurse Aide did not request a hearing that states the following: (a) no hearing was requested; (b) the finding of the investigation; (c) the fact that these findings will be placed on the Nurse Aide Registry; and, (d) the ability of the Nurse Aide to submit a written statement to the survey and certification agency which will be forwarded to the Board of Nursing for incorporation into the Nurse Aide Registry.

7. Reporting To The Nurse Aide Registry

The NA Consultant shall provide written notification to the Board of Nursing, which has oversight of the NA Registry, regarding:

- a. if a hearing is held, the outcome of the hearing, within 10 working days of the decision; or

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- b. if no hearing is requested, of the findings of the investigation, within 10 working days of the expiration of the time to request a hearing.

In accordance with 42 CFR 483.156, the NA Consultant shall send a letter to the Board of Nursing requesting that the findings be withdrawn if any of the following occurs: 1) the Nurse Aide appeals the final decision to the Superior Court and the decision is reversed; 2) the Nurse Aide is found not guilty of criminal charges; or, 3) the Nurse Aide dies; or, 4) the finding found to be in error.

8. Notification To Cooperative Agencies

After completion of this process, the NA Consultant shall send notification of the substantiated complaint and a "washed" (i.e., confidential information has been deleted) copy of the Field Trip Report to select agencies, if applicable.

9. Tracking & Filing

The NA Consultant shall ensure that appropriate documentation regarding each case is maintained on file in the Public Files which contain "washed" documents and the Confidential Files which contain "unwashed" materials.

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