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Chapter 411@ DEPARTMENT OF HUMAN SERVICES, AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

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Division 89@ NURSING FACILITIES/LICENSING - COMPLAINTS, INSPECTIONS, AND SANCTIONS

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Section 411-089-0100@ Complaint Intake, Investigation

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(1)

Complaint Intake. The local APD or Type B AAA office receiving a complaint shall ask questions to obtain as much of the information requested on the APD

Complaint Intake Form as possible. The local APD or Type B AAA office shall have at least one person designated and available to receive complaint calls throughout the work day.

(2)

Complaint Investigation. (a) All Complaints Investigated. The Department shall ensure all complaints, including anonymous complaints, received regarding violation of nursing facility laws are investigated. (b) Multiple Problems. If the complaint alleges more than one problem, each allegation of abuse or another rule violation shall be treated as a separate complaint, and shall be given a separate finding. This is not intended to require a separate status report or complaint investigation report for each allegation. (c) Complainant Interview. The APD or Type B AAA office representative shall interview the complainant immediately and, as necessary, during the investigation. (d) Accompany Investigator. The investigator shall ask if the complainant, a designee, or both wish to accompany the investigator to the site. The purpose of allowing the complainant or a designee to accompany the investigator is to identify individuals and circumstances relevant to the complaint. If someone is to accompany the investigator, the investigator

shall notify such party of the time and allow the party to accompany the investigator during the site visit. (e) Timeframe to Begin Investigation. The investigations shall be initiated as follows: (A) If the complaint alleges a resident's health or safety is in imminent danger or the resident has recently died, been hospitalized, or been treated in an emergency department, the on-site investigation shall begin within two hours of the complaint. (B) If the complainant alleges circumstances that may result in abuse and the circumstances may place a resident's health or safety in imminent danger, the on-site investigation shall begin before the end of the first working day following receipt of the complaint. (C) All other complaint investigations shall begin and be completed within 90 days following receipt of the complaint. (f) Prior Notification Prohibited. Neither the Department nor the local APD or Type B AAA office shall contact the facility before the on-site investigation. (g) Facility Visit. The investigation shall include at least one unannounced visit to the facility. Upon arrival at the facility, the investigator shall announce his or her presence to the administrator or other person designated to be in charge. The investigator shall explain the purpose of the visit, unless the investigator has reason to believe that disclosing the purpose of the visit would impede the investigation. (h) Witness Interview. Reasonable effort shall be made to interview all possible witnesses, including alleged perpetrators (if any), the involved residents and any other persons, including other residents, identified by any source as having personal knowledge about any allegations. (A) Investigators have the authority to conduct the interview in private unless the witness expressly makes an unsolicited request that a third party be present. (B) The investigator shall obtain the mailing address of the alleged perpetrator. (C) If the investigator is unable to interview a witness identified by the complainant, the complainant shall be notified before the investigation is concluded. (i) Investigation Format. In

addition to interviews, the investigator shall make personal observations of physical circumstances and review any documentation, including clinical records. The facility shall promptly provide all requested documentation that is available, for review and copying.

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All Complaints Investigated. The Department shall ensure all complaints, including anonymous complaints, received regarding violation of nursing facility laws are investigated.

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Multiple Problems. If the complaint alleges more than one problem, each allegation of abuse or another rule violation shall be treated as a separate complaint, and shall be given a separate finding. This is not intended to require a separate status report or complaint investigation report for each allegation.

(c)

Complainant Interview. The APD or Type B AAA office representative shall interview the complainant immediately and, as necessary, during the investigation.

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Accompany Investigator. The investigator shall ask if the complainant, a designee, or both wish to accompany the investigator to the site. The purpose of allowing the complainant or a designee to accompany the investigator is to identify individuals and circumstances relevant to the complaint. If someone is to accompany the investigator, the investigator shall notify such party of the time and allow the party to accompany the investigator during the site visit.

(e)

Timeframe to Begin Investigation. The investigations shall be initiated as follows: (A) If the complaint alleges a resident's health or safety is in imminent danger or the resident

has recently died, been hospitalized, or been treated in an emergency department, the on-site investigation shall begin within two hours of the complaint. (B) If the complainant alleges circumstances that may result in abuse and the circumstances may place a resident's health or safety in imminent danger, the on-site investigation shall begin before the end of the first working day following receipt of the complaint. (C) All other complaint investigations shall begin and be completed within 90 days following receipt of the complaint.

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If the complaint alleges a resident's health or safety is in imminent danger or the resident has recently died, been hospitalized, or been treated in an emergency department, the on-site investigation shall begin within two hours of the complaint.

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If the complainant alleges circumstances that may result in abuse and the circumstances may place a resident's health or safety in imminent danger, the on-site investigation shall begin before the end of the first working day following receipt of the complaint.

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All other complaint investigations shall begin and be completed within 90 days following receipt of the complaint.

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Prior Notification Prohibited. Neither the Department nor the local APD or Type B AAA office shall contact the facility before the on-site investigation.

(g)

Facility Visit. The investigation shall include at least one unannounced visit to the facility. Upon arrival at the facility, the investigator shall announce his or her presence to the administrator or other person designated to be in charge. The investigator shall explain the purpose of the visit, unless the investigator has reason to believe that

disclosing the purpose of the visit would impede the investigation.

(h)

Witness Interview. Reasonable effort shall be made to interview all possible witnesses, including alleged perpetrators (if any), the involved residents and any other persons, including other residents, identified by any source as having personal knowledge about any allegations. (A) Investigators have the authority to conduct the interview in private unless the witness expressly makes an unsolicited request that a third party be present.

(B) The investigator shall obtain the mailing address of the alleged perpetrator. (C) If the investigator is unable to interview a witness identified by the complainant, the complainant shall be notified before the investigation is concluded.

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Investigators have the authority to conduct the interview in private unless the witness expressly makes an unsolicited request that a third party be present.

(B)

The investigator shall obtain the mailing address of the alleged perpetrator.

(C)

If the investigator is unable to interview a witness identified by the complainant, the complainant shall be notified before the investigation is concluded.

(i)

Investigation Format. In addition to interviews, the investigator shall make personal observations of physical circumstances and review any documentation, including clinical records. The facility shall promptly provide all requested documentation that is available, for review and copying.