Conducting a Thorough Investigation

Affinity Health Services
Senior Community Management and Consulting Services

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Vice President of Clinical Services

Sharing our ***affinity*** *to* provide Consulting and Management Services to Senior Living Communities

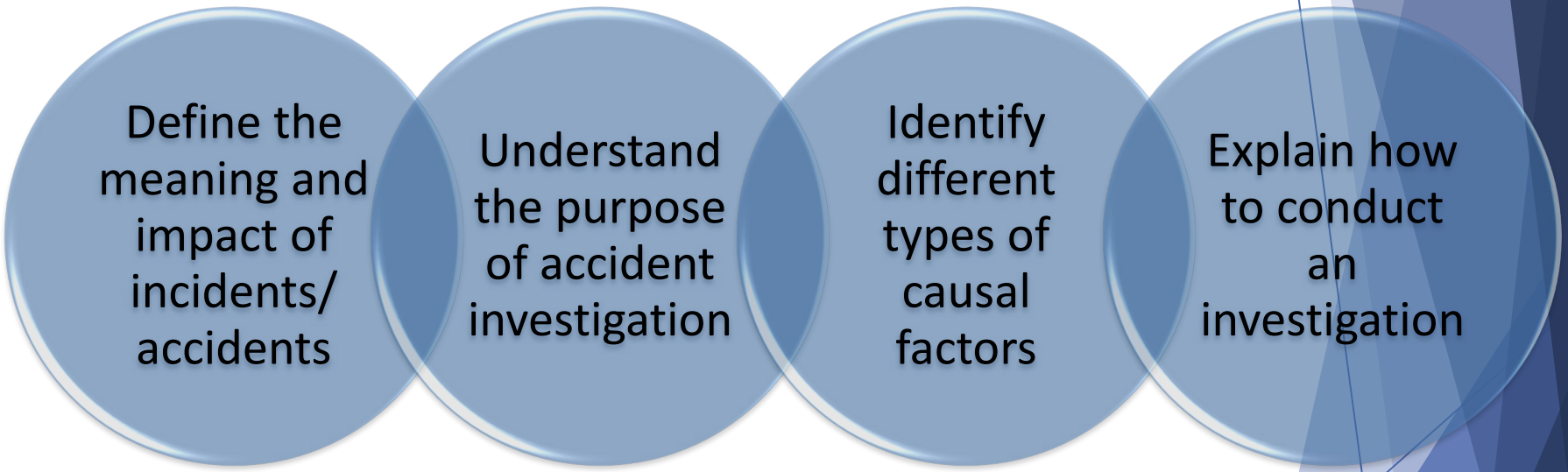
Affinity Health Services

Senior Community Management and Consulting Services

OUR PHILOSPHY

- Provide support for senior care providers to carry out their Mission
- Customize services for our client
- Provide balance between *CARE* and *FINANCIAL STABILITY*

Objectives


Define the meaning and impact of incidents/ accidents
Understand the purpose of accident investigation
Identify different types of causal factors
Explain how to conduct an investigation

What is an Accident

- Unplanned event that results in mishap, personal injury or property damage
- Accidents are the result of the failure of people, equipment, materials or environment to react as expected
- All accidents have consequences or outcomes

High Risk Areas and Events

- Falls
- Medications
- Lack of assistance & interventions - CP
- Careless staff
- Non-compliant resident
- Resident behaviors
- Malnutrition/Dehydration
- Environmental hazards
- Abuse
- Mechanical Lifts

Consequences of Accidents

Direct Consequences

- Personal Injury
- Property Loss

Indirect Consequences

- Lost Income
- Medical Expenses
- Time to retrain others
- Decreased morale
- Increased Liability

What should be investigated?

- Abuse/Neglect/Exploitation
- Resident Falls with and without injury
- Injuries of Unknown origin
- Skin Tears regardless of cause
- Bruises [known and unknown causes]
- All wounds- pressure, lacerations, abrasions
- Medication Errors
- Medical Errors
- Delay in Treatment
- Elopement
- Equipment Failure
- Car Accidents
- Suspicious Death
- Visitor Falls/Injury

* List is not all inclusive

Purpose of Investigations

- Determine the sequence of events leading to failure
- Identify causal factors
- Mitigate Risk
- Find methods to prevent accident / incident from recurring

Regulatory Requirements

- Increased demand on providers to "*thoroughly investigate*" and;
- Develop "*system-based*" corrective actions for one incident and;
- Identify what will be done to "*protect other residents at risk*".

- F603 Freedom from Abuse- includes interview questions and record review
- F607 Abuse policy- includes investigation
- F609 Abuse Reporting- investigation submitted within 5 day
- F689 Accidents and Hazards – ID hazards and risk

Investigation Goals

- Prevention of recurrence is always the most important goal of an investigation
- Fault finding or placing blame serves no useful purpose
- Prevention is accomplished through correcting procedures and conditions as well as through training

- Seek to understand how an event occurred
- Identify causal factors
- Draw conclusion
- Implement new interventions to prevent reoccurrence

RULE OUT ABUSE AND NEGLECT

Investigation Pitfalls

A thorough investigation will answer:

- WHO is involved?
- WHAT is the actual allegation or incident?
- WHERE did it happen?
- WHEN did it happen?
- WHY did it happen?
- HOW this happen?
- WHAT is the follow up to prevent reoccurrence?

Injury of Unknown Origin

INJURIES OF UNKNOWN ORIGIN SHOULD BE ONSIDERED ABUSE UNTIL ABUSE IS RULED OUT

- Bruises
- Skin Tears
- Fracture

Role of Nursing Staff

- Know the most about the residents and the situation
- Have a personal interest in identifying causes
- Able to take immediate action to prevent recurrence
- Can communicate effectively with the employees

Role of Nursing Staff

- Record event in the medical record – Describe what occurred
- Record physical assessment and vital signs
- Notify the Physician and Family
- Complete Incident Report
- Notify Administrator and Director of Nursing
- Implement New Interventions
- Update Plan of Care

Steps to Accident Investigation

- Survey the Scene
- Secure the Scene [implement interim controls]
- Get help for the injured
- Collect Evidence
- Analyze data
- Pause for the Cause- Determine causes
- Follow up and Eliminate hazards

INCIDENTS SHALL BE INVESTIGATED IMMEDIATELY

- Facts are fresh in the minds of witnesses and those involved in the incident
- Witnesses have not had a chance to talk and influence each other's thinking
- All physical conditions remain the same
- Quick response will demonstrate the incident / allegation is taken seriously, reported timely, timely investigation and immediate corrective action taken
- Risk Mitigation

Risk Mitigation- 4 Point Plan

- What corrective actions will be accomplished for those residents who have been affected by the incident
- How will you identify other residents with the potential to be affected by a similar incident
- What measures will be put into place or what system changes will you make to ensure that an incident does not reoccur
- How will the preventative measures be monitored and who will be responsible
- Date when the preventative measures will be implemented and evaluated

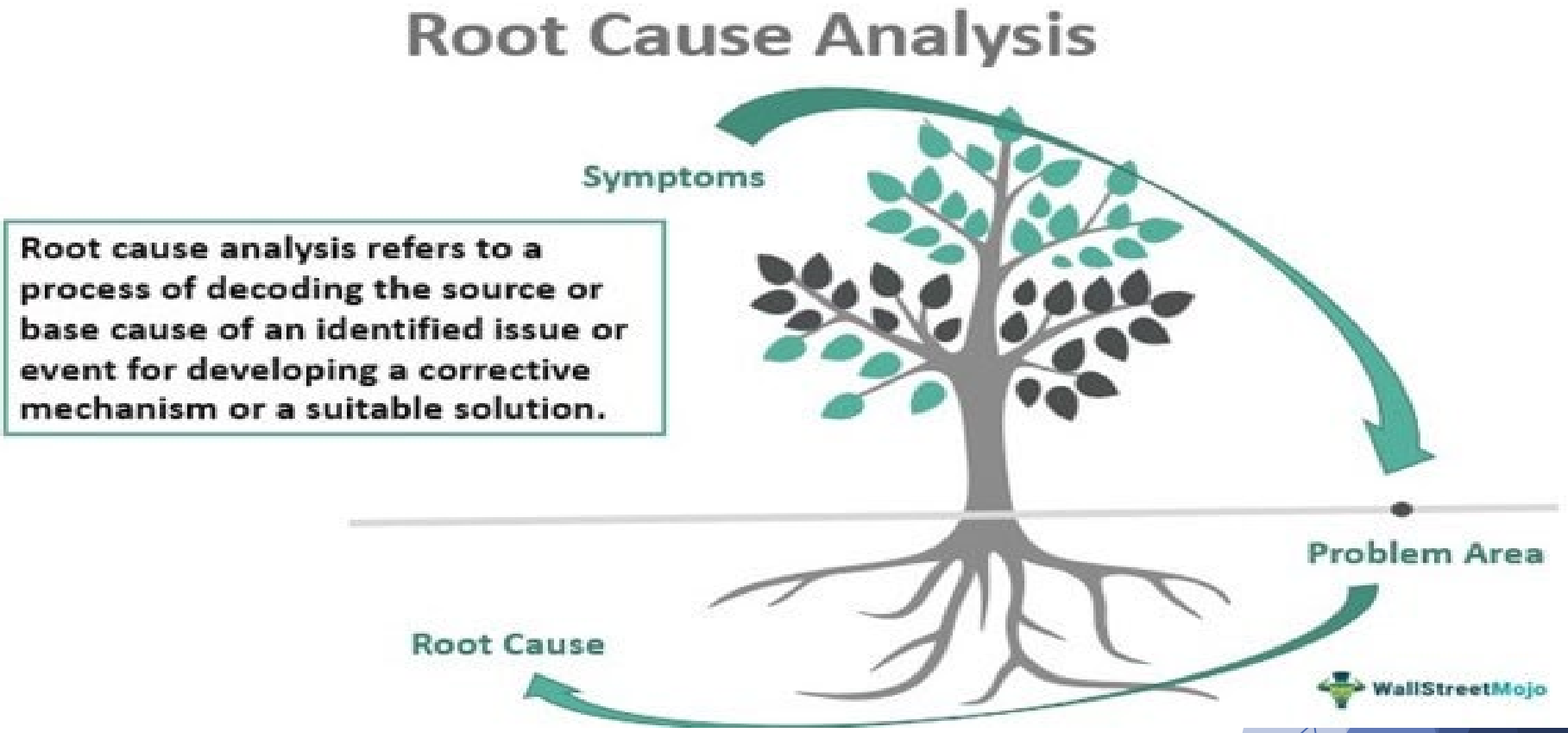
Communication Is Key

- What are the barriers to communication of potential risk factors?
- To what degree is the prevention of adverse outcomes communicated as a high priority?
- Create a Culture of Compliance
- Zero Tolerance for not reporting
- Full Transparency

Incident Reporting and Root Cause Analysis

- All accidents have causes
- Accident causes can be determined
- Corrective action will eliminate causal factors to prevent similar accidents

Root Cause Analysis Defined (RCA)



*Root Cause Analysis is a process for identifying the **basic reasons** or **causal factors** that underlie variations in performance.*

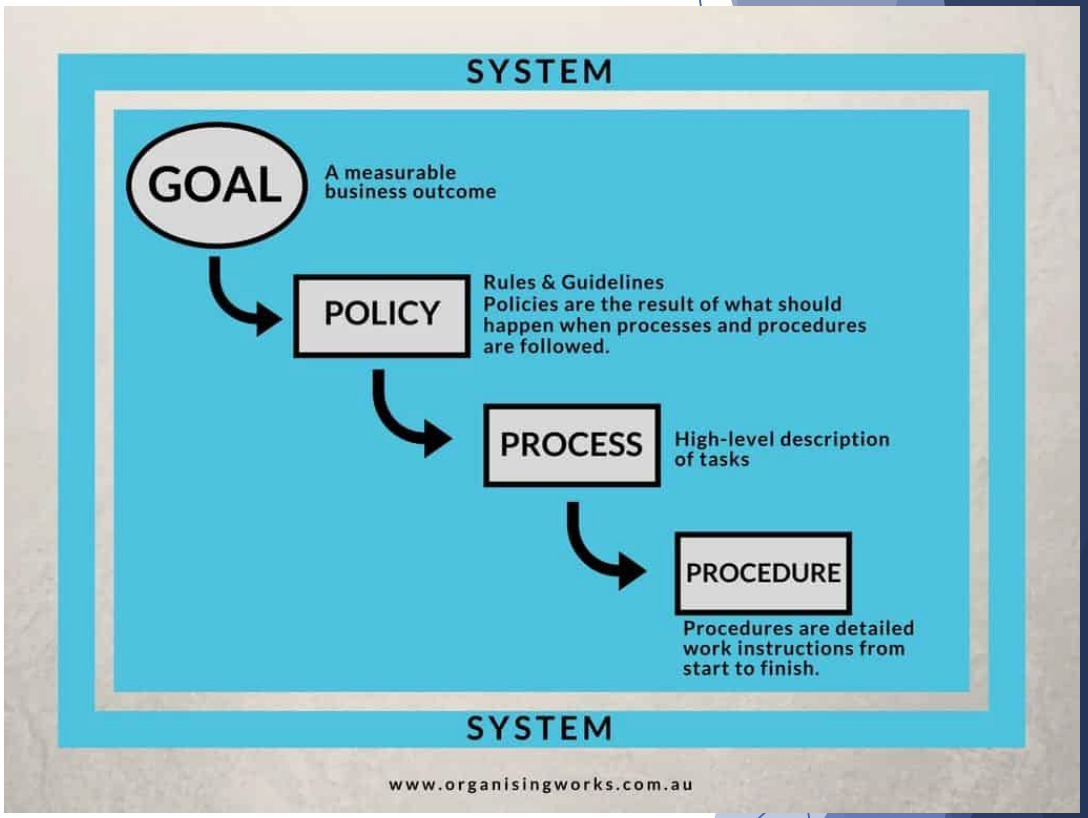
System vs Process

Process:

- A systematic sequence of actions used to produce something or achieve an end.
- A series of actions that lead toward a particular result

System:

- Group of related things or parts that function together as a whole.
- Regularly interacting or interdependent group of items forming a unified whole.



A system is made up of one or more processes

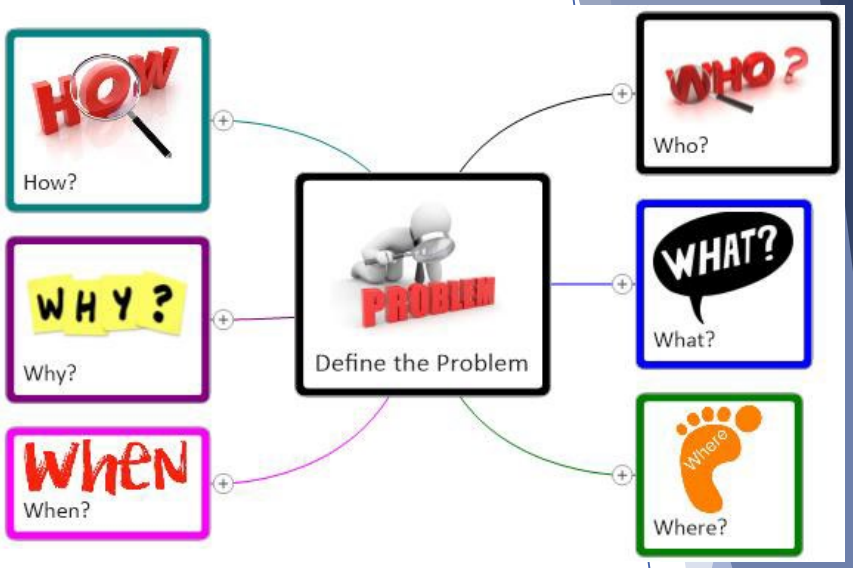
Causation

Underlying causes which allowed the immediate causes to exist =

the root cause

- Who was involved?
- What are the details of the event---brief description
- When did the event occur---date, day of week, shift, time
- What is the impact of the event?
- Why did this happen?
- How did this happen?

Root Cause Analysis



- People- human impact
- Equipment Involved
- Physical Plant
- Environment
- Process
- Policy and Procedure
- Inadequate supervision
- Communication

- Staff training and competency
- Staffing
- Staff performance
- Orientation and training new staff, new equipment
- Effective planning and preparation

Gathering Evidence

- Evidence is any information that proves a fact
- All evidence must be
  - Relevant- Just the facts
  - Material- Tell me the story
  - Competent- first hand? second hand? What did you see and hear
  - Reliable- Honesty, Integrity

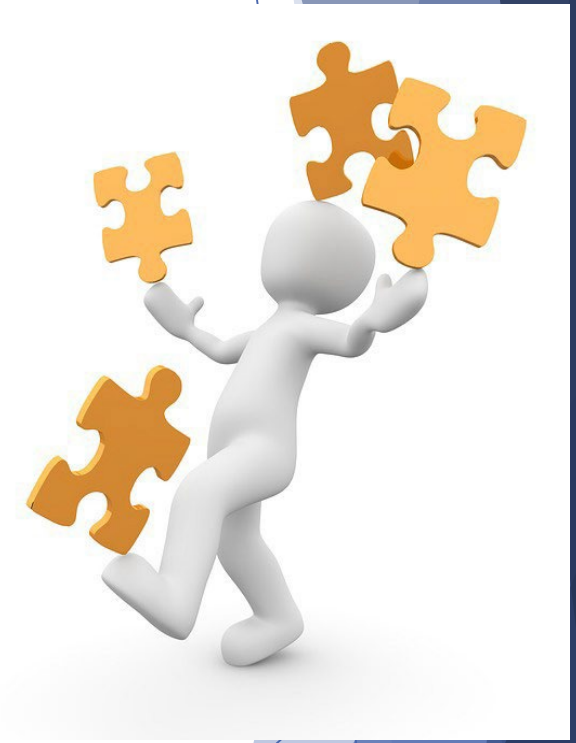
Gathering Evidence

- Types of evidence are:
  - Direct- establishes a fact directly
    - fingerprints
  - Indirect infers a fact; draws a conclusion.
    - Circumstantial evidence

- Testimonial – direct witnesses
- Documentary – records
- Real or physical- object
- Demonstrative -photos, x-rays,

Goal of the Investigation

- Conduct a thorough, good faith investigation
- Do NOT need to prove beyond a shadow of a doubt
- Do NOT need preponderance of evidence



Observe the Resident

- In room
- In Wheelchair or Geri chair
- During Transfers
- Interacting with other residents
- Interacting with staff and staff treatment of them
- Behaviors

Reconstruct the Incident

- Try to visualize how the injury occurred.
- Analyze the injury to see if it “matches” any parts of resident equipment, bedpans, railings, etc.
- Re-enact all possible scenarios that could have happened for the resident.
- 90% of the time you can determine the cause.

Interviewing Techniques

- Prepare for the interview
  - Know as much as possible about the violation/ situation
  - Know your biases and attitudes
  - Consider time of day an time available
  - Location should be private

Interviewing Techniques

- Explain purpose
- Take Notes
- Establish Rapport
  - Start with Non-verbal communication – keep an open body position
  - Maintain eye contact and smile
  - Extend a hand shake
  - Do something to put them at ease
    - Offer something to drink

Interviewing Techniques

- Questioning the Subject
  - Avoid questions that ask for a "Yes or No" response.
  - Begin with an open endec question, like:
    - "Tell me about…"
    - "What happened on".
    - "Help me understand……"
    - "Show me…."

Interviewing Techniques

- Completing the Interview
  - Summarize and verify the information gathered.
  - Ask them if they want to add to a statement already written.
  - Thank them for their time and information.
  - Re-establish rapport and the end and anytime during the interview.
  - Always leave room for rapport.

Interviewing Staff

- Put the person at ease. Emphasize prevention as the goal and not fault finding
- Conduct the interview at the scene of the accident
- Let the person tell the story without interruption
- Ask any necessary questions
- Repeat the person's story as you understand it
- Obtain signed and dated written statements

Staff Interview

- Who was present?
- How did you transfer the resident?
- What care did you provide? When?
- What was the resident doing prior to the event?
- Where was the resident prior to the event?
- What was the resident's condition during your shift? Last rounds?
- Request Return Demonstration- Re-enact the event
- What was going on in the room?
- Environmental factors?
- Equipment utilized

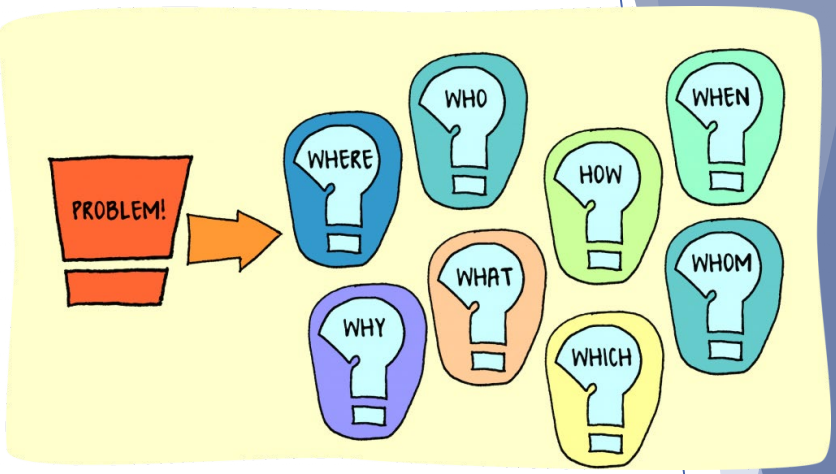
Interview the Resident

- His or Her routine
- Describe what occurred
- Describe the staff involved
- Comfort in their bed or chair
- Comfort and security in how cared for by staff
- Any complaints about staff or short staffing
- Did anyone harm you?

Conflicting Information

Conflicting details

- Impede investigation progress
- Barrier to resolution



Attempt to reconcile the conflict

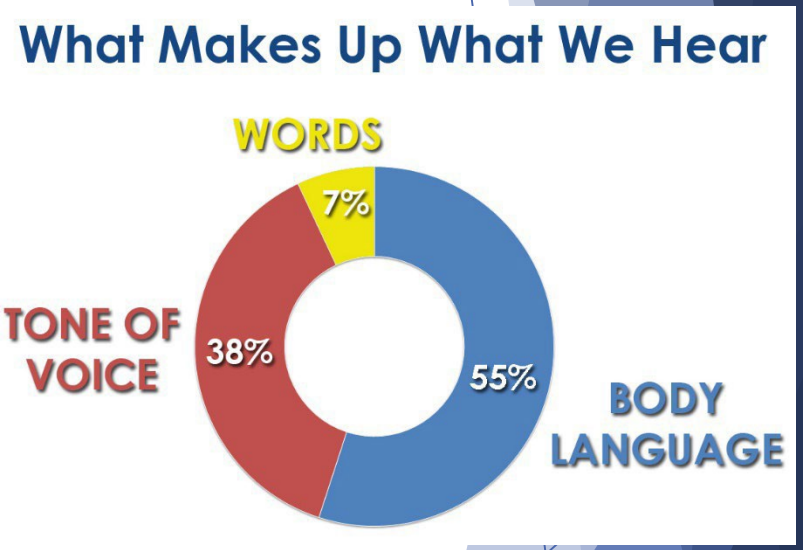
Complete follow up interviews to reconcile conflicting details

Review supportive documentation

Document steps taken to resolve the conflict

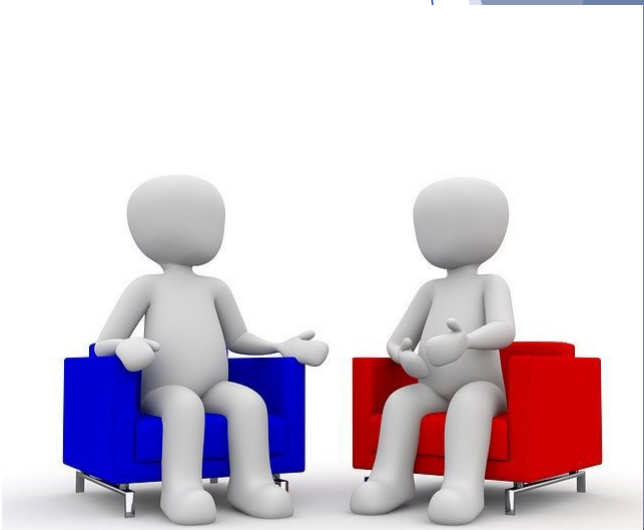
Analysis of Body Language

- Nonverbal Communication is more reliable than verbal communication.
- Nonverbal Communication is 60-70% of actual communication.
- Verbal Communication is supported, modified or contradicted by nonverbal communication.



Analysis of Body Language

- Verbal signs of deception may be indicated by the language changing or breaking down.
- How they say “No” may reveal whether or not they are guilty.
- Nonverbal signs of deception may be reflected in a lack of spontaneity in answering; turning away from you.
- Fidgeting, nervous twitching or turning inward to protect themselves.



Constructing a Factual Report

- Objective is to communicate what was found.
- A factual report is
  - Accurate
  - Logical
  - Clearly written
  - Concise
  - Complete

Reader will use the content, style, and tone of report to judge the quality of the investigation process, findings, conclusion and recommendations and competence of the investigator.

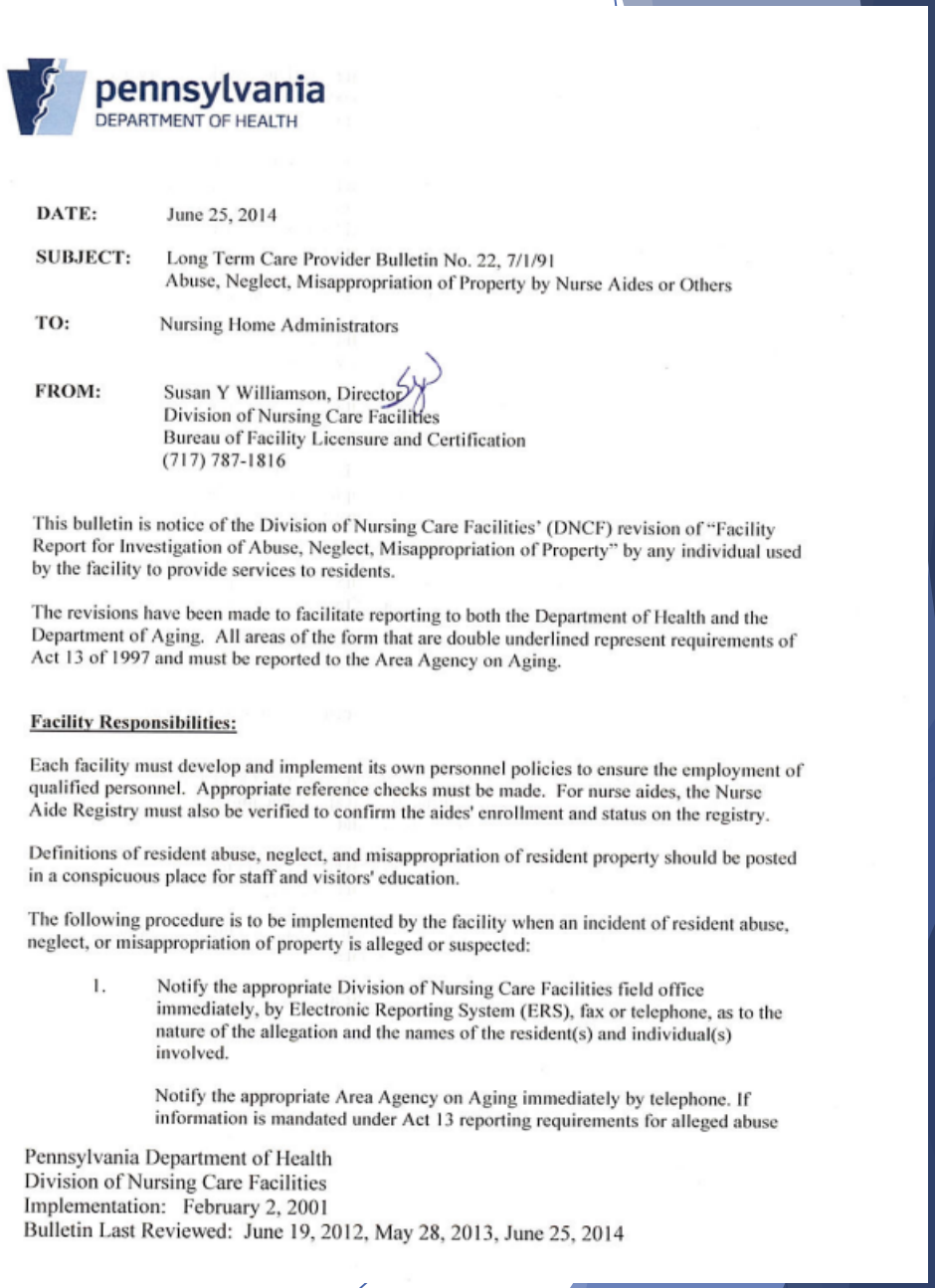
Purpose of Investigation Report

- Memorialize incident/ investigation findings, conclusion and follow up action taken
- Provides a formal record of the investigation process
- Means of sharing lessons learned

Presents the culmination of the work undertaken by the investigator that conveys all the necessary information regarding the incident, the investigation process and investigation findings

PB-22

- An additional investigative and reporting process for ALL incidents of ALLEGED:
  - Abuse
  - Neglect
  - Misappropriation of Property
- Time Sensitive Mandated Document- 5 days
- To be used to fulfill the reporting requirements of F 600, Chapter 51.3 and AAA.



pennsylvania
DEPARTMENT OF HEALTH

DATE: June 25, 2014

SUBJECT: Long Term Care Provider Bulletin No. 22, 7/1/91
Abuse, Neglect, Misappropriation of Property by Nurse Aides or Others

TO: Nursing Home Administrators

FROM: Susan Y Williamson, Director
Division of Nursing Care Facilities
Bureau of Facility Licensure and Certification
(717) 787-1816

This bulletin is notice of the Division of Nursing Care Facilities' (DNCF) revision of "Facility Report for Investigation of Abuse, Neglect, Misappropriation of Property" by any individual used by the facility to provide services to residents.

The revisions have been made to facilitate reporting to both the Department of Health and the Department of Aging. All areas of the form that are double underlined represent requirements of Act 13 of 1997 and must be reported to the Area Agency on Aging.

Facility Responsibilities:

Each facility must develop and implement its own personnel policies to ensure the employment of qualified personnel. Appropriate reference checks must be made. For nurse aides, the Nurse Aide Registry must also be verified to confirm the aides' enrollment and status on the registry.

Definitions of resident abuse, neglect, and misappropriation of resident property should be posted in a conspicuous place for staff and visitors' education.

The following procedure is to be implemented by the facility when an incident of resident abuse, neglect, or misappropriation of property is alleged or suspected:

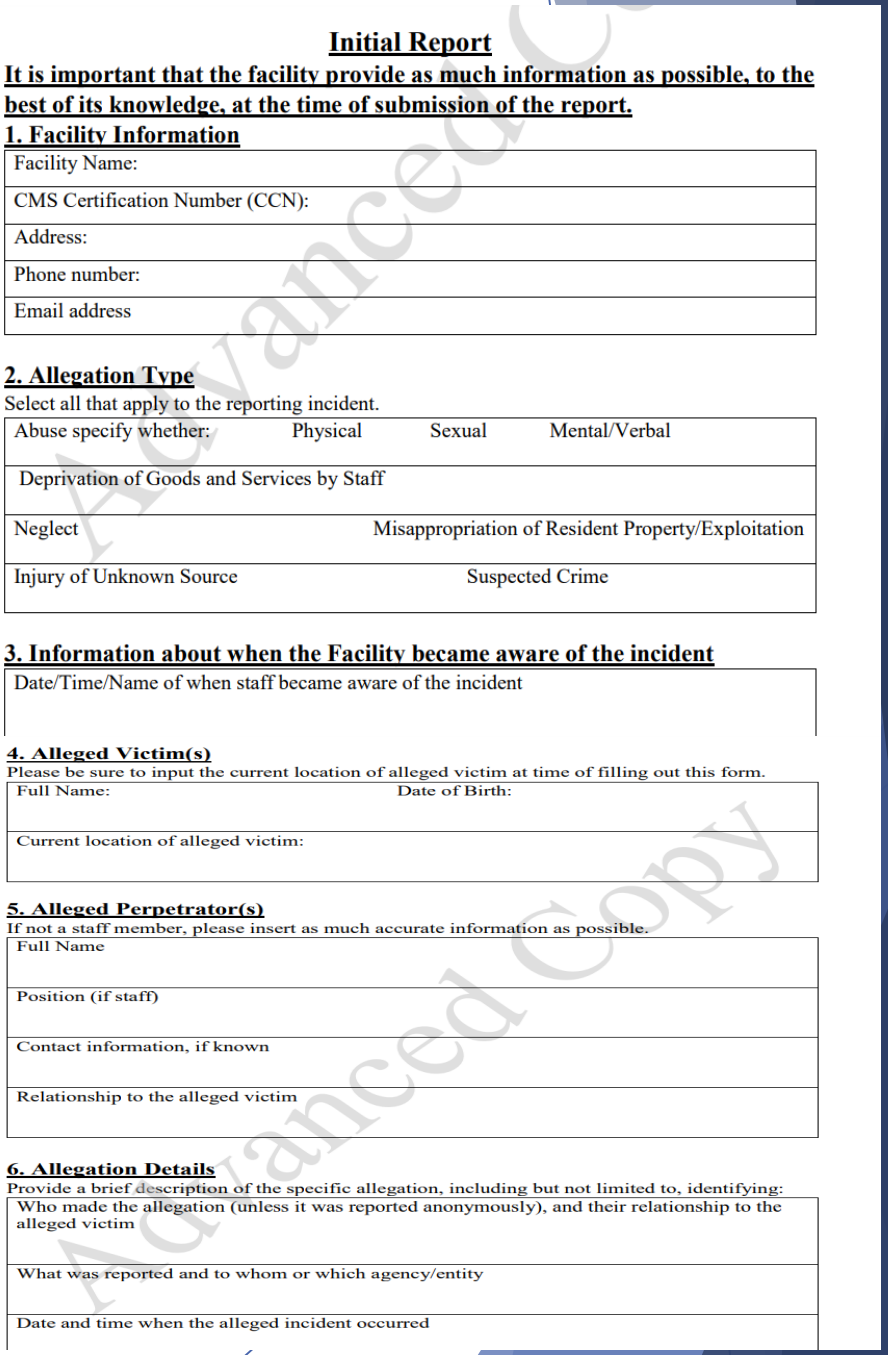
1. Notify the appropriate Division of Nursing Care Facilities field office immediately, by Electronic Reporting System (ERS), fax or telephone, as to the nature of the allegation and the names of the resident(s) and individual(s) involved.

   Notify the appropriate Area Agency on Aging immediately by telephone. If information is mandated under Act 13 reporting requirements for alleged abuse

Pennsylvania Department of Health
Division of Nursing Care Facilities
Implementation: February 2, 2001
Bulletin Last Reviewed: June 19, 2012, May 28, 2013, June 25, 2014

CMS Exhibit 358

- Worksheet to assist with collecting information for initial report.
- Reporting reasonable suspicion of crimes against a resident or individual receiving care from the facility within prescribed timeframes to the appropriate entities
- Includes alleged violations of: neglect, exploitation or mistreatment, injuries of unknown source and misappropriation of resident property



Initial Report

It is important that the facility provide as much information as possible, to the best of its knowledge, at the time of submission of the report.

1. Facility Information

Facility Name:
CMS Certification Number (CCN):
Address:
Phone number:
Email address

2. Allegation Type

Select all that apply to the reporting incident.

Abuse specify whether:	Physical	Sexual	Mental/Verbal
Deprivation of Goods and Services by Staff			
Neglect		Misappropriation of Resident Property/Exploitation	
Injury of Unknown Source		Suspected Crime	

3. Information about when the Facility became aware of the incident

Date/Time/Name of when staff became aware of the incident

4. Alleged Victim(s)

Please be sure to input the current location of alleged victim at time of filling out this form.

Full Name:	Date of Birth:
Current location of alleged victim:	

5. Alleged Perpetrator(s)

If not a staff member, please insert as much accurate information as possible.

Full Name
Position (if staff)
Contact information, if known
Relationship to the alleged victim

6. Allegation Details

Provide a brief description of the specific allegation, including but not limited to, identifying:

Who made the allegation (unless it was reported anonymously), and their relationship to the alleged victim
What was reported and to whom or which agency/entity
Date and time when the alleged incident occurred

CMS- Exhibit 359

Follow-up Investigation Report

Within five (5) business days of the incident, the facility must provide in its report sufficient information to describe the results of the investigation, and indicate any corrective actions taken if the allegation was verified.

Provide as much information as possible, to the best of its knowledge at the time of submission of the report.

Include any updates to information provided in the initial report

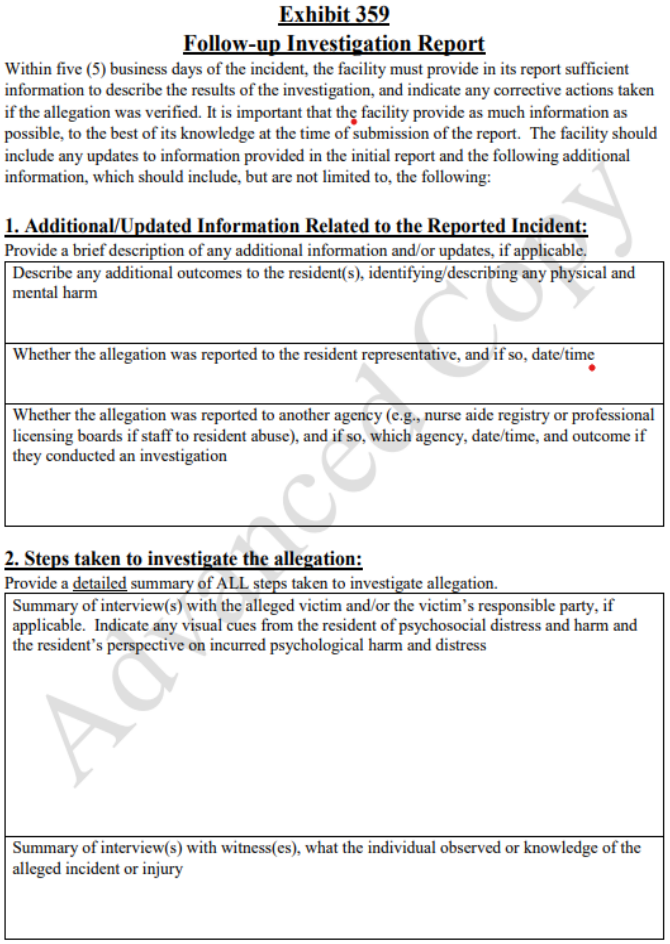


Exhibit 359

Follow-up Investigation Report

Within five (5) business days of the incident, the facility must provide in its report sufficient information to describe the results of the investigation, and indicate any corrective actions taken if the allegation was verified. It is important that the facility provide as much information as possible, to the best of its knowledge at the time of submission of the report. The facility should include any updates to information provided in the initial report and the following additional information, which should include, but are not limited to, the following:

1. Additional/Updated Information Related to the Reported Incident:

Provide a brief description of any additional information and/or updates, if applicable.

Describe any additional outcomes to the resident(s), identifying/describing any physical and mental harm
Whether the allegation was reported to the resident representative, and if so, date/time
Whether the allegation was reported to another agency (e.g., nurse aide registry or professional licensing boards if staff to resident abuse), and if so, which agency, date/time, and outcome if they conducted an investigation

2. Steps taken to investigate the allegation:

Provide a detailed summary of ALL steps taken to investigate allegation.

Summary of interview(s) with the alleged victim and/or the victim's responsible party, if applicable. Indicate any visual cues from the resident of psychosocial distress and harm and the resident's perspective on incurred psychological harm and distress
Summary of interview(s) with witness(es), what the individual observed or knowledge of the alleged incident or injury

Constructing a Factual Report

- A FACT is something that can be proved.
- NON-FACTUAL information cannot be proved, for example:
  - Statements about the future.
  - Statements about the mental state of someone.
  - Statements that indicate the opinion or approval or disapproval of the writer.

Constructing a Factual Report

- Write in simple, descriptive terms.
- Define the Problem
- Establish the Norm
- Identify what was affected and not affected
- Describe Pre-accident conditions
- Create a Timeline of events
- Define Accident sequence and accident scene
- Describe post accident conditions
- Observe and describe environmental factors
- Outline interventions that were and were not in place
- Identify pre-disposing and contributing factors
- Isolate root cause
- Draw Conclusion
- Recommend corrective/ follow up action or new intervention

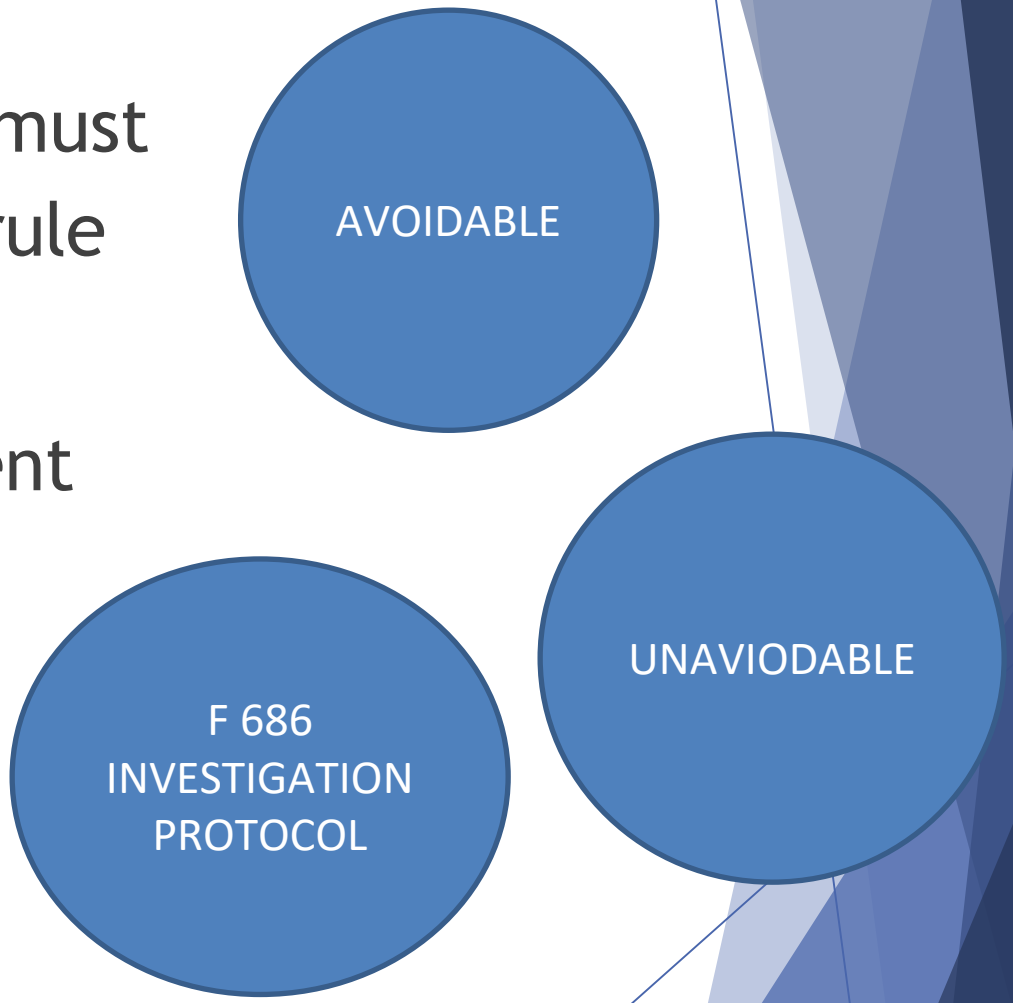
RULE OUT ABUSE AND NEGLECT

Good Investigation Report

- Summarizes the investigation process and facts
- Makes factual findings and conclusions
- Avoids legal conclusions
- Supports findings with evidence
- Analyzes conflicting evidence, especially “he said, she said” issues
- Explains the investigator’s reasoning
- Where appropriate, avoids unnecessarily identifying witnesses by name if that may expose them to retaliation or other adverse consequences
- Rules out abuse and neglect
- Outlines corrective follow up actions / interventions

Investigating Pressure Sores

- Newly acquired PS must be investigated to rule out *neglect*.
- Was there an incident associated with the wound?
  - Bed pan
  - Heating pad



Investigating Pressure Sores

- When was the wound discovered?
- Were there any impact injuries?
- What was done to protect the resident from future incidents?
- Were there prevention measures in place?
  - TAPs monitor
  - Nutrition & Hydration
  - Special Mattresses

Investigating Pressure Sores

- Risk Assessment
- Preventative Measures
- Audit for gaps against policy and procedures
- Evaluate Co-morbidities
  - Cardiac Failure
  - Respiratory Failure
  - Diabetes
  - Cancer
  - Use of any immuno-suppressive agents, I.e. NSAIDs.
- Does the resident have pain?
- Signs/ symptoms of infection?
- Properly applied splinting devices?

Interview Staff

- How are they caring for the resident
- Does it line up with the care plan?
  - Turning & Repositioning
  - Toileting schedule
  - Keeping clean and dry
  - Peri-area cleaning products
  - Proper lifting procedures

Interview Staff

- Any other witnesses?
- How do staff communicate findings to their supervisor?
- Where and how do staff document their findings?
- Is staff member familiar with what is not considered normal?
- Was staff member aware of care plan interventions?
- Has staff member been adequately trained?

Documentation

- Is the care plan written to address RISK separately from ACTUAL SKIN BREAKDOWN?
- Are the care plans kept up to date with new problems, goals and interventions?
- Are preventative measures recorded?
- Are treatments done timely and properly per orders.

Investigating Misappropriation of Resident Property

- **Financial Exploitation** is any "improper conduct with or without the informed consent of the older adult that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss for the older adult."
  - ©CARIE, 1998

Examples of Financial Abuse

- Stealing
- “Borrowing”
- Ignoring reports of loss or theft
- Exploitation
- Scamming
- Identity Theft

Indicators that Financial Abuse may have occurred:

- Missing items or possessions.
- Unexplained inability to pay bills.
- Undue interest by family in resident's funds.
- Transfer of funds out of resident's accounts.
- Lack of knowledge about personal funds
- Unexplained Charges on accounts
- Outstanding balance

Investigating the Allegation

- Interview the Resident to rule out “misplacement” or loss.
- Interview responsible party/ POA
- Search the resident’s environment *MUST HAVE CONSENT*
- Interview staff in general.
- Gather documentation
  - Bank statements
  - Credit card statements
  - Checkbook ledger

Notify local law enforcement

- In all cases of serious bodily injury, serious physical injury or rape, the police must be notified.
- Establish guidelines in your policy of when the local police will be notified of the theft.
- Indicate on the PB-22 whether or not police have become involved.

Investigating Resident & Family Complaints

- Must be handled according to your grievance policy and Procedures
- Do you have a rapport with the Resident and/or family? If not establish one.
- Determine what is their actual complaint?
  - Listen attentively
  - Take notes
- Assure them that you will get back to them with information as soon as possible.

Investigating Resident & Family Complaints

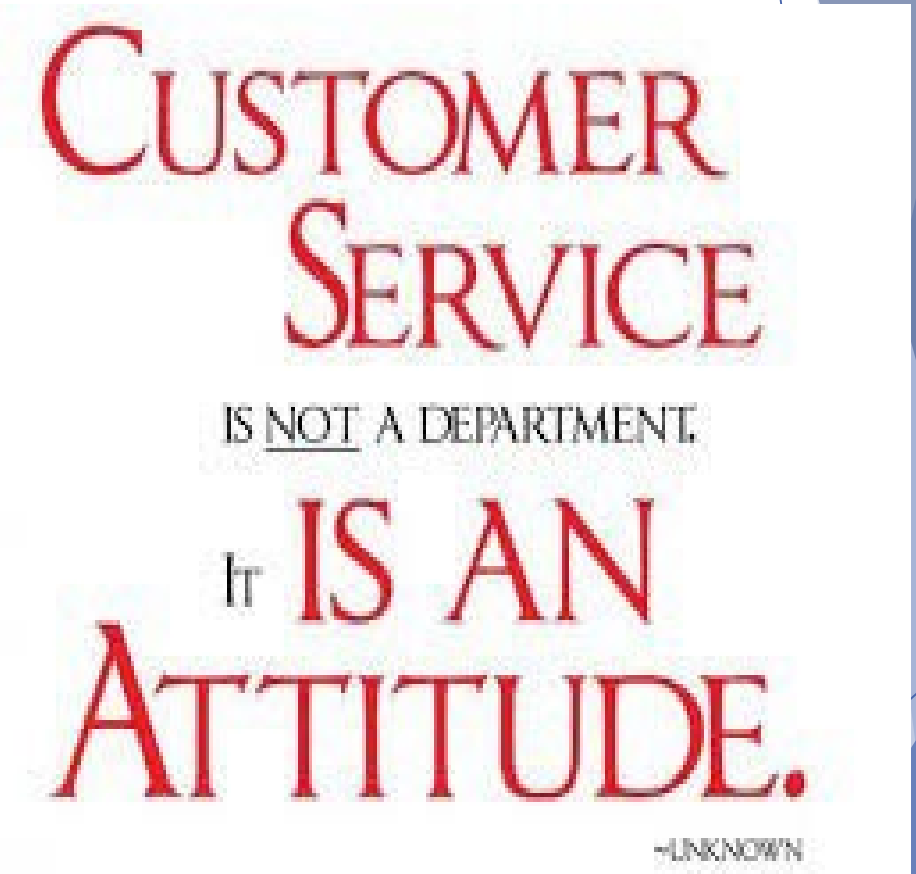
- Gather facts and information in as much detail as possible.
- Delegate investigation to the appropriate department head or at least involve them.
- Determine a plan of action to identify where in the process the problem occurred.
- Interview staff if involved.

Investigating Resident & Family Complaints

- Contact the Resident &/or Family with the follow up and final information.
- Communicate the resolution.
- Document your contact with the resident/family and anything that is said in response to the resolution.
- Log all information in the Grievance Log.
- Make sure that you do what you said you would in the action plan.

Family Complaints

- Listen
- Acknowledge
- Apologize
- Investigate
- Initiate
- Follow up
- Monitor



KEY TAKEAWAYS:

- Analyze the complaint or incident.
- Plan your investigative activities.
- Gather sufficient evidence and documentation.
- Use proper interviewing techniques.
- Analyze behavior and causal factors
- Avoid Investigation Pitfalls
- Conclude a thorough investigation
- Rule out abuse and neglect
- Implement corrective action.
- Construct a factual report.
- Attach all credible evidence to the investigation
- Document resident assessment, family and MD notification.
- Report to authorities and regulatory bodies when required.

Questions

Thank you for your attention and the opportunity to conduct this presentation

Affinity Health Services

Senior Community Management and Consulting Services

Providing Balance Between *CARE* and *FINANACIAL STABILITY*

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