



ABUSE, NEGLECT AND EXPLOITATION REPORTING GUIDE

State Fiscal Year 2019



NEW MEXICO
DEPARTMENT OF
HEALTH

Division of Health Improvement

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DEFINITIONS OF ABUSE, NEGLECT, AND EXPLOITATION

ABUSE is defined as:

- (1) knowingly, intentionally, and without justifiable cause inflicting physical pain, injury or mental anguish;
- (2) the intentional deprivation by a caretaker or other person of services necessary to maintain the mental and physical health of a person; or
- (3) sexual abuse, including criminal sexual contact, incest and criminal sexual penetration.

SEXUAL ABUSE is defined as the inappropriate touching of a recipient of care or services for sexual purpose or in a sexual manner, and includes kissing, touching the genitals, buttocks, or breasts, causing the recipient of care or services to touch another for sexual purpose, or promoting or observing for sexual purpose any activity or performance involving play, photography, filming, or depiction of acts considered pornographic. Sexual conduct engaged in by an employee with a person for whom they are providing care or services is sexual abuse per se.

VERBAL ABUSE is defined as profane, threatening, derogatory, or demeaning language, spoken or conveyed with the intent to cause mental anguish.

MENTAL ANGUISH is defined as a relatively high degree of mental pain and distress that is more than mere disappointment, anger, resentment, or embarrassment, although it may include all of these, and is objectively manifested by the recipient of care or services by significant behavioral or emotional changes or physical symptoms.

NEGLECT is defined as the failure of the caretaker to provide basic needs of a person, such as clothing, food, shelter, supervision, and care for the physical and mental health of that person. Neglect causes, or is likely to cause harm to a person.

EXPLOITATION is defined as an unjust or improper use of a person's money or property for another person's profit or advantage, financial, or otherwise.

SUSPICIOUS INJURIES: Not defined in NMAC. Please see examples on pages 6 & 7.

ENVIRONMENTAL HAZARD: A condition in the physical environment which creates an immediate threat to health and safety of the individual.

PERSON OF TRUST - A "trust relationship" is defined as caregivers or others involved in the life of the individual who bear or have assumed some responsibility for protecting the interests of the person, or where expectations of care or protection arise by law or social convention and includes family members and others who are aware of the person's vulnerability and exploit it. It excludes perpetrators who are strangers.

LIKELY RISK OF HARM - Risk of harm refers to clinically significant harm which has not yet occurred but is likely to occur, given risk factors identified in the present. The level of future risk is identified as likely (probable), not just possible (may occur). The probable harm will have a significant detrimental effect on the consumer if it does occur.

RECOGNIZING ABUSE, NEGLECT, EXPLOITATION, ENVIRONMENTAL HAZARDS AND SUSPICIOUS INJURIES

Physical Abuse Examples:

- Infliction of injury: bruising, lacerations, welts, burns, fractures or dislocations
- Hitting, slapping, biting, shaking or kicking
- Pulling arms, hair or ears
- Bending back fingers or bending an arm up behind the back
- Placing hot substances or non-food items in the mouth for swearing
- Physically restraining a consumer without approved reason or doing so without training/certification
- Actions that result in bodily harm
- Use of medication as a chemical restraint
- Depriving a person of services such as medical, therapeutic, or behavioral services that they need to remain healthy.

Verbal Abuse Examples:

- Intimidating gestures (such as shaking a fist, aggressive posturing, and others)
- Use of racial slurs
- Criticizing

- Name calling
- Yelling or screaming
- Using ridicule or demeaning language
- Using threats

Sexual Abuse Examples:

- Engaging in any sexual contact
- Exposure to pornographic materials
- Making sexual advances
- Harassment of a sexual nature that demeans, humiliates or embarrasses
- Inappropriate touching
- Sexual innuendo

Possible Signs of Abuse:

- Typical response by the consumer changes without explanation
- The consumer exhibits unusual fear or anxiety
- The consumer has sudden unexplained changes in their behavior
- The consumer is injured or bleeding from around their genitals
- The consumer flinches/cowers in presence of caregiver or other trusted person
- Injuries sustained by the consumer that cannot be explained, or the explanation does not match the injury
- Signs of pain experienced by the consumer are unexplained
- There are unexplained changes in the consumer's sleeping patterns, appetite, or actions
- The consumer has an increased need to seek approval or comfort
- The consumer does not seem to be him or herself and there is no apparent cause for the change

Neglect Examples:

- Not supervising a person as required to keep them safe
- Spends long periods of time in own feces or urine
- Has untreated medical conditions
- The provider has assigned insufficient staff to meet the needs of the consumers they support
- Failing to follow-up on health/medical symptoms
- Has unhealed sores or untreated injuries
- Medication is administered by untrained staff
- G-tube protocols are not followed as prescribed
- Failing to follow a positive behavior support plan or crisis plan
- Unsafe living conditions (could also be Environmental Hazard)
- Providers not training their staff to support consumer's plans
- Leaving someone in a hot car, unattended
- Failing to seek medical attention in a timely manner
- Failing to follow expected procedures outlined in emergency response plans, health care plans, therapy plans, mealtime plans, etc.
- Medication error that results in the need for medical treatment or the agency nurse determines the need to consult with a physician/CNP/PA, pharmacist or poison control regarding potential need for medical intervention (does not include mere notification).
- The individual misses multiple doses of medication over a period equal to or greater than 48 hours, or misses a single dose that places the consumer at a risk of harm.
- A prescribed medication is delivered to the wrong person

Possible Signs of Neglect:

- The consumer has a foul odor of urine or feces
- The consumer is malnourished or dehydrated
- The consumer has experienced significant weight loss without dieting or medical reasons
- The consumer is not dressed appropriate for weather conditions
- The consumer has poor dental hygiene
- The consumer has illness or injuries that are not being treated
- The consumer is left alone when they are supposed to be supervised
- The consumer has frequent constipation episodes
- The consumer has frequent trips to the emergency room
- The consumer's food, medication or personal care is withheld
- The consumer exhibits a failure to thrive (not linked to diagnosis)
- The consumer has multiple small bruises
- The consumer's adaptive equipment is not individualized or in working condition.
- There are unexplained changes in the consumer's sleeping patterns and appetite

Examples of Exploitation:

- Use of the consumer's funds to meet caregiver's needs
- Taking consumer's paycheck or social security funds
- Taking consumer's clothing or other belongings
- Unauthorized withdrawal of funds
- Borrowing consumer's possessions, for example, DVDs, lawn mowers and others
- Staff's use of consumer's transportation for their own purposes
- Staff use of the consumer's telephone, leaving the consumer to pay the cost of the calls
- Forcing to sell or give away property or possessions
- Staff's use of the consumer's food stamps to purchase food for themselves
- Borrowing money, even if offered by the consumer and/or reimbursed to the consumer
- Providers charging business expenses to the consumer

Possible Signs of Exploitation:

- The consumer is regularly denied outings and activities due to a lack of funds
- The consumer has insufficient money to meet normal budgetary expenses
- The consumer pays fees or charges imposed for late payments
- The consumer is denied housing subsidies or food stamps through no fault of their own
- The consumer's cost of living expenses are not fairly divided between house mates
- The consumer's money is not accounted for
- The consumer's personal funds accounting records indicate unusual or inappropriate purchases
- The consumer's personal funds are used to pay for household items they do not use such as a tropical fish tank or internet service
- The consumer does not have access to personal funds
- The consumer's money, household goods or personal property (television, iPad, computer, clothing, etc.) disappear
- The consumer's personal funds are not adequately overseen
- The consumer loses approved supplemental income or assistance
- The consumer's funds are used to supplement another consumer's needs

Examples of Environmental Hazards:

- Bed bugs are found in the person's home
- The consumer's residence has mold growing on the bathroom walls
- The consumer's home is infested by insects

- There is a gas leak at the day habilitation site
- Broken windows have not been repaired
- Air conditioning or heat is not functioning
- Toilet is not functional

Possible Signs of Environmental Hazards:

- The consumer has numerous insect bites on their body
- The consumer is experiencing otherwise unexplained respiratory symptoms
- The consumer's residence is in ill-repair
- Observing a large number of rodents around the residence
- Lack of potable water or no electricity

Examples of Suspicious Injuries:

- A patterned bruise, no matter its size, that is in the shape of an identifiable object such as a belt buckle, shoe, hanger, etc.
- Unexplained serious injuries or multiple bruises, cuts, abrasions
- A spiral fracture
- Dislocated joints (e.g. shoulders, fingers)
- Facial or head injuries (e.g. black eyes, injuries to the scalp)
- Bruising to an area of the body which does not typically or easily bruise (e.g. midline – stomach, breasts, genitals or middle of the back)
- Injuries that are not consistent with what is reported to have happened, for example:
 - bruising to the inner thighs are explained to have been sustained in a fall that happened in the driveway
 - injuries explained as caused by self-injury to parts of the body the consumer has not previously injured or cannot access
 - Injuries are explained as having been caused by another consumer but the consumer has no history of such behavior or there is no documentation of an incident
- A pattern of injuries such as injuries recurring during certain shifts or at certain times of the day
- The explanation for how an injury occurred is not reasonable, probable, or is unlikely
- Internal injuries
- Petechiae (definition: pinpoint round spots appearing on the skin as the result of bleeding under the skin or the result of minor hemorrhages caused by physical trauma)
- The consumer is repeatedly injured when certain staff is working, even when there is an explanation of how the injury occurred

REPORTING ABUSE, NEGLECT, EXPLOITATION, SUSPICIOUS INJURIES, ENVIRONMENTAL HAZARDS, AND DEATH

Your first and foremost responsibility is to ensure the safety of consumer(s). If you witness or learn of an allegation or incident of abuse, neglect, exploitation, suspicious injury, environmental hazard or death you must report it immediately. Ensure safety first in the event action is required to prevent harm, such as obtaining emergency medical treatment. Your second duty is to report abuse, neglect, exploitation, suspicious injuries, environmental hazard, and death to the DHI/IMB ANE Hotline.

ENSURING SAFETY MAY INCLUDE THE FOLLOWING

Examples:

- seeking medical attention when someone has injuries or other medical needs;
- contacting law enforcement if you have reason to believe a crime was committed;
- providing first aid;
- protecting consumers from hazards in their environment;
- making sure that accused individuals do not have contact with the consumer(s).

REPORTING MEANS

- Immediately notifying DHI/IMB that an incident of abuse, neglect, exploitation, suspicious injury, environmental hazard or death has occurred.
- There is a **24-HOUR ANE REPORTING HOTLINE** to receive and process reports of abuse, neglect, exploitation, suspicious injury, environmental hazard and death:

1-800-445-6242

- As soon as you have ensured that immediate safety needs are addressed, you are required by NM Administrative Code NMAC 7.1.14 to call the ANE Hotline.
 - Make sure that you are prepared to tell DHI/IMB what happened:
 - Who is the alleged victim(s)?
 - Where did the incident happen?
 - Is someone named or identified as responsible for the abuse/neglect/exploitation, environmental hazard or suspicious injury?
 - What did you do, or what do you plan to do, to ensure that consumer(s) are safe, given the incident/allegation?
 - Make sure that you complete a SFY 2019 DHI/ANE Incident Report:
 - The person with the most firsthand knowledge about what happened should participate in the preparation of the form;
 - Each of the fields should be filled in; and
 - The ANE Incident Report should be provided to DHI/IMB within 24 hours of the incident (via the Internet or by fax), but you **MUST** call the Hotline immediately.

INTERNAL INVESTIGATIONS PROHIBITED

When an ANE incident occurs, the Agency often wants to conduct their own investigation to find out what happened. However, conducting internal investigations while an IMB investigation is pending can seriously jeopardize the integrity of the IMB investigation and are strictly prohibited. NMAC 7.1.14.8(C)(3) states, “**No investigation beyond that necessary** in order to be able to report the abuse, neglect or exploitation and ensure the safety of the consumers is permitted until the division has completed its investigation.”

SFY 2018 ANE REPORT FORM: CORRECTLY COMPLETED SAMPLE

The following seven images illustrate a sample of a correctly and thoroughly completed ANE Report Form.

Please note: All sections of the ANE Report Form must be completed. Blank areas may result in problems submitting the on-line form. It is important for IMB to receive a thoroughly and accurately completed ANE form. A thoroughly completed ANE Report Form assists in the screening of the incident/allegation, reduces the need for follow-up contacts and questions, is used as evidence for the investigation, provides information about incidents reported to IMB, and to identify patterns and trends to assure adequate protections from harm.

Save Submit Form Print Back

ABUSE, NEGLECT AND EXPLOITATION OR REPORT OF DEATH FORM (SFY 19)

Always notify DHI/IMB immediately concerning incidents for individuals receiving the Developmental Disabilities Waiver (DDW), DD Mi Via Waiver, or Medically Fragile Waiver. Contact IMB On Call at 1-800-445-6242 and send A/N/E form within 24 hours via <http://ane.health.state.nm.us> or by fax 1-800-584-6057.

Reference #: **2018002204** Status: **OPEN** Submitted: **Unsubmitted** PREV NEXT

▼ Section 1 - CONSUMER INFORMATION

First Name: * John	Middle Name: M	Last Name: * Doe
SSN: 555555555	Gender: <input checked="" type="radio"/> Male <input type="radio"/> Female	Date of Birth: mm/dd/yyyy
Street: 23 Main Street	City: Albuquerque	State: NM New Mexico
Zip: 90000	Telephone: (505) 555-5555	

Assist. Ambulation:
 Personal Care:
 Nutr. Fluid Intake:
 Transfer:
 None:

Gait Belt
 Bathing
 J-Tube
 2 or more Persons
 Other:

Walker
 Incontinence
 G-Tube
 Total Care:
 High Risk for Aspiration

Wheelchair
 Toileting
 Toothbrushing

Method of Communication:

The consumer is non-verbal but uses hand gestures to communicate.

▶ Section 2 - DESCRIPTION OF INCIDENT



Save Submit Form Print Back

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Reference #: 2018002204 Status: OPEN Submitted: Unsubmitted PREV NEXT

Section 1 - CONSUMER INFORMATION

Section 2 - DESCRIPTION OF INCIDENT

Report of Death: [] Death
Type of alleged incident:
Abuse: [] Physical [] Sexual [] Verbal [x] Neglect [] Exploitation [] Suspicious Injury [] Environmental Hazard
Date of Incident: * 05012019 mm/dd/yyyy Time: * 13:00 [] AM [x] PM [] Unknown
Location Where Incident Occurred: *
Consumer's Residence
Person responsible for individual's care at time of incident: *
Bill Smith, Direct Care Staff
Is this person employed by a provider agency? If so please state which agency:
yes, ABC Agency
What is the person's relationship if not a provider:
Direct Care Staff
Were other individuals present? [] Yes [x] No Please list other Consumers / Individuals initials? BC
Other People?

Other People?
Name: Ted Adams Title: Direct Care Staff
Name: Title:
Name: Title:

Please describe what happened. Be specific about who was there (by name) and what you saw and heard.

Before the Incident: *
The consumer was in his room watching Television.

During the Incident: *
The consumer eloped through his bedroom window and was found by LE.

After the Incident: *
The consumer was assessed by paramedics and was taken to ER for assessment.

▶ Section 1 - CONSUMER INFORMATION

▶ Section 2 - DESCRIPTION OF INCIDENT

▼ Section 3 - ADDITIONAL INFORMATION

Current Diagnosis:
Mild MR, Aspiration and Seizure Disorder.

Comments:

Person Completing Sections 1 & 2
 Confidentially Desired: Yes No

Name: Jane	Agency: ABC Agency	Title / Relationship: Service Coordinator	Phone: (505) 555-5555
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Completed: 10/29/2018 10:11:40

▶ Section 4 - AGENCY/FACILITY INFORMATION

▶ Section 5 - ADMINISTATIVE INFORMATION

▶ Section 6 - NOTIFICATIONS TO AGENCIES REQUIRED

▶ Section 7 - SIGNATURE

To notify Child Protective Services of an incident involving a child call 1-800-797-3260
 To notify Adult Protective Services of an elder or non-DD waiver adult call 1-866-654-3219 * Required

Save Submit Form Print Back

ABUSE, NEGLECT AND EXPLOITATION OR REPORT OF DEATH FORM (SFY 19)

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▶ Section 1 - CONSUMER INFORMATION

▶ Section 2 - DESCRIPTION OF INCIDENT

▶ Section 3 - ADDITIONAL INFORMATION

▼ Section 4 - AGENCY/FACILITY INFORMATION

Reporting Agency:
ABC Agency

Incident Coordinator:
Jane Doe

Phone:
(555) 555-5555

▶ Section 5 - ADMINISTATIVE INFORMATION

▶ Section 6 - NOTIFICATIONS TO AGENCIES REQUIRED

▶ Section 7 - SIGNATURE

To notify Child Protective Services of an incident involving a child call 1-800-797-3260
 To notify Adult Protective Services of an elder or non-DD waiver adult call 1-866-654-3219 * Required

Save Submit Form Back

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Reference #: **2018002204** Status: **OPEN** Submitted: **Unsubmitted** PREV NEXT

▶ Section 1 - CONSUMER INFORMATION

▶ Section 2 - DESCRIPTION OF INCIDENT

▶ Section 3 - ADDITIONAL INFORMATION

▶ Section 4 - AGENCY/FACILITY INFORMATION

▼ Section 5 - ADMINISTRATIVE INFORMATION

***Check the applicable box(es) below:**

Developmental Disabilities Waiver Jackson Class Member (JCM) Yes No

Medically Fragile Waiver

ICF/IID (JCM Only)

Mi Via Waiver

DD Programs ONLY: Type of residential services being received by this consumer

Supported Living Family Living Sub Care Respite Customized in Home Supports

Intensive Medical Living

Was an Immediate Action and Safety Plan Created? Yes No If Yes, please attach documentation (if not already provided)

Upload File Attachment:

Note: To view the uploaded file, the form must be saved.

▶ Section 6 - NOTIFICATIONS TO AGENCIES REQUIRED

▶ Section 7 - SIGNATURE

▼ Section 6 - NOTIFICATIONS TO AGENCIES REQUIRED

Legal Guardian: Notified None

Guardian Name: Faith Smith **Phone:** 5555555555 **Date:** 07/01/2018 **Time:** 3:00 AM PM

Person / Contact: Jane Doe **Title:** Service Coordinator

Street: 12 Street **City:** Santa Cruz **State:** NM **Zip:** 87502

Independent Case Manager: Notified None

Case Manager Name & Agency: Home Case Management Cindy Bird **Phone:** 5555555555 **Date:** 07/01/2017 **Time:** 3:00 AM PM

Person / Contact: Jane Doe **Title:** Service Coordinator

Street: 123 Jake Street **City:** Albuquerque **State:** NM **Zip:** 87108

Other: Notified None

Name: **Phone:** **Date:** **Time:** AM PM

Person / Contact: **Title:**

Street: **City:** **State:** **Zip:**

Person Completing Sections 3, 4 & 5

Name	Title/Relationship:	Phone:	Completed
<input type="text"/> Jane Doe	<input type="text"/> Service Coordinantior	<input type="text"/> 5555555555	<input type="text"/> 10/29/2018 10:31:58 AM



Save Submit Form Print Back

ABUSE, NEGLECT AND EXPLOITATION OR REPORT OF DEATH FORM (SFY 19)

Always notify DHI/IMB immediately concerning incidents for individuals receiving the Developmental Disabilities Waiver (DDW), DD Mi Via Waiver, or Medically Fragile Waiver. Contact IMB On Call at 1-800-445-6242 and send A/N/E form within 24 hours via http://ane.health.state.nm.us or by fax 1-800-584-6057.

Reference #: 2018002204 Status: OPEN Submitted: Unsubmitted PREVIOUS NEXT

- Section 1 - CONSUMER INFORMATION
Section 2 - DESCRIPTION OF INCIDENT
Section 3 - ADDITIONAL INFORMATION
Section 4 - AGENCY/FACILITY INFORMATION
Section 5 - ADMINISTRATIVE INFORMATION
Section 6 - NOTIFICATIONS TO AGENCIES REQUIRED

Section 7 - SIGNATURE
By typing your name below you are effectively signing this document. Your typed name is acceptable as a replacement for your written signature.
Name: *
Jane Doe | x 10/29/2018 10:32:37 AM
By typing your name, this is considered an electronic signature (Disclaimer)

To notify Child Protective Services of an incident involving a child call 1-800-797-3260

To notify Adult Protective Services of an elder or non-DD waiver adult call 1-866-654-3219

* Required

Save Submit Form Back

NOTIFICATION REQUIREMENTS FOR COMMUNITY BASED SERVICE PROVIDER AGENCIES

- Responsible providers must notify the individual's case manager or consultant within 24 hours that an alleged incident involving ANE has been reported.
- Responsible providers shall ensure that the legal guardians or parents (if individual is a minor) is notified of the alleged incident of ANE within 24 hours of the alleged incident unless the parents or legal guardian is suspected of committing the alleged abuse, neglect or exploitation.
- Non-responsible reporters: Providers who are reporting an incident in which they are not the responsible community-based service provider shall notify the responsible community-based service provider within 24 hours of an incident or allegation of abuse, neglect, and exploitation.

DDSD GENERAL EVENTS REPORTING (GER)

Effective July 1, 2014, NMAC changed the requirement of the reporting of all emergency service and law enforcement incidents. These incidents involve a DOH funded consumer, but do not involve an event defined as abuse, neglect or exploitation, suspicious injury, death, or environmental hazard. Reported issues or complaints that do not meet any of the definitions of Reportable Incidents (ANE, suspicious injury, environmental hazard, death, or ORI), may need to be reported to other entities that have jurisdiction and can take appropriate action.

The following events should be reported to the Developmental Disabilities Supports Division (DDSD) through General Events Reports (GER) in Therap.**

- A Consumer's utilization of emergency services
- A Consumer's hospitalization or psychiatric facility admission
- Law enforcement intervention that results in the arrest or detention of a consumer

**** Please note: If any factors that contributed to the use of emergency service, hospitalization, or law enforcement may have been the result of abuse, neglect, exploitation, environmental hazards, or involve suspicious injuries, it is the expectation that they be reported to DHI/IMB immediately.**

Examples include:

- A consumer is transported to the hospital by ambulance after choking during dinner. Her mealtime plan requires her food to be cut into ¼" sized bites. The person who prepared and served her meal was not trained in her mealtime guidelines and served her a whole hotdog for dinner.

- Law enforcement is called following an incident where the consumer assaulted his staff. Prior to the assault, the staff person was making fun of the consumer for soiling their pants during a community outing.
- A consumer is transported to the emergency room where he is diagnosed with an abdominal contusion. His staff said that he fell out of bed during the night.
- The consumer experienced a series of seizures that are more severe and more frequent than commonly exhibited. 911 was called and the person transported to the emergency room by ambulance. It is found that she has not been administered her seizure medication in two weeks.
- Other incidents may require reporting to entities other than DHI/IMB and DDS (GER). These include Adult Protective Services, Child Protective Services, and Law Enforcement Agencies. Examples include:
 - During a visit to a supported living provider, the consumer's minor sister tells staff that her mother's boyfriend inflicted the injury noticed to the child's left eye. This would be reportable to Child Protective Services.
 - During a visit to a Family Living Provider, you notice that the consumer's live-in grandmother is lying on a soiled mattress on the floor and you later hear faint cries for help from the bedroom where she is located. This would be reportable to Adult Protective Services.
 - While conducting a visit to the home of a Mi Via consumer, you see the consumer's step-father trade money for illegal drugs in the drive-way. He tells you that it helps to keep the consumer calm. This incident would be reportable to both DHI/IMB and Law Enforcement.

**Child Protective Services Reporting Hotline:
1-855-333-SAFE (7233)
or #SAFE from a cell phone**

**Adult Protective Services Reporting Hotline:
1-866-654-3219**

**Health Facility Program and District Operations Bureaus
(formerly Health Facility Licensing and Certification)
Includes: Nursing Homes, Assisted Living Homes, Intermediate Care Facilities,
Hospitals, Federally Qualified Health Care Clinics and Home Health Agencies.
Call the Health Facility Complaints Hotline
1-800-752-8649**

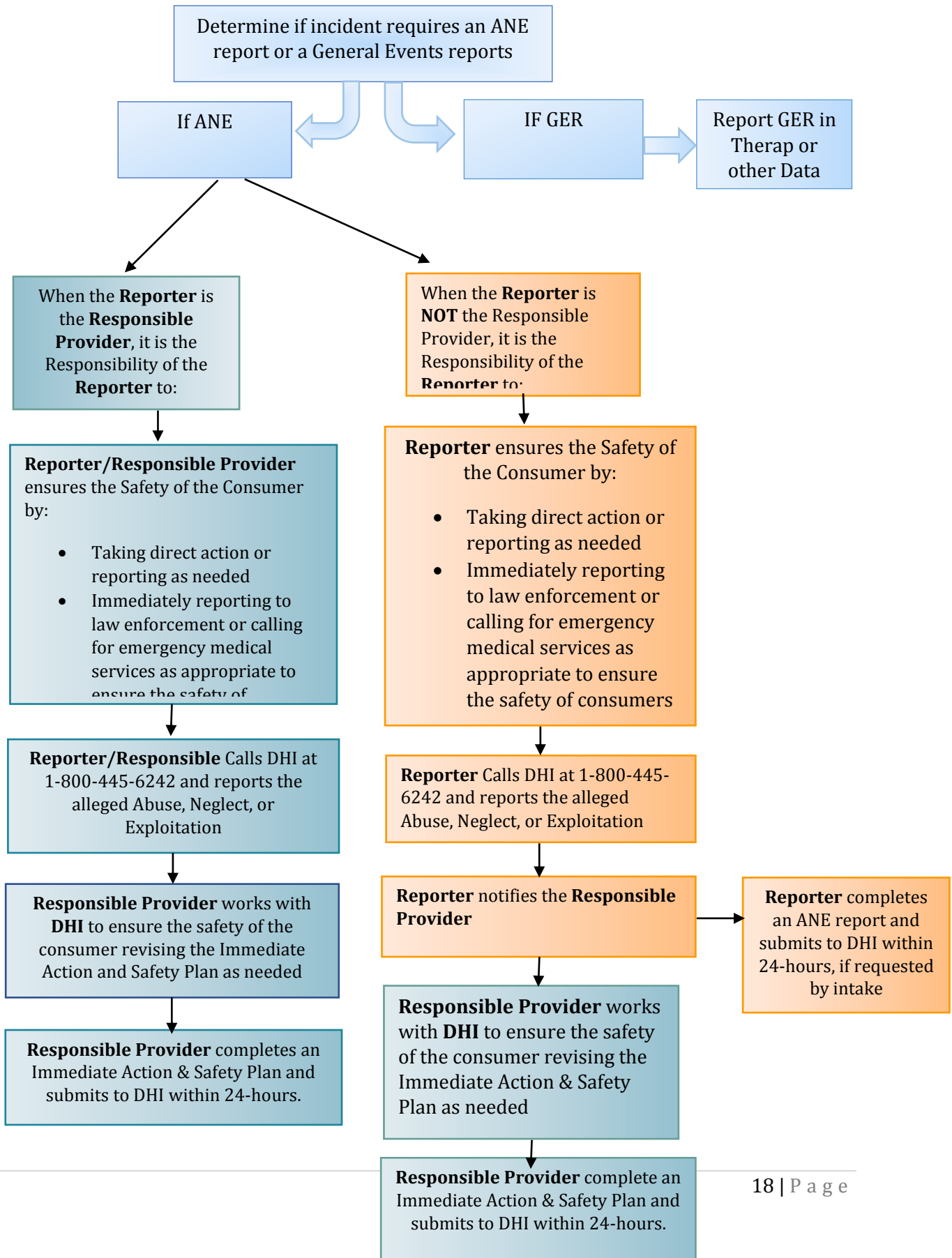
New Mexico Board of Nursing

The Director of Compliance Tani Skinner; please contact her directly at **(505) 841-9055** if you have any questions. Complaints may be submitted to the NM Board of Nursing in writing, by fax, email, or in person.

New Mexico Human Services Division

Office of Inspector General
1-800-228-4802
HSDOIGFraud@state.nm.us

ABUSE, NEGLECT, EXPLOITATION REPORTING FLOW CHART



IMMEDIATE ACTION AND SAFETY PLAN

One of the revisions to NMAC includes the responsibility of Community-Based Service Providers to develop a plan to keep people safe and implement the plan when an incident or allegation of abuse, neglect, exploitation, environmental hazard or suspicious injury is reported. It is called an IMMEDIATE ACTION AND SAFETY PLAN.

The IMMEDIATE ACTION AND SAFETY PLAN outlines what happened and to whom, identifies who could be at risk because of what happened or was alleged to have happened, the provider's plan to keep people safe while the DHI/IMB investigation takes place, and identifies who is responsible for making sure that the plan is followed and revised as needed.

If a death was unexpected or occurred under unusual circumstances, DHI/IMB will screen and may investigate the incident. If IMB determines an investigation is warranted, the Provider *must* submit an IMMEDIATE ACTION AND SAFETY PLAN.

DHI/IMB developed a form for Providers to use to record their IMMEDIATE ACTION AND SAFETY PLANNING activities. The IMMEDIATE ACTION AND SAFETY PLAN form can be found on the DHI Website. For Providers who have Internet access, the form must be submitted via the DHI website <https://ane.health.state.nm.us/> or Providers without Internet access, the form may be faxed to DHI at 1-800-584-6057.

HOW TO CREATE A THOROUGH IMMEDIATE ACTION AND SAFETY PLAN

When developing an IMMEDIATE ACTION AND SAFETY PLAN, there are four (4) things that should immediately happen:

1. Identify who is at risk given the nature of the allegation or reported incident; and
2. Determine how to protect anyone who could be impacted by what was alleged or reported to have happened; and
3. Be prepared to verbally report what steps will be taken to keep the consumer(s) safe at the time you report the incident to DHI/IMB.
4. Make revisions to the initial IMMEDIATE ACTION AND SAFETY PLAN as directed by DHI/IMB.

DETERMINING WHO IS AT RISK: IF IT WAS TRUE, WHAT SHOULD I DO?

In many cases, the identification of who is at risk given what was alleged or reported to have happened is a straightforward task. Consider the following incident:

“Sally reported that her third shift staff, Joe, yells at her and pushes her when she gets out of bed at night.”

- Sally is easily identified as a consumer at risk.
- Identify others that may be at risk given what was alleged:
- Does Sally live with anyone else? If so, her housemates could be at risk.
- Does Joe work in homes other than Sally’s? If so, the residents of the other homes could be at risk.
- Does Joe perform other tasks for the provider? Does he drive a van that transports consumers to and from day activities? If so, others could be identified as being at risk.
- Does Joe work for a provider other than Sally’s? If so, consumers of other Provider agencies could be at risk.

HOW DO I PROTECT THOSE IDENTIFIED AT RISK?

After identifying anyone who could be at risk given the nature of what was reported/alleged, it is necessary to determine how the risk will be minimized to keep everyone safe who could be impacted.

Keeping in mind the allegation/incident above, and in particular the physical abuse allegation, a plan to keep consumers safe could include the following:

- Re-assigning Joe to work in the office, or a position that will not place him in direct contact with consumers.
- Placing Joe on administrative leave pending the outcome of the DHI/IMB Investigation.

RE-CAP: IMMEDIATE ACTION AND SAFETY PLAN REQUIREMENTS

First and foremost, always ensure the safety of the consumer(s), including separating the alleged victim(s) from an accused person, providing needed first aid, or obtaining medical care.

- Immediately report the allegation of Abuse, Neglect, Exploitation, Suspicious Injury, Environmental Hazard or Death by calling the Division of Health Improvements (DHI) hotline number at **1-800-445-6242**.
- Develop, implement and verbally report the initial IMMEDIATE ACTION AND SAFETY PLAN to DHI hotline.

Within 24-hours of contacting the DHI hotline, complete and submit an *IMMEDIATE ACTION AND SAFETY PLAN* form online at <https://ane.health.state.nm.us/>. Providers without Internet access may submit the completed form via fax at 1-800-584-6057.

The following includes a scenario and an example of what might be included in an Immediate Action and Safety Plan.

Scenario:

It was reported to IMB on 6/1/15 by Jim S. (a staff from ABC Provider Agency) that a co-worker, Charlie F., was seen squeezing Eric M.'s (a consumer receiving services from ABC provider) arm and yelling at him in a very angry manner. The incident took place on 6/1/15 at about 3:15pm. Jim had walked around the corner into the kitchen and noticed Charlie F. squeezing Eric's arm and angrily speaking to him. Jim immediately confronted Charlie about what he had observed.

EXAMPLE: IMMEDIATE ACTION & SAFETY PLAN

Responsible Provider: Sunshine Community

Alleged Victim(s) include birth date or social security number): Eric Mitt. DOB 3-17-1987

Accused Person(s): Charlie Frank. Relationship to Alleged victim(s): Direct Care Staff

Date of Incident: 6/1/17 Time of incident: Approximately 3:15pm

Did the incident create concern for the safety of consumer(s) served?

Yes No

Immediate Action and Safety Plan drafted by (Name and title): Jim Stevens, Incident Coordinator

<p>Section 1. - Required</p> <p>Describe the identified Safety Risk(s)</p> <p>When describing the safety risk, be sure to name the consumer(s).</p>	<p>Section 2. - Required</p> <p>Action to address risk</p> <p>What action has or will be taken to protect the consumer(s) from the identified safety risks(s)?</p>	<p>Section 3. - Required</p> <p>Plan Management</p> <p>How will the plan be managed? Who is responsible for implementing the plan? Who is responsible for communicating the plan?</p>
<p>On 6/1/17 it was reported that Charlie F. was squeezing Eric M's arm and speaking to him in an angry way.</p> <p>Risk of injury and/or verbal abuse.</p>	<p>The co-worker, Jim S., who witnessed the incident confronted Charlie F. about the incident. Charlie F. indicated that the alleged incident did not occur and that Jim S. was mistaken. Jim contacted his supervisor and then called IMB. According to Jim his supervisor came to the home and spoke with Charlie. Charlie indicated that the incident did not occur, however the supervisor did send Charlie home and indicated that he would contact him the next day.</p> <p>Charlie F. has been removed from duty pending investigation.</p>	<p>Sally Smith, Incident Coordinator, is responsible for ensuring the plan is implemented and communicated.</p>

Signatures and Dates for Immediate Action and Safety Plan

To the best of my knowledge the attached Immediate Action and Safety Plan has been implemented as described and all those who are responsible for carrying out the plan have been alerted to the Immediate Action and Safety Plan and have agreed implement.

Author of Plan (Name and title): Jim Stevens, Incident Management Coordinator Phone Number: 505-555-1234

Signature: Jim Stevens

Date: 6/1/17

How to Respond to Sexual Assault

1. If there is a medical emergency, respond to the medical need first; the SANE exam is always secondary to medical stability.
2. Based on patient consent and if the suspicion of sexual assault is within the previous 5 days or 120 hours, contact the nearest Sexual Assault Nurse Examiner's (SANE) Unit. (List of NM SANE Programs start on page 25).
 - a. If you do not have access to a nearby SANE unit, contact your local hospital's Emergency Department to determine whether they are equipped to conduct a medical/forensic exam.
3. The SANE exam is offered as options that are driven by patient consent. Services may include testing for pregnancy and pregnancy contraception; treatment for sexually transmitted diseases; documentation of assault; treatment, documentation, and photography of injury; and evidence collection.
4. If the assault is recent, encourage the consumer (patient) not to shower, bathe, or otherwise clean up. If the assault is recent and the consumer (patient) is still wearing the clothes worn during the assault, the SANE may ask to take the clothing but will provide replacement clothes.
5. The SANE nurses are on-call. They are not physically on-site waiting. You need to call to activate the SANE before presenting to the unit.
6. A SANE exam can take 2 to 4 hours; some exams take longer depending on injury. Exams can be scheduled within the 5 days post assault.
7. There is no cost for the SANE exam.
8. A sexual assault patient does not need to file a police report to receive SANE services.
9. **The SANE exam for children differs from adults.** The acute child sexual abuse exam is performed within 72 hours of last suspected contact while a deferred exam is scheduled for children who disclose well after 72 hours. Law enforcement, child protective services, and SANE will consult for child sexual abuse cases. If you are working with a consumer (patient) who is 17 years or younger, call the SANE Program and the nurse will guide you through the process.

NEW MEXICO SANE PROGRAMS

Alamogordo

- **Southern NM Wellness Alliance**

Dawn Van Arnam

MAIL: PO Box 2626

Alamogordo, NM 88310

Otero and Lincoln Counties

575-430-8353 phone

575-430-9485 SANE dispatch

sane.alamogordo@gmail.com or sanealamo.clinical@gmail.com

Albuquerque

- **Statewide SANE Coordinator**

Connie Monahan

PHYSICAL: 3909 Juan Tabo Blvd. NE, Suite 6

Albuquerque, NM 87111

State-Wide

505-883-8020 phone

505-883-7530 fax

conniem@swcp.com

- **Albuquerque SANE Collaborative**

Suzanne Greene or Gail Starr

MAIL: PO Box 37139

Albuquerque NM 87176

PHYSICAL: 625 Silver SW Suite 2206

Albuquerque, NM 87102

Bernalillo, Valencia, Sandoval & Torrance Counties

505-883-8720 phone

505-883-8715 fax

505-884-7263 SANE dispatch

suzanne.greene@abqsane.org or gail.starr@abqsane.org

-
- **Para Los Niños Program**
Dr. Leslie Strickler, Interim Medical Director
-

PHYSICAL: 625 Silver Ave SW
Albuquerque, NM 87102

State-Wide

Child Sexual Abuse - emergency and scheduled evaluations

505-272-6849 phone

505-272-6844 fax

505-888-5332 Ask for pediatric triage

marychavez@salud.unm.edu

[Website»](#)

Farmington

- **Sexual Assault Services of Northwest NM**
Eleana Butler or Dianne Natonabah
-

PHYSICAL: 622 West Maple Suite H
Farmington, NM 87401

San Juan, McKinley & Rio Arriba Counties

505-325-2805 phone

505-326-2557 fax

505-326-4700 SANE dispatch

1-866-908-4700 emergency

leanab@sasnwnm.org or diannen@sasnwnm.org

Gallup

- **Gallup Indian Medical Center**
Jean Proper
-

PHYSICAL: 516 E Nizhoni Blvd
Gallup, NM 87301

McKinley County

505-722-1171 phone

505-722-1000 SANE dispatch

jean.proper@ihs.gov

Las Cruces

- **Las Cruces La Piñon SANE Project**

Stacey Blazer-Clark

MAIL: La Piñon SANE Project
850 North Motel Blvd., Suite B
Las Cruces, NM 88007
PHYSICAL: Memorial Medical Center
2450 South Telshor
Las Cruces, NM 88011
Doña Ana, Luna & Sierra Counties
575-521-5549 SANE office
575-526-3437 La Piñon office
888-595-7273 SANE dispatch
stacey@lapinon.org

Portales

- **Arise Sexual Assault Services**

Leigh Ana Eugene or Tawnya Burton or Megan Menasco

MAIL: Roosevelt General Hospital
PO Drawer 868
Portales, NM 88130
Roosevelt, Curry, Lea & Quay Counties
575-226-7263 phone
575-226-4664 fax
575-226-7263 SANE dispatch
leigh@arisenm.org or tawnya@arisenm.org or megan@arisenm.org

Roswell

- **I Can Survive Roswell Refuge SANE Project**

Kim Hansen

MAIL: Roswell Refuge
1215 N. Garden
Roswell, NM 88203
Chaves County
575-627-8361 phone
575-627-5359 fax
babynurse_88201@hotmail.com

Santa Fe

- **Christus St. Vincent Regional Medical Center SANE Program**

Colleen Dearmin

MAIL: 455 St. Michael Drive

Santa Fe, NM 87505

PHYSICAL: 6601 Valentine Way

Santa Fe, NM 87507

Santa Fe, Sandoval, San Miguel & Rio Arriba Counties

505-913-4999 phone

505-982-4917 fax

505-989-5952 SANE dispatch

colleen.dearmin@stvin.org

Silver City

- **Silver Regional Sexual Assault Support Services and SANE**

Chelsea Cooper

MAIL: 905 N. Hudson, Silver City, NM 88061

PHYSICAL: La Clinica

3201 N Ridge Loop Drive

Silver City, NM 88061

Grant, Hidalgo & Luna Counties

575-313-6203 phone

575-388-1690 fax

866-750-6474 emergency

sassexecutivedirector@gmail.com

[Website»](#)

Taos

- **Taos/Holy Cross Hospital SANE Program**

Josephine Brown

PHYSICAL: 1329 Gusdorf Road

Taos, NM 87571

575-751-8990 phone

575-758-8883 SANE dispatch

jbrown@taoshospital.org

REGULATORY HIGHLIGHTS

7.1.14 NMAC RULE APPLIES TO THE FOLLOWING PERSONS, ORGANIZATIONS OR LEGAL ENTITIES:

- Community Programs that provide services under:
 - Developmental Disabilities Waiver (DDW)
 - Medically Fragile Waiver
 - Mi Via Self-Directed Waiver

7.1.9 NMAC CAREGIVERS CRIMINAL HISTORY SCREENING REQUIREMENTS

- Requires all applicants, caregivers (including hospital caregivers) to consent to a nationwide and statewide criminal history screening (via fingerprint card) no later than 20 calendar days from the first day of employment or contractual relationship.
- Requires all new employees not have contact with any individuals served by provider agency pending written notice of completion (with either clearance of the caregiver or notice of a disqualifying conviction) of criminal background check.
- Individuals with disqualifying felony convictions are barred from employment or contractual services as a caregiver.

7.1.12 NMAC EMPLOYEE ABUSE REGISTRY (EAR)

- This registry originally took effect on January 1, 2006. It is an electronic registry of persons with substantiated registry referred complaints of abuse, neglect or exploitation that meet severity standards. It supplements other pre-employment screening requirements such as Caregiver Criminal History Screening (CCHS).
- This regulation applies to all health care providers, employees, and contractors of those providers. It does not apply to NM licensed health care professionals practicing within the scope of a license or a CNA. (If these individuals are substantiated for ANE they will be referred to their licensing or certification board.
- It requires that employers check the registry prior to employing or contracting with someone. A provider may not employ or contract with a person listed on the registry.

- DHI/IMB uses the EAR rules to evaluate cases of substantiated ANE of an accused person. If they believe the NMAC criteria are met, DHI/IMB makes a referral to the registry. The accused person who was substantiated for ANE will be notified that they have been referred to the EAR by receiving a DOH letter. Persons referred to the registry may request a hearing in writing within thirty (30) calendar days. If no hearing request in writing is received after the thirty (30) calendar days the person is placed on the registry and, if employed, must be terminated immediately.
- EAR definitions of Abuse, Neglect and Exploitation differ from definitions in NMAC 7.1.14 Incident Reporting that were described earlier on page 3. The EAR includes severity standards that assess the impact of the ANE on the recipient of services and that assess the employee (who has been substantiated for ANE) for aggravating factors.

EAR abuse definition:

- (1) Knowingly, intentionally or negligently and without justifiable cause inflicting physical pain, injury or mental anguish, and includes sexual abuse and verbal abuse; or
- (2) The intentional deprivation by a caretaker or other person of services necessary to maintain the mental and physical health of a person.

EAR severity standard for abuse:

A substantiated complaint of abuse meets the severity standard if:

- (1) Abuse results in, or is a contributing factor to, death;
- (2) Abuse results in the infliction of a significant, identifiable physical injury that reasonably requires or results in medical or behavioral intervention or treatment;
- (3) Abuse results in any injury for which criminal charges are brought against the employee resulting in a plea or conviction;
- (4) Abuse results in the infliction of excruciating pain or pain that endures over a significant time-period;
- (5) Abuse causes significant mental anguish as evidenced by the victim’s descriptions, or significant behavioral changes;
- (6) Abuse is sexual abuse; or
- (7) Abuse is verbal abuse that causes significant mental anguish, including psychological or emotional damage, and which is evidenced by significant behavioral changes or physical symptoms.

EAR neglect definition:

Subject to a person's right to refuse treatment and subject to a provider's right to exercise sound medical discretion, the failure of an employee to provide basic needs such as clothing, food, shelter, supervision, protection and care for the physical and mental health of a person or failure by a person that may cause physical or psychological harm. Neglect includes the knowing and intentional failure of an employee to reasonably protect a recipient of care or services from nonconsensual, inappropriate or harmful sexual contact including such contact with another recipient of care or services.

EAR severity standard for neglect:

A substantiated complaint of neglect meets the severity standard if:

- (1) Neglect results in, or is a contributing factor to, death;
- (2) Neglect results in the infliction of a significant, identifiable physical injury that reasonably requires or results in medical or behavioral intervention or treatment;
- (3) Neglect results in any injury for which criminal charges are brought against the employee resulting in a plea or conviction;
- (4) Neglect results in the infliction of excruciating pain or pain that endures over a significant time period; or,
- (5) Neglect causes significant mental anguish as evidenced by the victim's descriptions, or significant behavioral changes.

EAR Exploitation Definition

An unjust or improper use of a person's money or property for another person's profit or advantage, pecuniary or otherwise.

EAR severity standard for exploitation:

A substantiated complaint of exploitation meets the severity standard where unjust or improper use of the money or property belonging to the recipient of care or services results in:

- (1) A single instance of an objectively quantifiable loss, the value of which exceeds the lesser of either:
 - (a) twenty five dollars (\$25); or,
 - (b) twenty five percent (25%) of the monthly income available to the recipient of care or services for purchasing personal items or discretionary spending; or

(2) A subjectively substantial loss to the recipient of care or services due to a special attachment to the property, as demonstrated by anger, fear, frustration, depression or behavioral changes caused by the loss.

EAR Aggravating factors:

A substantiated complaint of abuse, neglect or exploitation meets the severity standard requiring referral of the employee for placement on the registry where:

(1) The employee used alcohol or a controlled substance at or near the time of the substantiated abuse, neglect or exploitation; or

(2) The employee used, brandished or threatened to use, a weapon in connection with the substantiated abuse, neglect or exploitation. [7.1.12.11 NMAC – N, 01/01/2006]

7.1.14 NMAC INCIDENT REPORTING, INTAKE, PROCESSING AND TRAINING REQUIREMENTS OVERVIEW

The Department of Health (DOH) offers free training in the recognition and reporting of Abuse, Neglect, and Exploitation and ANE Train-the-Trainer opportunities. You can request this training by emailing: ANE.Training@state.nm.us

1. Community based providers must **immediately** report abuse, neglect, exploitation, suspicious injury, environmental hazards and death to the DHI hotline (**1-800-445-6242**), and then complete an ANE Report Form submitting it to DHI within 24 hours of the incident.
2. Limited provider investigation: No investigation beyond that necessary in order to be able to accurately report the abuse, neglect, or exploitation and ensure the safety of consumers is permitted until the division (DHI/IMB) has completed its investigation.

Note: It may be necessary for the provider to take actions short of conducting an investigation after they have received a report or allegation of ANE. First and foremost is provision of medical treatment and ensuring safety as described in the IMMEDIATE ACTION AND SAFETY PLAN section. They may need to obtain clarity from a reporter when receiving a general report of abusive conditions. They may need to obtain clarity from a reporter who documented observing “abuse.” The provider may need additional detail to identify the accused staff. Most of the permissible actions are related to identification of risk to consumers and assurance of safety pending an investigation.

3. IMMEDIATE ACTION AND SAFETY PLANNING: Upon discovery of any alleged incident of abuse, neglect or exploitation, the community-based service provider shall:

- a. Develop and implement an IMMEDIATE ACTION AND SAFETY PLAN for any potentially endangered consumers, if applicable;
 - b. Be immediately prepared to report that IMMEDIATE ACTION AND SAFETY PLAN verbally, and revise the plan according to the division's direction, if necessary; and
 - c. Provide the DHI accepted IMMEDIATE ACTION AND SAFETY PLAN in writing within 24 hours of the verbal report. If the provider has internet access, the report form shall be submitted via the division's website at <https://ane.health.state.nm.us/> otherwise it may be submitted by faxing it to the division at 1-800-584-6057.
4. Evidence preservation: The community-based service provider shall preserve evidence related to an alleged incident of abuse, neglect or exploitation, including records, and do nothing to disturb the evidence in cases in which an investigator will be on site within 24 hours. If physical evidence must be removed or affected, the provider shall take photographs or do whatever is reasonable to document the location and type of evidence found which appears related to the incident.
 5. Legal guardian or parental notification by reporter: The community-based service provider shall ensure that the consumer's legal guardian or parent (if a minor) is notified of the alleged incident of abuse, neglect and exploitation within 24-hours of notice of the alleged incident unless the parent or legal guardian is suspected of committing the alleged abuse, neglect or exploitation, in which case the community-based service provider shall leave notification to the division's investigative representative.
 6. Case manager or consultant notification by community-based service providers: Community-based service providers shall notify the consumer's case manager or consultant within 24 hours that an alleged incident involving abuse, neglect, or exploitation has been reported to the division. Names of other consumers and employees may be redacted before any documentation is forwarded to a case manager.
 7. Non-responsible reporter: Providers who are reporting an incident in which they are not the responsible community-based service provider shall notify the responsible community-based service provider within 24 hours of an incident or allegation of an incident of abuse, neglect, and exploitation.
 8. Incident policies: All community-based service providers shall maintain policies and procedures which describe the community-based service provider's immediate response, including development of an IMMEDIATE ACTION AND SAFETY PLAN acceptable to the division where appropriate, to all allegations of incidents involving abuse, neglect, or exploitation, or suspicious injury as required in Paragraphs (2) of Subsection A of 7.1.14.8 NMAC

ANE TRAIN-THE-TRAINER COURSE

In 2016, DOH began certifying community-based provider trainers to teach ANE reporting in a face-to-face adult learning environment. Direct care staff are already required to have ANE reporting

training annually. This project will give us an opportunity to ensure the material is being taught in accordance with the curriculum and consistently throughout the state.

- The DDS will provide a Train-the-Trainer curriculum to community-based providers in order for providers to train their own staff.
- The curriculum includes the Train-the-Trainer training, and an instructor's guide for use by the instructor. A training DVD is provided Online. The training includes each student performing a one-hour teach back to the Instructor, in order to demonstrate competency to teach the material.
- Each ANE Trainer will be certified by DDS. ANE training using DDS's materials will only be accepted if taught by a certified ANE trainer.

RETALIATION PROHIBITED

IMB often hears reports from direct care staff that the community-based provider retaliated against them for making an ANE report. While we understand not all of these reports are accurate, retaliation against anyone making an ANE report is strictly prohibited.

NMAC 7.1.14.8(E) states, "Any person, including to but not limited to an employee, volunteer, consultant, contractor, consumer, family members, guardian and another provider who, without false intent reports an incident or makes an allegation of abuse, neglect or exploitation shall be free of any form of retaliation such as termination of contract or employment, nor may they be disciplined or discriminated against in any manner including, but not limited to, demotion, shift change, pay cuts reduction in hours, room change, service reduction or in any other manner without justifiable reason."

An employee who believes they've been retaliated against for making a report of abuse, neglect or exploitation to IMB should contact the New Mexico Department of Labor, Workforce Solutions office at (505) 827-6838 and file a complaint.

DHI/IMB: WHO WE ARE & WHAT WE DO

MISSION

IMB exists to assure the health, safety, and well-being of individuals served on the DD waiver by investigating allegations of abuse, neglect, exploitation, suspicious injury, environmental hazard, and death.

WHAT HAPPENS WHEN I REPORT AN INCIDENT/ALLEGATION?

When you call the DHI Hotline, you will speak to a DHI/IMB Intake / On-Call staff. It is important to provide all of the information that you know about the incident/allegation, including the names and contact information for consumers, staff or other witnesses who were present or who have information about what happened.

The on-call staff may ask additional questions so that they can have the most complete picture possible of what happened. A complete picture is needed so they can assign an accurate priority level for the IMB response. More serious reports may require that an IMB investigator come to the consumer's home within a matter of hours. For example, in the case of a report of physical abuse, an investigator may come to the home to take photographs of injuries.

For those reports where there is reason to believe a crime was committed, the on-call staff will make sure that law enforcement was contacted.

IMB intake staff will evaluate (also called screen) the report they have received along with the necessary documentation about the consumer including incident reports, MERPs, CARMPs, ISPs etc. and decide two things.

- First, whether DHI/IMB has jurisdiction over the consumer.
- Second, whether the report/allegation meets the NMAC definitions for which they have authority to investigate, based on the reported circumstances.

If these two requirements are met, the report/allegation will be assigned for investigation. If the report is not assigned (also referred to as screened out), or the allegation is substantiated, IMB may refer you or the report to another appropriate agency.

IMB intake has 24 hours to evaluate/screen incidents that are reported. At times IMB intake staff is unable to gather the necessary information within 24 hours to determine whether the individual's specific needs (as outlined in MERP, CARMP, ISP, etc.) impact the disposition/determination for potential abuse, neglect, or exploitation. This can occur when a provider is not timely in their provision of the requested information, or when the information is requested of an entity over which DHI has no authority (e.g., hospital records, police reports). When this occurs, IMB implements its Intake Extension Request Policy procedures. This policy sets forth procedures to request additional time to collect and review information necessary in making a determination of the disposition of the reported incident/allegation.

PRIORITY LEVELS FOR ASSIGNED INVESTIGATIONS

IMB has established revised response times related to investigations that are opened. Each opened investigation will be assigned a severity/priority rating that will determine the amount of time in which an investigator is to initiate the investigation:

Emergency Case: Reports of very serious cases of abuse or neglect resulting in physical harm, including sexual abuse, or mental anguish which leave affected consumers at continued risk for injury or harm. Due to the severity of the case the investigator will respond within three (3) hours.

Emergency Allegations include but are not limited to:

- Serious injuries – fractures, head injuries, lacerations requiring sutures, serious burns, internal injuries
- Lack of medications for the health and safety of the individual.
- Sexual abuse where there is danger of repeated abuse
- Severe lack of basic physical necessities that could result in dehydration or starvation
- Need for immediate medical attention to treat conditions that could result in irreversible physical harm – severe respiratory distress, unconsciousness, gangrene, advanced bedsores
- No caregiver is available and the consumer is unable to perform critical personal care activities

Priority 1 Case: Reports of urgent cases of abuse, neglect or exploitation. Due to the severity of the case the investigator will respond within twenty-four (24) hours, but does not require more immediate action.

Priority 1 allegations include but are not limited to:

- Falling or being pushed, hit or scratched which is alleged to have resulted in bruises or other injuries or severe mental anguish
- Critical need for medical or mental health treatment – disease or illness that is acute but not life threatening, small bedsores or pressure spots, insufficient food or medicine but not life-threatening
- Sexual abuse of consumer but clearly no danger of repeated abuse
- Threats of physical violence or harm to the consumer
- Improper use of the consumer’s income or resources such that they are unable to meet basic needs or is threatened with substantial loss of income or resources.

Priority 2: Case: Reports of cases of abuse, neglect or exploitation. Due to the severity of the case the investigation will be initiated within five (5) calendar days.

Priority 2 allegations include but are not limited to:

- Verbal abuse – cursing, degrading remarks, intimidating gestures
- Being pushed or scratched when there are no bruises, other injuries or severe mental anguish
- Marginal care
- Need for medical or mental health treatment that is not urgent – poor nutrition that is not acute
- Improper use of resources or income but the consumer's needs are being met

WHAT HAPPENS DURING A DHI/IMB INVESTIGATION?

After you report an incident/allegation to the DHI/IMB ANE Hotline, if the incident/allegation meets the definitions outlined on page 3, and DHI/IMB has the jurisdiction to investigate, a formal investigation will be opened. Based on an Intergovernmental agreement with Aging and Long Term Services Division, and as required by NMAC, IMB is the primary investigative entity for community-based providers. This agreement was reached to eliminate duplication, limit the impact of the investigative process on victims and witnesses, and to improve the integrity of DHI/IMB investigations and their resulting conclusions.

The Investigation Process: What is an investigation?

An investigation is the systematic collection of information to describe and explain an event or series of events. This definition distinguishes between *description* and *explanation* to the extent that each represents a different level of understanding about the incident. To describe the event is merely to obtain the basic information. To explain the event requires further inquiry about motives or other contributing factors.

Review of the IMMEDIATE ACTION AND SAFETY PLAN

When the investigation is opened, DHI/IMB will collect and review the Provider's initial IMMEDIATE ACTION AND SAFETY PLAN and the investigation will be assigned to a DHI/IMB Investigator. The assigned Investigator will ensure that the agreed upon protections (as reflected in the IMMEDIATE ACTION AND SAFETY PLAN) have been implemented by the responsible Provider. They may also recommend revisions to the plan as they learn information over the course of conducting the investigation. For example, should the investigator learn that the originally named accused person was wrongly identified, the IMMEDIATE ACTION AND SAFETY PLAN would require revision to ensure the safety of the consumers given the discovery of any new/additional information. These revisions (when applicable) will be recorded in the final investigative report.

The Investigative Process: How are the facts obtained?

- Investigations include interviews with witnesses including but not limited to:
 - Person who reported the incident
 - The alleged victim/consumer
 - Persons with the most knowledge of the incident or direct witnesses
 - Other witnesses to the incident or circumstantial witnesses
 - medical professionals (when applicable)
 - Experts/Consultants (when applicable)
 - Accused person or provider (when applicable)
 - Others as determined during the investigative process, including but not limited to the case manager, guardians, parents, therapists
 - Incident coordinator

- Investigators will conduct site visits and may take photographs of the site of the incident and other physical evidence, in accordance with NMAC 7.1.14.10. If the provider took photographs, or collected evidence in another manner, the investigator will ask for copies of those photographs and collect the other evidence (when applicable).

- Investigators will request documentation and will attach timelines for how quickly the documentation must be provided. Documents may include but are not limited to:
 - Shift Notes
 - Visitor's Logs
 - Medication Administration Record (MAR)
 - Behavioral Progress Notes
 - Nursing Notes
 - Medical Emergency Response Plans (MERP)
 - Staff Schedules (as well as a list of who actually worked)
 - Individualized Service Plan
 - Behavior Support Plan/Crisis Plan
 - Physician or hospital notes
 - Healthcare Plan (HCP)
 - Consumer financial records
 - Personnel records
 - Training records
 - Provider Policies and Procedures
 - Provider documentation of incident review
 - Evidence of corrective/preventive actions taken
 - Provider internal incident reports

Audio Recording Interviews

It's possible the Investigator may ask to audio record an interview with you. This is done to ensure there is an accurate record of your interview, and that there is no misunderstanding regarding what you said. It also helps the Investigator, who must type a summary of your interview for the investigative report. Investigators must document a lot of information during your interview; and not all of the information is in a nice, neat chronological order. So, the audio recording allows the Investigator to replay your statement and organize it in a way that will make sense to the reader.

If, for whatever reason, you do not wish to be recorded, you may ask the Investigator not to record your interview, and the Investigator will simply take hand-written notes.

Weighing the Evidence

Once all witnesses have been interviewed and documents and other evidence have been collected and reviewed, the analysis and decision-making process begins. The investigator initiates this process with the examination of the evidence collected. The evidence is considered to determine its relevance to the investigation. The investigator reviews the witness statements to determine what happened from the perspective of those who have the most direct information about the incident/allegation. Witness statements are reviewed to determine if there are inconsistencies with the statements of other witnesses and to corroborate the information contained within the documents. Information from the examination of the evidence is used to determine whether additional evidence or information is needed to explain and describe what happened and ultimately establish a preponderance of evidence and conclusion.

The Investigative Conclusion

Once all evidence has been reviewed, the investigator develops their conclusion based on the evidence that was determined to be relevant to the investigative question(s). The determination of whether there is a substantiation of an allegation is based on the preponderance of the evidence standard, i.e. it is more likely than not that Abuse, Neglect and/or Exploitation occurred.

INVESTIGATION TIME FRAMES

DHI/IMB Investigators are allotted forty-five (45) calendar days from the time that the investigation is assigned to them to complete the investigation. Once completed, they are allotted ten calendar (10) days to put the information into their database which creates the final investigative report. The Investigator's Supervisor will then review and approve the investigation for final closure within seven business days.

Sometimes circumstances occur which prevent the Investigator from completing the investigation within forty-five (45) days. Examples of these circumstances include: a key witness was unavailable for interview, documents requested were not provided, the investigation is very complex, or law enforcement is also investigating. If an extension is approved by a Supervisor, the Investigator must notify the community-based provider, the case manager and the person who

reported the allegation, unless the Reporter is the community-based provider, that an extension has been approved, and the new anticipated due date for completing the case.

INVESTIGATION FINDINGS

If an investigation is substantiated, the Case Manager and the Responsible Provider will receive a letter, informing them of the IMB decision. The notification will include a description of the incident, a summary of the investigation, and the conclusion and disposition. The letter will request the Case Manager hold an IDT meeting, in accordance with NMAC 7.26.5.12(H)(7), to determine if changes are needed in the consumers ISP. In addition, the Responsible Provider is required to submit a Corrective and Preventive Action Plan to remediate the cause of the ANE.

Upon completion of an investigation, including receipt of the IDT minutes and the Corrective and Protective Action Plan, the provider will receive notice that the case is closed. The notification will include a description of the incident, a summary of the investigation, and the conclusion and disposition.

Closure communications are sent to the responsible provider, case manager, guardian and DDS via SCOMM or US Postal Service if necessary. Although the provider is required to notify the accused person (if applicable) of the investigative findings, IMB also notifies the accused person of the investigative findings.

NOTIFICATION OF FINDINGS

Closure communications are sent to corporate office locations when multiple addresses exist for a provider. This process is necessary to ensure that the corporate office is aware of incidents regarding the agency’s clients. The corporate office is responsible for assuring that the local/regional office provider receives a copy of the letter pertaining to his or her individual client. The notification grid below shows the notification process in detail.

- Scenario: When the reporting provider **is** the responsible provider
- NMAC Definition: MET

What Happened	Who to tell (Interested Party)	What information will be shared	When will the information be shared	Who will notify them
Alleged incident of abuse, neglect, exploitation,	Guardian	Verbal notification	At time of report of within 24 hours of allegation being made to IMB	Responsible Provider

environmental hazard, or death was referred to the IMB which does meet the definition found in NMAC 7.1.14	Alleged Victim	Verbal notification	At the time of the interview or sooner	IMB Investigator or Provider, based on situation
	Case Manager	verbal notification	At time of report of within 24 hours of allegation being made to IMB	Responsible Provider
	Responsible Provider	n/a	n/a	n/a
	Accused Person	Verbal notification	#Situational/discretionary	Responsible Provider
	DDSD Regional Office	Incident Alert Report	Weekly unless emergency case	IMB
	Reporting Provider	*Modified closure letter	After case closure	IMB

- Scenario: The reporting person can be anyone (even unknown)
- NMAC Definition: n/a; NMAC definition has **not** been met (case has been screened out)

What Happened	Who to tell (Interested Party)	What information will be shared	When will the information be shared	Who will notify them
Alleged incident of abuse, neglect, exploitation, environmental	Case Manager	Letter	Once there is a determination that the Alleged incident of abuse, neglect,	IMB

hazard, or death was referred to the IMB which does not meet the definition found in NMAC 7.1.14			exploitation does not meet the definition found in NMAC 7.1.14	
	DDSD Regional Office	Incident Alert Report	Weekly	IMB
	Reporter (if provider)	Letter	Once there is a determination that the Alleged incident of abuse, neglect, exploitation does not meet the definition found in NMAC 7.1.14	IMB
	Reporter (if not provider)	Letter	Once there is a determination that the Alleged incident of abuse, neglect, exploitation does not meet the definition found in NMAC 7.1.14	IMB
	Guardian	Letter	Once there is a determination that the Alleged incident of abuse, neglect, exploitation does not meet the definition found in NMAC 7.1.14	IMB

- Scenario: When the reporting provider **is not** the responsible provider
- NMAC Definition: MET (case screened in and to be assigned for investigation)

What Happened	Who to tell (Interested Party)	What information will be shared	When will the information be shared	Who will notify them
Alleged incident of abuse, neglect, exploitation,	Guardian	Verbal notification that an	At time of report of within 24 hours of allegation being made to	Responsible Provider

environmental hazard, or death was referred to the IMB which does meet the definition found in NMAC 7.1.14		allegation was made	IMB	
	Alleged Victim	Verbal notification that an allegation was made	Situational/discretionary	IMB Investigator or Provider, based on situation
	Case Manager	Verbal or electronic notification that an allegation was made	At time of report of within 24 hours of allegation being made to IMB	Responsible Provider
	Accused Person	Verbal notification that an allegation was made	Situational Discretionary	Responsible Provider
	DDSD Regional Office	Incident Alert Report	Weekly unless emergency case	IMB
	Reporting Provider	*Modified closure letter	After case closure	IMB

- Scenario: The reporting person can be anyone (even unknown)
- NMAC Definition: MET
- Investigation is still in process (post 45 days)/Delay in Investigation

What Happened	Who to tell (Interested Party)	What information will be shared	When will the information be shared	Who will notify them
Alleged incident of abuse, neglect,	Guardian	Verbal notification	Upon IMB notification	Responsible Provider

exploitation, environmental hazard, or death was referred to the IMB which does meet the definition found in NMAC 7.1.14		stating delay in investigation		
	Alleged Victim	Verbal notification stating delay in investigation (if no guardian)	Upon IMB notification	Responsible Provider
	Case Manager	SComm notification stating delay in investigation	At time of delay	IMB
	Responsible Provider	SComm notification stating delay in investigation	At time of delay	IMB
	Accused Person	Verbal notification stating delay in investigation	Upon IMB notification	Responsible Provider
	DDSD Regional Office	No notification	No notification	
	Reporter	Written notification of delay (if requested).	When the extension is approved by a Supervisor.	IMB

- Scenario: The reporting person can be anyone (even unknown)
- NMAC Definition: MET
- Investigation has concluded
- Case was substantiated

What Happened	Who to tell (Interested Party)	What information will be shared	When will the information be shared	Who will notify them
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Alleged incident of abuse, neglect, exploitation, environmental hazard, or, death was referred to the IMB which does meet the definition found in NMAC 7.1.14	Guardian	Closure letter	After case closure	IMB
	Alleged Victim	Verbal	After case closure	Case Manager
	Case Manager	Closure letter	After case closure	IMB
	Responsible Provider	Closure letter	After case closure	IMB
	Accused Person	If no EAR Referral will be made If an EAR Referral to be made	After case closure	Responsible Provider IMB
	DDSD Regional Office	Closure letter	After case closure	IMB
	Reporter (if different from above entities)	*Modified closure letter	After case closure	IMB

- Scenario: The reporting person can be anyone (even unknown)
- NMAC Definition: MET
- Investigation has concluded
- Case was NOT substantiated

What Happened	Who to tell (Interested	What information will	When will the information be	Who will notify them
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	Party)	be shared	shared	
Alleged incident of abuse, neglect, exploitation, environmental hazard, or death was referred to the IMB which does meet the definition found in NMAC 7.1.14	Guardian	Modified Closure letter	After case closure	IMB
	Alleged Victim	Verbal notification	After case closure	Case Manager
	Case Manager	Modified Closure letter	After case closure	IMB
	Responsible Provider	Closure letter	After case closure	IMB
	Accused Person	Modified Closure letter	After case closure	Responsible Provider
	DDSD Regional Office	Closure letter	After case closure	IMB
	Reporter	*Modified Closure letter	After case closure	IMB

REFERRALS MADE BY IMB

Upon the completion of an investigation, or at any time over the course of the investigation, the assigned Investigator may refer issues to entities within or external to DOH. For example, a Request for Regional Office Assistance (RORA); a referral to the to the DDSD Regional Office for contract management; a referral to the Internal Review Committee (IRC); the Employee Abuse Registry; the Office of the Attorney General’s Medicaid Fraud and Elder Abuse Division (MFEAD); the Human Services Division, or the New Mexico Board of Nursing. Each of these referrals

results in the examination of individual, provider and system issues in order to reduce the likelihood of their reoccurrence.

REQUESTING RECONSIDERATION OF THE INVESTIGATIVE FINDINGS (NMAC 7.1.14.13)

Persons or Providers may request an informal reconsideration of a decision made by DHI/IMB regarding a substantiation of abuse, neglect, or exploitation.

This request must be submitted in writing along with all relevant evidence to be considered by the bureau within 10 calendar days of the date of the closure communication. It should be addressed to the Incident Management Bureau Chief.

Incident Management Bureau Chief
5301 Central Ave NE suite 400
Albuquerque, NM 87108
Informal Reconsideration of Findings Process

The NMAC provides the following reconsideration process:

The person conducting the review shall be neutral and have no direct involvement with the investigation or substantiation and shall issue a written decision within 30 days of the review. The written decision will be mailed to the aggrieved party and placed in the case record no later than the 30th day after receipt of the request for the reconsideration of findings. The decision by the person conducting the reconsideration of findings is final and non-appealable except as otherwise provided for by law.

POLICIES THAT GUIDE DHI/IMB INVESTIGATIONS

IMB has developed a number of policies to guide its operations and the conduct of investigations. They include the following:

Procedure and Guidelines for Conducting Site Visits: These procedures and guidelines direct the Investigator in scheduling, conducting, and documentation of visits to the sites of alleged incidents.

It also directs the investigator in the collection of physical and documentary evidence that may take place during the site visit.

Photographic Evidence Procedure and Guidelines: These detailed procedures and guidelines direct Investigators in the collection, preservation, and use of photographic evidence collected over the course of an investigation.

Photographic Evidence Policy: This policy outlines in less detail the collection and preservation of photographs taken over the course of an investigation.

Witness Interview Policy: This policy directs investigators with regard to who should be interviewed in person, the ideal order of witness interviews, the timeframe during which interviews should take place, and in making diligent efforts to interview relevant witnesses.

Witness Interview Guide: These guidelines direct investigators in the scheduling of witness interviews, techniques for conducting the interview, special considerations to take over the course of conducting interviews, and other considerations specific to the type of investigation (e.g. sexual abuse investigations).

Professional Consultation Guidelines: These guidelines outline the use of professional consultants required during the course or at the completion of an investigation due to the nature of the report. The guidelines direct the Investigator with regard to when and how to request professional consultation to assist during the planning phase of the investigation or to provide an opinion or interpretation to inform its conclusions.

Intake Procedure: These procedures outline the process for the receipt of calls to the DHI hotline received after hours and on weekends. It directs investigators in the dissemination of information from the point of Intake to the point of investigation assignment.

Intake Extension Request Policy: This policy directs IMB intake staff in making requests to extend the time allotted (24 hours) to collect and review information necessary to determine whether or not reported incidents will be opened for investigation.

Investigation Extension Procedure: These procedures outline the process for investigators to request additional time (beyond the allotted 45 days) to complete an investigation.

Professional Conduct Policy: This policy sets forth reasonable and necessary standards for professional and ethical behavior applicable to all IMB employees.

Conflict of Interest Procedure: These procedures direct investigators with regard to the necessary steps to take when there is potential for actual or perceived conflicts identified over the course of an investigation. These circumstances relate to personal and professional relationships, outside employment, or any other factor which has the potential to impact the investigators objectivity in conducting an assigned investigation.

IMB CONTACT INFORMATION

DHI/IMB 24-HOUR ANE REPORTING HOTLINE
1-800-445-6242

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