

# Greene Arc, Inc.

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12) **Serious Illness** – A physical illness, disease or period of sickness that requires hospitalization. This includes an elective surgery that requires a hospitalization.

- (a) **Chronic/Recurring** – An illness, condition or disease that is persistent or otherwise long-lasting in its effects for which an individual has had previous treatment or diagnosis.
- (b) **New** – An acute illness, condition or disease for which an individual has not previously received treatment. This includes acute illnesses, conditions or diseases that may become chronic in the future.

13) **Serious Injury** – Any injury that requires treatment beyond first aid. This includes injuries that receive an assessment or treatment at an emergency room, urgent care center, primary care physician office, etc. or that require hospitalization. Assessment by emergency medical services that did not require a visit to one of the locations listed above for treatment is not reportable. Serious injuries that are treated by a medical professional (i.e., doctor, nurse, etc. that is used by the organization) on-site are reportable. Examples include, but are not limited to:

- fractures
  - dislocations
  - burns
  - electric shock
  - loss or tearing of body parts
  - eye emergencies
  - ingestion of toxic substance
  - head injuries from accidents, falls or blows to the head
  - any injury with loss of consciousness
  - medical equipment malfunction or damage that requires immediate intervention
  - lacerations requiring stitches, staples or sutures to close
- (a) **Choking** – When food or other items become lodged in the back of the throat and the cause is not attributed to neglect. Choking incidents are only reportable when they require interventions, such as back blows, abdominal thrusts or the Heimlich maneuver.
- (b) **Injury Accidental** – Injury (other than self-inflicted) with a known cause at the time of the report.

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- (c) **Injury Self-Inflicted** – Injury with a known cause at the time of the report that can be attributed to an intentional action of an individual to cause harm upon him/herself.
  - (d) **Injury Unexplained** – An injury with no known cause at the time of the report.
  - (e) **Medical Equipment Failure/Malfunction** – Any medical equipment failure or malfunction that requires intervention by a medical professional. This does not include routine maintenance or care of medical equipment.
  - (f) **Pressure Injury (decubiti, pressure ulcer, pressure sore, bedsore)** – Injuries to skin and underlying tissue resulting from prolonged pressure on the skin, regardless of stage and including an injury that is unstageable. This includes initial diagnoses and newly affected areas of the body, as well as a diagnosis that becomes worse over time.
- 14) **Sexual Abuse** – Any attempted or completed nonconsensual sexual act. The act may be physical or non-physical and achieved by force, threats, bribes, manipulation, pressure, tricks, violence or against an individual who is unable to consent or refuse. Sexual abuse includes any act or attempted act that is sexual in nature between a paid Service Provider staff and an individual, regardless of consent on the part of the individual.

Examples of methods used to commit sexual abuse include, but are not limited to:

- Use of intimidation or threat of physical force toward an individual in order to gain compliance with a sexual act (e.g., pinning the victim down, assaulting the victim)
- Administering alcohol or drugs to an individual in order to gain compliance with a sexual act (e.g., drink spiking)
- Taking advantage of an individual who is unable to provide consent due to intoxication or incapacitation from voluntary consumption of alcohol, recreational drugs or medication
- Exploitation of vulnerability (e.g., immigration status, disability, undisclosed sexual orientation, age)
- Misuse of authority (e.g., using one's position of power to coerce or force a person to engage in sexual activity)
- Economic coercion, such as bartering of sex for basic goods, like housing, employment/wages, immigration papers or childcare

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- Degradation, such as insulting or humiliating an individual
  - Fraud, such as lies or misrepresentation of a target's identity
  - Continual verbal pressure, such as when an individual is being worn down by someone who repeatedly asks for sex or, for example, by someone who complains that the individual does not love them enough
  - False promises by the target (e.g., promising marriage, promising to stay in the relationship, etc.)
  - Grooming and other tactics to gain an individual's trust
  - Control of an individual's sexual behavior/sexuality through threats, reprisals, threats to transmit sexually transmitted infections (STIs), threats to force pregnancy, etc.
- (a) **Rape** – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of an individual. This includes when an individual was made (or there was an attempt to make the individual) penetrate another person (including the target).
- (b) **Sexual Harassment** – Sexual advances that do not involve physical contact between an individual and a target. This type of sexual abuse can occur in many different venues (e.g., home, school, workplace, in public or through technology). Examples include, but are not limited to:
- Sending unwanted sexually explicit photographs
  - Use of inappropriate sexual remarks or language
  - Unwanted exposure to sexual situations – pornography, voyeurism, exhibitionist
  - Threats of sexual abuse to accomplish some other end, such as threatening to rape an individual if he or she does not give the target money
  - Threatening to spread sexual rumors if the individual does not have sex with the target
  - Unwanted filming, taking or disseminating photographs of a sexual nature of an individual (in any medium to include, but not limited to social media, personal computers, cell phones, etc.)
  - Exposure to unwanted sexual materials (pornography)
- (c) **Unwanted Sexual Contact** – Intentional touching or molesting, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, buttocks or

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any other body part without consent. This includes making an individual touch or molest another person (including the target).

- (d) **Other** – Any sexual abuse of an unknown type at the time of the report or sexual abuse that does not conform to other secondary category options.

15) **Site Closure** – The emergency closure of a licensed or Provider operated service location for one (1) or more days. This is reported as a site Incident Report and does not apply to individuals who reside in homes owned, rented or leased solely by the individual or family member.

- (a) **Infestation** – The closure of a site due to the need to treat for animal, insect or other pests.
- (b) **Loss of Utilities** – The closure of a site due to loss of utility that was not related to a failure on the part of the operating Entity. This includes electrical outages, issues with water or sewer systems and heating or cooling system failures.
- (c) **Natural Disaster/Weather Related** – The closure of a site due to a natural disaster or weather conditions.
- (d) **Structural** – The closure of a site due to structural issues.
- (e) **Other** – The closure of a site due to a reason other than an infestation, loss of utilities, natural disaster or weather related or structural issue.

16) **Suicide Attempt** – The intentional and voluntary attempt to take one’s own life. A suicide attempt is limited to the actual occurrence of an act and does not include suicidal threats or ideation. If medical treatment was sought after a suicide attempt, it should be reported under suicide attempt as a primary category in all cases, and not as serious injury or illness.

- (a) **Injury/Illness that Requires Medical Intervention** – An individual sustained an injury or became ill due to a suicide attempt and required medical treatment beyond basic first aid.
- (b) **No Injury/Illness that Requires Medical Intervention** – An individual did not sustain an injury or become ill due to a suicide attempt and did not require medical treatment beyond basic first aid.

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#### § 6000.923 Incidents To Be Reported Within 72 Hours

Medication errors and physical restraints are to be reported within 72 hours after the discovery or recognition of the incident.

- 1) **Physical Restraint** – A physical hands-on method that restricts, immobilizes or reduces an individual’s ability to move his or her arms, legs, head or other body parts freely. A physical restraint may only be used in the case of an emergency to prevent an individual from immediate physical harm to him/herself or others. Restraints that are permitted by ODP policies and procedures, regulations or laws are to be reported as physical restraints. All other restraints shall be reported as abuse.
  - (a) **Human Rights Team Approved Restrictive Intervention** – Any physical restraint that is applied in an emergency situation that is part of an approved ISP that contains a restrictive procedure.
  - (b) **Provider Emergency Protocol** – Any physical restraint that is applied in an emergency situation that is part of a Provider emergency restraint protocol. This restraint is not part of an individual approved ISP that contains a restrictive procedure.
- 2) **Medication Error** – Any practice that does not comply with the “Rights of Medication Administration” as described in the ODP Medication Administration Training Course. A medication error occurring during a time when an unpaid caregiver is responsible for the administration of medication is not reportable. An individual’s refusal to take medication is not reportable as a medication error.
  - (a) **Wrong Medication** – Individual is given a medication that the individual is not prescribed or has been discontinued, or the individual was given medication that was supposed to be given for another reason.
  - (b) **Wrong Dose** – Individual is given too much or too little medication during a scheduled administration.
  - (c) **Wrong Time** – Individual is given medication too early or too late as defined by the range of allowable administration time.

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- (d) **Wrong Route** – Individual is given medication in a different way from the one specified on the label.
- (e) **Wrong Form** – Individual is given medication in a different type from the one prescribed.
- (f) **Wrong Position** – Individual is not placed correctly to receive the medication.
- (g) **Wrong Technique/Method** – Medication is prepared for administration improperly.
- (h) **Omission** – An administration of medication fails to occur.
- (i) **Wrong Person** – An individual is given another individual's medication.

#### **Incidents to Be Reported When Directed**

ODP will provide specific guidance and direction on what to report, as well as the timelines to report, related to the following emergencies:

- 1) **Declared Emergency** – An event, such as an occurrence of a natural catastrophe, technological accident or human-caused event that has resulted in, or could potentially cause, severe property damage, deaths and/or multiple injuries such as, but not limited to public health emergencies, emergency declarations, major declarations, etc. A Declared Emergency is declared by Federal, State, County or Municipal officials.
- 2) **Public Health Emergency** – An event such as a disease or natural disaster that causes, or has the potential to cause, harm to a significant number of individuals and is declared as a Public Health Emergency by Federal or State officials. Public Health Emergencies are to be reported within timeframes that are specific to the nature of the event and as directed by ODP.
- 3) **Outbreaks** – The occurrence of disease cases in excess of normal expectancy. The number of cases varies according to the disease-causing agent and the size and type of previous and existing exposure to the agent.
- 4) **Epidemic** – A disease that affects a large number of people within a community, population or region.

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- 5) **Pandemic** – A disease that affects a large number of people that is spread over multiple countries or continents.
- 6) **Natural Disasters** – An event such as a flood, earthquake, storm, hurricane, tornado, blizzard, etc.
- 7) **Bio-Terrorist Attacks** – The intentional release or dissemination of biological agents. These agents are bacteria, viruses, insects, fungi or toxins and may be in a naturally occurring or a human-modified form.

#### § 6000.925 Categories of Incidents To Be Investigated

There are circumstances when SCOs will manage incidents in lieu of a Provider; therefore, the term “Provider” may be replaced with SCO in the chart in certain circumstances (see section, *Responsibility for Reporting and Investigating* for further guidance).

The following chart indicates those incidents to be investigated by the Provider, the County and ODP. The investigation process does not preclude investigations by law enforcement or other Agencies responsible to investigate.

| Primary Category                            | Secondary Category  | Entity Responsible for Investigation   |
|---|---|--|
| Abuse                                       | All   | Greene Arc, Inc.   |
|   | Improper or unauthorized use of restraint   | Greene Arc, Inc. and County  |
| Neglect                                     | All   | Greene Arc, Inc.   |
| Rights Violations                           | All   | Greene Arc, Inc.   |
| Misuse of Funds                             | All   | Greene Arc, Inc.   |
| Death                                       | When an individual is receiving services from a Provider/Entity. [see § 6000.911 (b) (1)-(3)]                           | Greene Arc, Inc. and ODP or Dept. of Health (County participation as requested by ODP) |
| Hospitalization                             | Accidental Injury, Unexplained Injury, Staff to Individual Injury, Injury resulting from Individual to Individual Abuse | Greene Arc, Inc.   |
| Injury Resulting from Restraint             |   | Greene Arc, Inc.   |
| Emergency Room Visit                        | Unexplained Injury, Staff to Individual Injury, Injury Resulting from Individual to Individual Abuse                    | Greene Arc, Inc.   |
|   | Injury Resulting from Restraint   | Greene Arc, Inc. and County  |
| Injury Requiring Treatment Beyond First Aid | Staff to Individual Injury, Injury Resulting from Individual to Individual Abuse  | Greene Arc, Inc.   |
| Individual to Individual                    | Injury Resulting from Restraint   | Greene Arc, Inc. and County  |
|   | Sexual Abuse  | Greene Arc, Inc.   |

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#### SEQUENCE OF REPORTING

##### § 6000.931 Multiple Categories and Sequence of Reporting

A Point Person must review incident definitions to determine the most appropriate primary and secondary categories for a report. In situations where an incident appears to meet multiple incident definitions, the Point Person should enter a report based on the information available at the time of entry. Reclassification is an option at any time during the lifecycle of an incident.

The Point Person must also determine if the information received at the time of the initial report represents a singular incident or if multiple Incident Reports are needed to adequately capture information about the incident.

**Singular Reportable Incident** – When an individual experiences one incident that could have multiple incident categories.

**Multiple Reportable Incidents** – More than one incident experienced by one individual which are not linked to each other and would not be adequately addressed or resolved through a single Incident Report or if applicable, an investigation.

To assist the Point Person in choosing an appropriate classification when singular events represent more than one incident category, the following list of incidents (in priority) is suggested as a guide in selecting the most appropriate category and may not be appropriate in all situations:

- 1) Sexual Abuse
- 2) Abuse
- 3) Neglect
- 4) Exploitation
- 5) Rights Violation
- 6) Suicide Attempt
- 7) Serious Injury
- 8) Serious Illness
- 9) Behavioral Health Crisis Event
- 10) Missing Person
- 11) Law Enforcement Activity
- 12) Site Closure
- 13) Fire
- 14) Passive Neglect
- 15) Self-Neglect

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If an incident that requires reporting within 24 hours involves, or is the result of, a medication error, a report must be initiated in the appropriate 24-hour primary category. In addition, an Incident Report for the medication error must be reported within 72 hours.

Incidents that are reported as a death are considered singular reportable incidents. A death is considered a separate incident from the events that may have occurred prior. Incidents reported with a primary category other than death should not be reclassified to a death.

**72-Hour Reporting Primary Incident Category**

- (a) Medication Error
- (b) Restraint

If a death, hospitalization, psychiatric hospitalization, emergency room visit or injury requiring treatment beyond first aid is the result of a medication error or the use of restraint, a report is to be initiated within 24 hours using the corresponding primary category.

**ROLES**

**§ 6000.951 Initial Reporter**

**1) Initial Reporter**

An Initial Reporter is any person who witnesses or experiences the incident, is informed of an allegation of an incident or is the first to discover or recognize the signs of an incident. Initial Reporters may be individuals receiving services, family members, community members or service system staff.

When the Initial Reporter is a Provider, SCO or County ID Program/AE staff person, contractor, consultant, volunteer or intern, the Initial Reporter must take all of the following steps:

- Respond to the situation by taking immediate action to protect the individual's health, safety and rights.
- Notify the appropriate reporting Entity's Point Person of the incident.
- Document observations about the incident in a narrative report.
- Comply with the applicable laws and regulations for incidents of alleged abuse, neglect or exploitation.

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#### 2) Point Person

The Point Person is a person that receives information from an Initial Reporter and is responsible to manage the incident from beginning to end. Every Provider and SCO must have at least one Point Person but multiple people within an organization may have this role.

The purpose of this role is to ensure that all incident management activities are completed for each incident. The Point Person is considered the point of direct contact about an incident and must be available to respond to questions or issues that arise related to an incident.

The Point Person retains overall responsibility to ensure the activities listed below are completed as required by the Provider's, SCO's or County ID Program's/AE's policy and procedure. However, the Point Person may delegate any or all of the activities listed below. The specific Point Person assigned to an incident may change at any time. Changes in Point Persons must be reflected in the Incident Report in the Department's information management system.

When an incident is reported, the Point Person must ensure:

- All actions needed to protect the health, safety, rights and well-being of the individual are taken following the initial knowledge or notice of the incident (55 Pa. Code §§ 2380.17, 2390.18, 6100.402, 6400.18, 6500.20).
- Referral to Victims Assistance Services is offered and support to access services is provided when an individual expresses an interest in these services. See Attachment 1.
- If the incident involves abuse, suspected abuse or alleged abuse, the target is separated from the victim (55 Pa. Code § 6100.46).
- If the incident involves abuse, suspected abuse or alleged abuse, the following are notified about the incident as appropriate:
  - Adult Protective Services
  - Child Protective Services
  - Older Adult Protective Services
  - The individual and persons designated by the individual, unless the person designated by the individual is the target.
  - The Department of Aging and the Department of Human Services
  - The designated managing Entity (AE)

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- The County government office responsible for the intellectual disability program (County ID Program), if applicable. (55 a. Code § 6100.46)
- The individual is informed of his or her rights and options related to contacting law enforcement.
- The individual, family members or persons designated by the individual are provided with timely response to questions or concerns related to the incident.
- The following incident management activities are completed:
  - The initial Incident Report is submitted to the Department's information management system within 24 or 72 hours of discovery, depending on the incident category.
  - The Incident Report is finalized within 30 calendar days of discovery of the incident.
  - If an extension is needed, the need for the extension, including the reason for the extension, is submitted to the Department's information management system.
  - Follow up on all comments received from initial or final management reviews is completed in order to ensure incident closure.  
(55 Pa. Code §§ 2380.17, 2390.18, 6100.401, 6100.404, 6400.18, 6500.20)
- If the individual is deceased, information is sent to the County ID Program/AE, when applicable, and the appropriate ODP regional office or uploaded to be included as part of the electronic Incident Report. The final section of the Incident Report is to be supplemented by a copy of the following:
  - Lifetime medical history
  - Copy of the Death Certificate
  - Autopsy report, as applicable
  - Discharge summary from the final hospitalization, if the individual died while hospitalized
  - Results of the most recent physical examination
  - Most recent health and medical assessments
  - A copy of the entire investigation file completed by the Provider or SCO

### **3) Incident Management (IM) Representative**

The IM Representative is the person designated by a Provider or SCO who has overall responsibility for incident management. Each Provider and SCO must have an IM Representative. As part of his or her job responsibilities, the IM Representative must be a Certified Investigator (CI). The CI certification must be obtained within 12 months of

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assuming the role of IM Representative. The IM Representative may delegate the activities listed below within the organization or to another organization (via a contract, agreement, etc.) but must maintain overall responsibility to ensure completion as required by applicable laws, regulations, policies and procedures. The IM Representative must ensure:

- The Point Person(s) has completed all required actions and activities.
- Corrective actions are implemented and monitored.
- All quality and risk management activities are completed, which include but are not limited to:
  - Monitoring of incident data.
  - A trend analysis of incident data at least every three months.  
(55 Pa. Code §§ 2380.19, 2390.19, 6100.405, 6400.20, 6500.22)
- Administrative reviews are conducted for all incidents that were investigated by a CI.
- Investigation files are complete, securely maintained and readily available for review by oversight Entities.
- The quality of investigations is reviewed using the standardized CIPR process and, as a result of the CIPR, the following occurs, if necessary:
  - Feedback is provided to the CI that conducted the investigation.
  - Corrective actions are implemented.
  - CI retraining, suspension of CI duties or removal of CI certification.
  - All staff, contractors, consultants, volunteers and interns are trained on all applicable regulations and laws pertaining to the service provided and internal incident management policies and procedures.
- Individuals and families, or persons designated by the individual, are offered education, training and information about incident management policies and procedures in a format that meets their communication needs.
- Roles (Point Person, CI, etc.) are managed in the Department's information management system. This includes:
  - Maintaining a list of active CIs including recertification dates.
  - Managing CI roles based on quality management activities and feedback from monitoring completed by oversight Entities.
  - Ensuring the previous Provider's staff and SCO's staff's access to the Department's information management system has been removed, when necessary.
- There is a timely response to complaints about a service that is related to the incident management or investigation processes (55 Pa. Code § 6100.51). The response must be provided in the communication method preferred by the individual.

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**4) Certified Investigator (CI)**

A CI is a person who has been trained and certified by the Department to conduct investigations. The CI must:

- Conduct investigations using the process, standards of quality and template(s) outlined in the most current ODP CI manual.
- Create a CI Report and enter the investigation information in the Department's information management system.
- Ensure the complete original investigation file is given to the Entity for whom the investigation is being conducted.
- Participate in the CIPR process.
- A person's CI certification can be suspended or removed by the Department at any time for any reason.

**5) Administrative Review Committee Member**

An Administrative Review Committee member is a person designated by a Provider, SCO, or AE to participate in the administrative review process. An Administrative Review Committee member must be familiar with the CI process. An Administrative Review Committee member will:

- Review the CI report and if necessary, the investigatory file;
- Evaluate the CI's adherence to the principles of speed, objectivity and thoroughness;
- Develop preventative and additional corrective actions; and
- Conclude the investigation by making a determination of confirmed, not confirmed or inconclusive.

**6) County ID Program/AE Incident Reviewer**

An Incident Reviewer is a person designated by the County ID Program/AE who is responsible for completing all required management reviews of incidents.

**7) County ID Program/AE Incident Manager**

An Incident Manager is the person designated by the County ID Program/AE who has overall responsibility for incident management. As part of his or her job responsibilities, the County ID Program/AE Incident Manager must be a CI. The CI certification must be obtained within 12 months of assuming the role of Incident Manager. The County ID Program/AE Incident

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Manager may delegate the activities listed below within the organization or to another organization (via a contract, agreement, etc.) but must maintain overall responsibility to ensure their completion as required by applicable laws, regulations, policies or procedures. The County ID Program/AE Incident Manager must ensure:

- Implementation of policies and procedures that support:
  - The review of Incident Reports within 24 hours of submission in the Department's information management system.
  - The actions needed to approve or disapprove Incident Reports submitted by the Provider or SCO occurring within 30 calendar days of submission by the Provider or SCO.
- Investigations are conducted by the County ID Program/AE as required in this bulletin.
- The individual, and persons designated by the individual, are informed of the investigation determination, unless otherwise indicated in the ISP.
- There is a timely response to complaints that are related to the incident management or investigation processes. The response must be provided in the communication method preferred by the individual.
- An Administrative Review is conducted for all incidents that required investigation by a CI.
- Investigation files are complete, securely maintained and available for review by oversight Entities.
- The quality of investigations conducted by County ID Programs/AEs (including those conducted on behalf of the County ID Program/AE via a contract, agreement, etc.) are reviewed using the standardized CIPR process and, as a result of the CIPR, the following occurs, if needed:
  - Feedback is provided to the CI that conducted the investigation
  - Corrective actions are implemented
  - CI retraining, suspension of CI duties, and/or removal of CI certification
- The quality of Provider and SCO conducted investigations.
  - The County ID Program/AE should consider completing the CIPR review process for the Service Provider and SCO investigations. These CIPR reviews would be on an ad hoc basis, as the County ID Program/AE is not required to complete this activity on any scheduled frequency. ODP strongly encourages the County ID Program/AE to use the CIPR process as part of a formal Corrective Action Plan (CAP) or for other quality improvement efforts directed towards Service Providers and SCOs.

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- Periodic training is provided to County ID Program/AE staff that have a direct role in incident management and to individuals and their families, guardians and advocates in a format that meets the communication needs of the audience about:
  - Their rights, roles and responsibilities for protecting an individual's health and welfare.
  - All applicable incident management policies, procedures, regulations and laws.
- Ongoing training and technical assistance, as needed, is provided to Providers and SCOs that relates to the needs of individuals served by the Provider or SCO. This includes coordination of training resources to be provided by Entities other than the County ID Program/AE.
- Collaboration with the individual and his or her ISP team to develop and implement:
  - Mitigation plans to address medical, behavioral, and socio-economic crisis situations in a timely manner as required by the Administrative Entity Operating Agreement.
  - Corrective actions.
- Direct management of individual incidents (including coordination with Protective Service Entities) and crisis situations including the following:
  - Locating resources and opportunities for mitigating the crisis through family or community;
  - Being actively engaged in identifying qualified Service Providers;
  - Working to divert institutional placement; and
  - If deemed appropriate by the Department, facilitating competency and guardianship appointments.
- All quality and risk management activities are completed related to incident management as outlined in this bulletin.

Anyone who receives funds from the Intellectual and Developmental Disability system, either directly or indirectly, to provide or secure supports or services for individuals authorized to receive services from the County Intellectual and Developmental Disability Program and employees, subcontractors and volunteers of facilities licensed by the Department of Human Services Office of Intellectual and Developmental Disability, is to report incidents as defined within this bulletin to the County and ODP.

When providing services in the home of an individual or his/her family, Greene Arc, Inc., their employees or contracted Agents are to report incidents that occur when they are present in the home. Additionally, Greene Arc Inc., their employees or contracted Agents are to report

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suspected or alleged abuse of which they become aware, regardless of whether they were providing services at the time the alleged abuse occurred. They are also to report the death of any individual to whom they are providing services. When an individual receives only case management services, the Supports Coordinator is to report incidents of suspected abuse and death whenever they learn of them.

All reportable incidents are to be submitted electronically via a web-based system approved by ODP. No contingencies have been made for submission of reportable incidents by any other means.

**WHEN IN DOUBT... REPORT!** Remember what you saw, Report what you saw!

Greene Arc, Inc. will train all staff on the reporting process and the responsibility of that Reporter in accordance with ODP Bulletins 00-01-05 and 00-21-02.

**TYPES OF INCIDENT REPORTS**

**§ 6000.961 Standardized Incident Report**

Chapter 7 of OAPSA (often referred to as Act 13) extends the mandatory reporting requirements of the Act to all care-dependent adults (those over the age of 18) who reside or receive services in specific facilities including home health Agencies. Employees or Administrators of a covered facility who have reasonable cause to suspect that an individual receiving care, services or treatment from the facility is a victim of abuse shall immediately make a report in compliance with the requirements detailed in the Act. All adults covered within the scope of this Intellectual and Developmental Disability Bulletin who are receiving care or services in a facility as defined in the OAPSA are also covered by the Act.

Individuals and Agencies who provide facility-based supports and services within the scope of this bulletin are required to follow the mandatory reporting requirements of the OAPSA when they have reasonable cause to suspect that a care-dependent adult is a victim of abuse or neglect, as defined within the OAPSA. Compliance with the mandatory reporting requirements of the OAPSA is in addition to the reporting requirements established in this policy.

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**The following process applies to the primary incident category to be reported within 24 hours:**

1. Name of the individual affected by the incident
2. Primary and secondary nature of the incident, based on the "Reportable Incidents" definition
3. Actions taken to address the incident
4. Current status of the individual
5. Date and time the incident occurred or was recognized/discovered
6. Location where the incident occurred
7. Name and address of the Provider Agency or other person/Entity who submitted the initial notification
8. Name of the person making the initial report
9. Name of the Point Person who has assumed responsibility for follow-up of the incident
10. Determination of whether or not an investigation is needed
11. Home address of the individual
12. Individual's date of birth
13. Individual's Base Service Unit (BSU) number
14. Date and time of the initial notification
15. Description of the immediate and subsequent steps taken by the Point Person or other Representatives of the Provider to assure the individual's health, safety and response to the incident, including date, time and by whom these steps were taken

If the incident involves several individuals, all names and other identifying information may be submitted as part of a single "site" report. If the individual is not registered with a County BH/IDD Program, the report is to list the county or the state where the person is/was a resident.

Identification of all persons to whom the initial notification has been (or will be) submitted (i.e., family, law enforcement Agency, etc.), the date, time and method (phone, fax, electronic, etc.) by which notification has been made and the person who has/will notify the necessary parties.

#### **§ 6000.962 Abbreviated Incident Report**

The following process applies to the primary incident categories requiring reporting within 72 hours. These incidents are not individually approved by the County, ODP regional office or Bureau of State-Operated Facilities, but are to have a 30-day analysis completed and

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maintained by the Provider/Entity. Analysis of these incidents is to be included in the quarterly report.

Medication errors and the use of restraints are to be reported using the abbreviated EIM incident management data entry screens, designed to gather relevant data about these incidents. Data is to be input within 72 hours of the recognition or discovery of the event.

#### **INCIDENT REPORT**

All staff involved in direct service shall be accountable for the Incident Report, which is due within five (5) days of the incident or of the date when Greene Arc, Inc. learns of the incident. The Report will contain all of the information included in the initial notification and add:

- 1) Indication if the Incident Report will be the Final Report
- 2) Current update on the individual's status
- 3) Change of classification or additional information on the nature of the incident, if applicable
- 4) Narrative description of the incident, completed by staff or other person(s) who were present when the incident occurred or who discovered that an incident had occurred
- 5) Identification of other persons who may have witnessed or been directly involved in the incident
- 6) Specific description of any injury received by the individual, including the cause, effect and the body part involved
- 7) Specific signs and symptoms of any illness (acute or chronic) which may be contributory to the incident
- 8) If the incident involves an illness or injury, the name of the practitioner/facility by whom the individual was treated initially, the date and time of the initial contact with a healthcare/medical practitioner, the nature/content of the initial treatment, evaluation and the nature/date/time of and practitioner involved in any subsequent treatments, evaluations, etc.
- 9) If the individual has been hospitalized, the name and address of the hospital, the admitting diagnosis(es), the estimated (or actual) date of discharge and the discharge diagnosis(es), etc.
- 10) Background information on the individual, including level of Intellectual and Developmental Disability, pertinent medical history, diagnoses, etc.

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- 11) Name of the Certified Investigator assigned, whether the incident requires investigation and the date on which the investigation began. If the incident involves an allegation of abuse, current status of the target of the investigation, if one has been identified
- 12) If the nature of the incident requires contact with law enforcement, the name and departmental office of the person(s) contacted, the date and time of the contact and the name of the person who initiated the contact and a description of any steps taken by law enforcement officials

The narrative description may be summarized by Greene Arc, Inc. but the written statements of the person(s) directly involved are to be available for review, if needed.

#### **FINAL REPORT**

If the incident is not one that needs investigated, the Point Person will do the Final Report as the day 5 report and indicate it as a Final Report. If it requires an investigation, the investigation will complete the Final Report as outlined. The Final Report will be completed by Greene Arc, Inc. within thirty (30) days from the date of the incident (unless notification of an extension has been generated). The Final Report will add:

- 1) Present status of the individual in reference to the incident
- 2) Summary of the Investigator's findings and conclusions
- 3) If the incident involves an allegation of some type of abuse/neglect, the conclusion reached on the basis of the investigation (i.e., the allegation is confirmed, not confirmed, inconclusive, etc.) and the status of the target
- 4) Description of the steps taken by the Provider in response to the conclusions reached as a result of the investigation
- 5) Verification by the Provider that all necessary corrective actions have been identified
- 6) If any corrective action cannot/has not been completed by the time the Final Report is submitted, the expected date of completion must be provided, along with the identity of the person responsible for carrying the extended action through to completion
- 7) If the incident involves an injury of unknown origin, confirmation of the cause, if one has been identified, and steps taken to prevent recurrence
- 8) Description of any changes in the individual's plan of support necessitated by or in response to the incident

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- 9) If the individual was hospitalized, the Final Report must include an indication that the Hospital Discharge Summary was provided, a summary of its contents and a description of any plans for subsequent medical follow-up
- 10) If the individual is deceased, the Final Report is to be supplemented by a hard copy of the following:
  - (a) Lifetime medical history
  - (b) Copy of the Death Certificate
  - (c) Autopsy Report, if one has been completed
  - (d) Discharge Summary from the final hospitalization if the individual died while hospitalized
  - (e) Results from the most recent physical examination
  - (f) Most recent health and medical assessments
  - (g) Name and address of the family member notified of the results of the investigation
  - (h) Date on which the incident was considered “finalized” by Greene Arc, Inc. and the name and title of the Representative who made the determination

After final submission by the Provider, the County or ODP will perform a management review and close the incident. Documents which are not immediately available must be forwarded to the appropriate properties as they become available. If after attempting to acquire the document it is determined to be unobtainable, the expecting party will be notified.

An incident is “finalized” when the report is complete, investigation is complete and all required follow-up has been identified. This should normally happen within thirty (30) days of the incident or first knowledge of the incident by the Provider, unless an extension has been generated.

#### **INVESTIGATION PROCESS**

Any reportable incident may be investigated by Greene Arc, Inc., the County and/or ODP. Certain designated incidents are to be investigated, either jointly or independently, by the Provider, the County and/or ODP. All of these designated investigations are to be conducted by

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Certified Investigators. The involvement of the County and/or ODP shall not hinder the prompt investigation by the Provider.

Incidents that are categorized as critical incidents must be investigated by a Certified Investigator who has taken and passed the Department's CI course (55 Pa. Code §§ 2380.17, 2390.18, 6100.402, 6400.18, 6500.20). The Point Person for an incident must review the information given by the Initial Reporter, determine the appropriate primary and secondary incident category and determine if an investigation by a CI is required or if not required, desired. If an investigation is required or desired for an incident, each Entity investigating must follow the Department's standardized investigation process as outlined in the most current ODP CI manual.

If an investigation is required (or desired) to be completed by a County ID Program/AE, the County ID Program/AE must fully comply with all applicable procedures related to the investigation of incidents. County ID Program/AE investigators are not permitted to review the investigation of another Entity and make an investigation determination based solely on that evidence without conducting their own investigation. In addition, when a County ID Program/AE has a different investigation determination than a Provider or SCO, the County ID Program/AE must work with the other investigating Entity to reconcile the difference.

A County ID Program/AE is required to complete any investigation requested by ODP.

At no time should the investigating Entity covered by the scope of this bulletin (referred to as the ODP investigating Entity) delay, halt or terminate an investigation because of the involvement of an external investigating Entity. If an external investigating Entity requests that an ODP investigating Entity delay, halt or terminate an investigation, the ODP investigating Entity must attempt to obtain this request in writing and discuss the request with the appropriate regional ODP office.

Concurrent investigations by law enforcement and Protective Service Agencies may occur at the discretion of those Entities. When there are multiple Entities conducting investigations, every effort should be made to coordinate the investigations to avoid continued stress or trauma upon all individuals involved.

The chart below identifies which primary and secondary incident categories require an investigation by a CI. At times, more than one ODP investigating Entity will be investigating the same incident.

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#### Incidents to Be Investigated by a Certified Investigator<sup>1</sup>

There are circumstances when SCOs will manage incidents in lieu of a Provider; therefore, the term “Provider” may be replaced with SCO in the chart in certain circumstances (see section, “Responsibility for Reporting and Investigating,” for further guidance).

| Primary Category | Secondary Category  | Entity Responsible for Ensuring CI Investigation is Complete |
|------------------|---|--|
| Abuse            | All   | Provider   |
|                  | Misapplication/<br>Unauthorized Use of<br>Restraint (injury)                | Provider and County<br>ID Program/AE                         |
| Death            | Natural Causes -<br>Services Provided                                       | Provider   |
|                  | Unexpected -<br>Services Provided   | Provider   |
| Exploitation     | All   | Provider   |
|                  | Medical<br>Responsibilities/<br>Resources                                   | Provider and County<br>ID Program/AE                         |
|                  | Room & Board  | Provider and County<br>ID Program/AE                         |
|                  | Unpaid Labor  | Provider and County<br>ID Program/AE                         |
| Neglect          | All   | Provider   |
| Rights Violation | All   | Provider   |
|                  | Unauthorized<br>Restrictive Procedure                                       | Provider and County<br>ID Program/AE                         |
| Serious Injury   | Injury, Accidental  | Provider   |
|                  | Injury, Unexplained   | Provider   |
|                  | Choking   | Provider   |
|                  | Pressure Injury<br>(Decubiti, Pressure<br>Ulcer, Pressure<br>Sore, Bedsore) | Provider   |
| Sexual Abuse     | All   | Provider   |
| Suicide Attempt  | All   | Provider   |

(55 Pa. Code §§ 2380.17, 2390.18, 6100.402, 6400.18, 6500.20)

<sup>1</sup>See Attachment II, Incident Management Bulletin Category and 55 Pa. Code §§ 6100.401-6100.402 Crosswalk.

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#### **Services for Individuals with An Intellectual Disability or Autism Incident Report Form**

In the event that the Department's information management system is unavailable, the submission of incidents is to occur by completing the *Services for Individuals with an Intellectual Disability or Autism Incident Report form*. The reason why the incident is not entered in the Department's information management system should be included on the form. All incidents submitted using this form must be entered into the Department's information management system as soon as possible after resolution of the issue(s) that prevented entry.

When an incident requires investigation, Greene Arc, Inc.'s Point Person assures that a Certified Investigator is designated to conduct the investigation. The County/APS may determine a need to conduct their own investigation following review of Greene Arc, Inc.'s investigation or based upon an analysis of incidents and trends.

#### **CERTIFIED INVESTIGATORS**

Certified Investigators are people who have been trained according to ODP specifications and received a certificate in investigation from ODP. Providers, Counties and ODP are to have Certified Investigators available to conduct investigations. To be a Certified Investigator, a person must:

- 1) Be a high school graduate
- 2) Be 21 years of age or older
- 3) Meet the criminal background requirements of the Older Adults Protective Services Act, Child Protective Services Act and Child Protective Services Law
- 4) Successfully complete the training

Training and testing will be required for certification as an Investigator. Persons who have taken the course, "Conducting Serious Incident Investigation" after October 1, 1998 offered by Labor Relations Alternatives, Inc. may apply to take a test to be certified without needing to retake the course. Only those who pass the test will be certified.

Certification is good for three (3) years. At least once every three (3) years, Certified Investigators must participate in a refresher class to be recertified. Investigators must have conducted a minimum of three (3) investigations since being certified. Certification may be withdrawn by ODP for cause.

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#### INVESTIGATION PROTOCOL

At a minimum, the investigation protocol will include a process for addressing a conflict of interest, establishing the purpose of the investigation, interviewing, gathering evidence, weighing credibility and reporting findings and conclusions.

The investigation record includes the Incident Report, evidence, witness statements and the Certified Investigator's report. The investigation record is to be secured and separate from the individual's record. A summary of the Investigator's report is to be entered into the standardized web-based Incident Report. Families and individuals are to be notified of the outcome of all investigations.

#### DATA AND INFORMATION ANALYSIS

##### Greene Arc Inc.'s Role

Trend analysis is one of the critical uses of the data which accumulate when incidents are reported and documented in a database. Trend analyses provide the Agency, the County and ODP with insights into specific issues that can be gained from the review of individual reports. As part of an ongoing risk management/quality improvement process, Greene Arc, Inc. may choose to examine a different question and/or analyze a specific trend at regular intervals. Some suggested areas for trend analysis are listed below. This is not an all-inclusive list.

- 1) The same things happening to the same individual(s) over a period of time
- 2) Different things happening to the same person over time
- 3) The same things happening across groups over time
- 4) Involvement of the same staff
- 5) Cluster of incidents that are outside of the norm
- 6) Variations from the norm over time
- 7) Variables that impact on incidents
- 8) Impact of place, time, etc.
- 9) Nature of injury
- 10) High occurrence by type (locked in vehicles, left at site unattended by para transit, etc.)
- 11) Low or no reporting
- 12) Typical risk or atypical risk

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- 13) Process analysis/time needed to bring closure
- 14) Causes of hospitalization (including psychiatric diagnosis)
- 15) Causes of death (especially those that are sudden and unexpected)
- 16) Positive findings after allegations
- 17) Impact of changes on subsequent rate and events
- 18) Comparison of staff vacancy rate with rate/type of incidents
- 19) Comparison of variables (turnover rate, use of overtime)
- 20) Average number of incidents per person supported (changes over time, locales)
- 21) Changes in rate of incidents as models of support change
- 22) Agency issues (increase in medication errors since... etc.)

Greene Arc, Inc.'s review process shall include review of all Incident Reports and investigation. Incident Reports are to be reviewed individually to determine if Greene Arc, Inc.'s action has been appropriate and sufficient. They are to be reviewed in aggregate to determine if trends may be developing that warrant further intervention for the individual or systemic intervention beyond what may have been taken in response to the individual incident. Greene Arc, Inc.'s administrative responses may include, but are not limited to referral to the Health Care Quality Unit, revision of an individual plan or any other action necessary to promote the health, safety and rights of individuals served by the Provider. Using system generated data, Greene Arc, Inc. completes and files quarterly reports with the County within thirty (30) days of the end of the calendar quarter that include:

- 1) Incidents per month by individual and by site
- 2) Summary comparisons to prior four quarters
- 3) Incidents requiring investigation by individual and site
- 4) Results of investigations (confirmed, unconfirmed and inconclusive)
- 5) Actions to be taken in response to the conclusion/determination
- 6) Analysis of increases/decreases in numbers and types of incidents from previous quarter and previous year by individual and by location
- 7) Analysis of individuals with three (3) or more incidents during the reporting period to detect patterns or connections
- 8) Analysis of significant factors that may influence the data
- 9) Qualitative analysis of investigations conducted
- 10) Analysis of the implementation of corrective actions during reporting period
- 11) Discussion of special areas of concerns identified in the review process

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#### **COUNTY ID PROGRAM/AE REVIEW PROCESS**

##### **§ 6000.971 County Review Process**

The County ID Program/AE is responsible for reviewing and approving incidents within the timeframes and requirements outlined in this bulletin.

- Within 24 hours of the submission of the first section of the Incident Report, County ID Program/AE incident Reviewers must complete an initial management review of the incident to determine if appropriate actions were taken to protect the individual's health, safety and rights. This includes, but is not limited to:
  - Communicating with the Entity that entered the incident to request and obtain additional information, if necessary, to adequately explain and assess the actions taken to protect the health, safety and rights of the individual
    - Additional information must be documented in the management review document in the Department's information management system
  - Contacting the Entity that entered the incident to communicate any concerns identified during the management review and to ensure that actions were taken to remediate the identified concern
    - Actions taken must be documented in the management review document in the Department's information management system
- After the Provider or SCO submits the final section of the Incident Report, County ID Program/AE Incident Reviewers must perform a management review within 30 days. Specifically, County ID Program/AE Incident Reviewers must ensure:
  - The incident categorization is correct.
  - A service location, Provider type and service delivery model are correct.
  - An investigation occurred when required.
  - Target(s) are identified per this bulletin.
  - No identifying information that pertains to another individual receiving services is included in the Incident Report.
  - All incident management timelines have been met and if they have not, corrective actions related to a failure to meet timelines are in the Incident Management Report.
  - An administrative review of the investigation occurred.
  - The investigation determination is consistent with the investigation information entered by the CI.
  - Proper safeguards are in place to reduce the risk of recurrence of an incident.

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- The Incident Report contains:
  - Documentation of the actions taken to protect the health, safety and rights of the individual(s) upon discovery of the incident.
  - An accurate description of the incident and enough details to explain the event.
  - Discharge and follow-up information related to medical services if the incident involved medical care.
  - Documentation that all required notifications of the incident occurred.
  - Documentation that corrective action(s) in response to the incident has or will take place, including those that involve actions related to the target(s).
  - Investigation information that contains enough details to explain the process used by the investigator.
- A review, analysis and comparison are conducted with the copy information related to death incidents that has been provided by the Provider and/or SCO and the Incident Report information in the Department's information management system.
- All issues identified and communicated to the County ID Program/AE by the SCO reviewing/monitoring the incident have been addressed.

When the Incident Report contains all required elements, the County ID Program/AE Incident Reviewer will give the report a status of *approved*. Otherwise, the report will be given a status of *not approved* and sent back to the submitting Entity for correction.

**§ 6000.972 ODP Regional Office Review Process**

Within 24 hours of the submission of the first section of the Incident Report, designated ODP Regional Office staff is to review the incident to determine that appropriate action to protect the individual's health, safety and rights occurred. In the event that the appropriate actions have not taken place, the ODP Regional Office staff should immediately communicate their concerns to the appropriate Provider/Entity and County staff.

After the County approves the Incident Report, Regional ODP staff is to perform a management review within 30 days. The ODP Regional Office will conduct the management review process so that at least 90 percent of the County-approved Incident Reports are approved or not approved within 30 days. The management review process is to review the full report, including the County's response, and approve or not approve the Incident Report. This process will include a determination that:

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- a) The appropriate action to protect the individual's health, safety and rights occurred.
- b) The incident categorization is correct.
- c) A Certified Investigation occurred when needed.
- d) Proper safeguards are in place.
- e) Corrective action in response to the incident has/will take place.

#### **APPENDIX E**

##### **INCIDENT MANAGEMENT PROCESS**

Greene Arc, Inc. shall:

- 1) Promote the health, safety and rights and enhance the dignity of individuals receiving services.
- 2) Develop Provider-specific policy/procedures for incident management.
- 3) Develop and implement written policies and procedures for incident management that:
  - Meet the requirements of all applicable laws, regulations, policies and procedures related to incident management.
  - Support the collaboration with appropriate stakeholders to:
    - Mitigate individual risk(s);
    - Mitigate Agency-wide risk(s);
    - Promote health, safety and rights for all individuals;
    - Implement incident management, risk management and quality management activities
  - Require that the security of investigation files and evidence be maintained.
  - Ensure that person(s) designated by the individual listed in the ISP are notified about incident management activities as indicated by the individual.
    - The ISP should also contain information about what incidents and circumstances the person(s) designated by the individual should be notified. For example, if the individual only wants the person(s) designated for certain types of incidents.

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- Require the release to individual and person designated by the individual upon request of the Incident Report, or a summary of the incident, the findings and actions taken, redacted to exclude information about another individual and the Reporter, unless the Reporter is the individual who receives the report (55 Pa. Code §§ 2380.17, 2390.18, 6100.401, 6400.18, 6500.20).
  - Assure implementation of appropriate preventative and additional corrective action for incidents.
  - Require education of the individual, staff and others based on the circumstances of incidents (55 Pa. Code §§ 2380.19, 2390.19, 6100.405, 6400.20, 6500.22).
  - Mandate that monthly incident data monitoring and three-month trend analysis of incident data be conducted.
  - Require that individual and systemic changes based on quality and risk management analysis be identified and implemented (55 Pa. Code §§ 2380.19, 2390.19, 6100.405, 6400.20, 6500.22).
  - Explain how documents and complaints about a service that are related to incident management or the investigation process should be received from the individual and persons designated by the individual and how complaints should be documented and managed (55 Pa. Code § 6100.51).
    - The policy must ensure that there is no retaliation or threat of intimidation relating to the filing of the complaint or during the investigation of a complaint.
  - Require the evaluation of the quality of investigations through the Certified Investigator Peer Review (CIPR) process.
  - Ensure that individuals, families and persons designated by the individual are offered education and information about incident management policies and procedures and that it is presented in a format that meets their communication needs.
- 4) Ensure that staff have, at a minimum, orientation and annual competency-based training on the following topics enumerated in 55 Pa. Code §§ 2380.38-2380.39, 2390.48-2390.49, 6100.142-6100.143, 6400.51-6400.52, 6500.47-6500.48:
- How to recognize, respond to, report and prevent incidents.
  - The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101-10225.5102), the Child Protective Services Law (23 Pa. C.S. §§ 6301-6387), the Adult Protective Services Act (35 P.S. §§ 10210.101-10210.704) and applicable Protective Services regulations.
  - Individual rights

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- The safe and appropriate use of behavior supports if the person works directly with an individual
  - The application of person-centered practices, community integration, individual choice and assisting individuals to develop and maintain relationships
  - Job related knowledge, skills and implementation of the ISP with consideration for such topics as:
    - Trauma informed care
    - Risk mitigation
- 5) Ensure that staff and others associated with the individual have proper orientation and training to respond to, report and prevent incidents.
  - 6) Provide ongoing training to individuals and families on the recognition of abuse and neglect.
  - 7) Ensure that when incidents occur that affect a person's health, safety or rights, that the people who are present take prompt action to protect the person's health, safety and rights. This includes separation of the target when the individual's health and safety are jeopardized. This separation shall continue until an investigation is completed. In addition, the target shall not be permitted to work directly with any other service recipient during the investigation process. When the target is another individual receiving supports or services, and complete separation is not possible, the Provider shall institute additional protections and notify the responsible person designated in Provider policy.
  - 8) Assign trained individual(s) Point Person(s) to whom incidents are reported when they occur and who will make certain that all immediate steps to assure health and safety have been implemented and follow the incident through closure.
  - 9) Contact appropriate law enforcement Agencies when there is suspicion that a crime has occurred.
  - 10) Respond to concerns from individuals/family members about the reporting and investigation processes.
  - 11) Create an incident management process which:
    - (a) Designates an individual with overall responsibility for incident management.

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- (b) Considers possible immediate and long-term effects to the individual resulting from an incident or from multiple incidents.
- (c) Uses trend analysis to identify systemic issues.
- (d) Periodically assesses the effectiveness of the incident management process.
- (e) Monitors quality and responsiveness of all ancillary services (such as health, therapies, etc.) and acts to change vendors or subcontractors or assists the individual to file available grievances or appeals procedures to secure appropriate services.

#### **County ID Programs/AEs shall:**

- Develop and implement written policies and procedures for incident management that:
  - Ensure that incidents are reviewed and approved in accordance with the timeframes and requirements outlined in this bulletin and the Consolidated, Community Living, P/FDS and Adult Autism Waivers.
  - Meet the requirements of all applicable laws, regulations, policies and procedures related to incident management.
  - Support the collaboration with appropriate stakeholders to:
    - Mitigate individual risk(s);
    - Mitigate Agency-wide risk(s);
    - Promote health, safety and rights for all individuals;
    - Implement incident management, risk management and quality management activities.
  - Require that the security of investigation files and evidence must be maintained.
  - Require the evaluation of the quality of investigations through the CIPR process.
  - Ensure that individuals, families, guardians, advocates and staff who have a direct role in incident management are provided, at least annually, and more often if necessary, in a format that meets the communication needs of the audience, education, training and information about:
    - Incident management policies and procedures;
    - Rights, roles and responsibilities for health and welfare.
  - Ensure that periodic trend analysis is completed by each Provider to identify potential systemic issues related to health and welfare.
  - Ensure Providers and SCOs are provided with ODP's standardized and approved training curriculum on how to identify and report critical incidents and reasonable suspicions of abuse, neglect and exploitation.

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- Ensure ongoing training and technical assistance as needed, that relates to the needs of individuals served by the Provider. This shall include coordination of training resources to be provided by Entities other than the County ID Program/AEs, when necessary.
- Explain how documents and complaints about a service that are related to incident management or the investigation process should be received from the individual and persons designated by the individual and how complaints should be documented and managed.
  - The policy must ensure that there is no retaliation or threat of intimidation relating to the filing of the complaint or during the investigation of a complaint.

#### **THE OFFICE OF DEVELOPMENTAL PROGRAMS COMPONENTS**

- 1) Promote the health, safety, rights and dignity of individuals receiving services
- 2) Create an incident management review process which:
  - (a) Maintains the statewide data system.
  - (b) Analyzes data for statewide trends and issues.
  - (c) Identifies issues and initiates systemic changes and provides periodic feedback.
  - (d) Evaluates County and Provider reports and analysis of trends.
- 3) Monitor implementation of this bulletin
- 4) Support Providers and counties with appropriate training to meet the mandate of the bulletin
- 5) Certify Investigators
- 6) Provide support and technical assistance to counties to implement the Incident Reporting system
- 7) Conduct Certified Investigations
- 8) Analyze the quality of investigations

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- 9) Respond to concerns from individuals/families about the reporting and investigation processes
- 10) Review and revise this bulletin as needed
- 11) Ensure compliance with all applicable laws, regulations and policies
- 12) Coordinate with other Agencies as necessary

**APPENDIX F**

**RELATED LAWS, REGULATIONS AND POLICIES**

The requirements and expectations for incident management and reporting detailed in this bulletin are related to a variety of laws, regulations and policies. The applicable licensing regulations (and facilities licensed under those regulations) include:

**Related Laws**

- The Mental Health and Intellectual and Developmental Disability (formerly MR) Act of 1966 (50 P.S. §§ 4101-4704)
- Title XIX Social Security Act (42 U.S.C.A. §§ 1396-1396r)
- 18 Pa. C.S. § 2713 (relating to the neglect of care-dependent person)
- The Child Protective Services Law (23 Pa. C.S. §§ 6301-6385)
- The Older Adults Protective Services Act (35 P.S. §§ 10225.101-10225.5102)
- Elder Care Payment Restitution Act (35 PS §§ 10226.101-10226.107)
- Early Intervention Services System Act (11 P.S. §§ 875.101-875.503)
- The Whistleblower Law (43 P.S. §§ 1422-1428)

**Title 55 of the Pennsylvania Code**

- Chapter 20 – Relating to Licensure or Approval of Facilities and Agencies
- Chapter 2380 – Relating to Adult Training Facilities
- Chapter 2390 – Relating to Vocational Facilities
- Chapter 3490 – Relating to Child Protective Services
- Chapter 3800 – Relating to Child Residential and Day Treatment Facilities
- Chapter 5310 – Relating to Community Residential Rehabilitation Services for the Mentally Ill

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- Chapter 6400 – Relating to Community Homes for Individuals with Intellectual and Developmental Disability
- Chapter 6500 – Relating to Family Living Homes
- Chapter 6600 – Relating to Intermediate Care Facilities for the Mentally Retarded
- Chapter 11 – Relating to Older Adult Daily Living Centers

### **Title 6 of the Pennsylvania Code (Aging)**

- Chapter 3 – Fair Hearings and Appeals
- Chapter 5 – Age Preference
- Chapter 11 – Older Adult Daily Living Centers
- Chapter 15 – Protective Services for Older Adults
- Chapter 20 – Family Caregiver Support Program
- Chapter 21 – Domiciliary Care Services for Adults
- Chapter 22 – Pharmaceutical Assistance Contract for the Elderly
- Chapter 30 – Designation and Redesignation of Area Agency on Aging
- Chapter 35 – Area Agency on Aging Advisory Councils

### **Related Policy Guidelines**

- Medical Assistance Bulletin: Revised Medical and Treatment Self-Directive Statement: Your Rights as a Patient In Pennsylvania: Making Decisions About Your Care and Treatment (effective June 19, 1998)
- Intellectual and Developmental Disability (formerly MR) Bulletin 00-98-08: Procedures for Substitute Health Care Decision Making (effective November 30, 1998)
- Intellectual and Developmental Disability Bulletin (formerly MR) 00-94-32: Assessments: Lifetime Medical History (effective December 6, 1994)
- Intellectual and Developmental Disability Bulletin 00-03-01: Passage of Act 171 Relating to the Older Adults Protective Services Act (OAPSA)

### **ADDITIONAL REPORTING**

In addition to the reporting methodologies described in this statement of policy, the following is provided as a guide to assist in identifying additional reporting. This does not fully define, nor is it intended to substitute for, the applicable statutes and regulations.

Reportable incidents involving individuals who reside in facilities licensed as ICF/MRs (both state and privately-operated) are to be reported to the appropriate Regional Field Office of the

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Pennsylvania Department of Health, Division of Intermediate Care Facilities.

Reportable incidents that occur in facilities licensed by ODP involving individuals whose support needs are not funded through the Commonwealth or County Intellectual and Developmental Disability systems, are to be reported to whoever funds the individual's support and to the Commonwealth/Regional Office of Intellectual and Developmental Disability. This includes individuals from other states, individuals who are funded by Agencies not part of the Intellectual and Developmental Disability system and individuals whose support needs are privately funded.

**Neglect of Care-Dependent Person (Title 18 Pa. C.S. § 2713)**

The neglect of care-dependent person 18 Pa. C.S. § 2713 covers any adult who, due to physical or cognitive disability or impairment, requires assistance to meet his/her needs for food, shelter, clothing, personal care or health care. 18 Pa. C.S. § 2713 extends to certain listed

facilities and to home health services provided to care-dependent persons in their residence. The statute criminalizes intentional, knowing or reckless conduct by a caregiver which results in bodily injury or serious bodily injury to a care-dependent person by the failure to provide treatment, care, goods or services necessary to preserve the health, safety or welfare of the care-dependent person for whom the caregiver is responsible to provide care. A caregiver may also be prosecuted if he/she intentionally or knowingly uses a physical restraint, a chemical restraint or medication on a care-dependent person or isolates that person, contrary to law or regulation, such that bodily or serious bodily injury results.

Anyone aware of possible violations of this may make a report to the appropriate law enforcement authorities. The reporting requirements of this bulletin are to be followed even if a report of a possible violation of this statute is made to law enforcement authorities. Copies of the statute were distributed via Intellectual and Developmental Disability (formerly MR) Bulletin 00-95-25, issued December 26, 1995 and Intellectual and Developmental Disability (formerly MR) Bulletin 00-97-06, issued August 29, 1997.

**The Child Protective Services Law (23 Pa. C.S. §§ 6301-6385)**

The Child Protective Services Law (CPSL) establishes procedures for the reporting and investigation of suspected child abuse. Certain types of suspected child abuse must be reported

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to law enforcement officials for investigation of criminal offenses. Children under the age of 18 are covered by the Act, including those who receive supports and services from the Intellectual and Developmental Disability system. Providers covered within the scope of this bulletin are required to report suspected child abuse in accordance with the procedures established in the CPSL and the Protective Services Regulations. The CPSL defines child abuse as any of the following when committed upon a child under 18 years of age by a parent, person responsible for a child's welfare, an individual residing in the same home as a child or a paramour of a child's parent:

- Any recent act or failure to act that causes non-accidental serious physical injury
- Any act or failure to act that causes non-accidental serious mental injury, sexual abuse or sexual exploitation
- Any recent act, or series of such acts, or failures to act that creates an imminent risk of serious physical injury, sexual abuse or sexual exploitation
- Serious physical neglect constituting prolonged or repeated lack of supervision or the failure to provide essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning

Reports of suspected abuse are received by the Department of Human Services' (DHS) Childline and Abuse Registry (800-932-0313), which is the central register for all investigated reports of abuse. Individuals who come into contact with children, in the course of practicing their profession, are required to report when they have reasonable cause to suspect, on the basis of their medical, professional or other training or experience, that a child is an abused child. Every facility or Agency is required by the CPSL to funnel reports to the Director or a designee to be promptly reported to Childline. The reporting, investigation and documentation requirements of this Intellectual and Developmental Disability Bulletin must also be followed when a report of suspected child abuse is made. It must be noted that the definition of abuse found in the CPSL differs greatly from the definition promulgated in this bulletin. Because of this difference, it is possible that an allegation may be "unconfirmed" in terms of the CPSL but still substantiated with reference to these guidelines. Likewise, the scope of reports subject to investigation differs so it is important to be familiar with the requirements of the CPSL.

**The Older Adults Protective Services Act (35 P.S. §§ 10225.101-10225.5102)**

The Older Adults Protective Services Act (OAPSA) of 1987 was enacted to protect all Pennsylvanians age 60 and older. The OAPSA established a detailed system for reporting and investigating suspected abuse, neglect, exploitation and abandonment for care-dependent individuals. Act 13 was signed into law in 1997 as an amendment to the OAPSA. Unlike the