utah department of human services
LICENSING

DHS INCIDENT REPORTING GUIDE 2022

INTRODUCTION

The Department of Human Services (DHS) has devised this guide to assist in the reporting and documentation of Critical and Non-Critical Incidents in programs licensed and/or contracted with the Department of Human Services. The standards outlined herein relating to **Critical Incidents** (**CI)** apply to all providers offering services to DHS clientele or any provider licensed by the Office of Licensing. The standards relating to **Non-Critical Incidents (NCI)** apply only to those providers contracted with DHS or DHS clientele. The intent of this guide is to provide a simple, straightforward understanding of what constitutes an incident, what needs to be reported (to OL, CPS, APS, or Law Enforcement) and how it should be reported and documented. This document is intended to supplement, not revise, the reporting requirements found in Utah Administrative Code, Rule R501-1.

As stated above, DHS Incident reporting is divided into two categories: (I) Critical Incidents ("CI") and (II) Non-Critical Incidents ("NCI"). Each type of incident will be detailed below and the process and procedure for reporting these incidents will also be described.

For purposes of this guide the following definitions apply:

Staff: applies to DHS Contracted entities and "Licensees" as defined in 62A-2-101 and means an individual or a human services program licensed by the office. In licensed or DHS contracted treatment programs this applies to all owners, directors, line employees, support employees, contracted employees, volunteers and anyone additionally interacting with **clients under the program's care**. In foster/proctor settings, this applies to the primary caregiver and spouse, other adults residing in the licensed or certified home, respite caregivers, and anyone additionally interacting with a client under the provider's care.

Client: applies to the recipient of the services provided by the licensee or DHS contractor as defined in 62A-2-101, generally a child or vulnerable adult. In foster/proctor settings, the client is the foster/proctor child(ren).

I. Critical Incidents

Critical Incidents are defined in the Office of Licensing Rule R501-1-3 and you will find guidance through each section of that definition here in this guide.

A. Per 501-1-3(10) "Critical Incident" means an occurrence that involves an allegation of any of the following:

1. Abuse or suspected abuse:
    a) "Abuse" means the same as defined in Sections 62A-3-301, 62A-4a-101, 78A-6-105, 80-1-102, and R512-80-2.
    b) Abuse includes: Domestic Violence Related Child Abuse, emotional abuse, fetal exposure to alcohol or other harmful substances, dealing in material harmful to a child, Pediatric Condition Falsification or medical child abuse (formerly Munchhausen Syndrome by Proxy), physical abuse, sexual abuse, and sexual exploitation, emotional abuse, physical abuse, sexual abuse, and sexual exploitation as defined in UCA 76-5-109, inflicting, causing or permitting another to inflict serious injury, injury or abandonment to a child if done intentionally, recklessly or with negligence to result in felony or misdemeanor as outlined in the statute . This also includes exposure to material harmful to a child (pornography or sexually explicit material involving a minor).
    c) If a program or staff member has caused harm to a client, as defined in licensing rule, that inflicted harm is included as abuse that must be reported.
    d) Abuse includes a threat of violence,
        (1) Threat of violence means: acts with intent to place a person in fear, imminent serious bodily injury, substantial bodily injury, or death, actual property damage (over $500) or
        (2) the person makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another.consistent with UCA §76-5-107.)
        (3) “Threat” needs to be gauged by the provider. In incidents where there is a clinical rationale to not consider it a threat, documentation in the case file explaining why it wasn’t reported may also be acceptable.
    e) Note Utah Law 62A-4a-403 and 62A-3-305 require that all licensees report suspected abuse.

2. Neglect or suspected neglect, which should be reported to Protective Services (CPS or APS).
    a) "Neglect" means abandonment or the failure to provide necessary care, which may include nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm.Neglect also means the same as defined in Sections 62A-3-301; 62A-4a-101; 76-5-110; and 80-1-102.

3. Exploitation, which should be reported to APS or law enforcement. 501-1 defines "Exploitation" to include:
   (a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the personal gain of someone other than the client; such as expending a client's funds for the benefit of another; or

   (b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is consistent with therapeutic practices; or

   (c) engaging or involving a client in any sexual conduct; or

   (d) any offense described in 76-5-111(4) or 76-5b-201 and 202.

4. Unexpected death.

5. Any client injury, including self-directed violence, requiring medical attention beyond basic first aid (Instacare, ED, EMS and medical care offered by an onsite nurse or physician) or interrupted self directed violence that would have imminently threatened the individual's life.
    a) Self directed violence means: Behavior that is self-directed and deliberately results in injury or the potential for injury to oneself. See page 21 of this reference for details on self directed violence definitions and terms that OL will use as our guidance on this topic.
    b) "Beyond basic first aid" means: anything that exceeds the training offered in a basic first aid class that can be done by non-medical personnel.
    c) A program with access to diagnostic tools (x-ray machines etc) can conduct diagnostics without reporting, but must report if diagnostics reveal a need for medical care beyond basic first aid even if the care is provided by an onsite physician or nurse.

6. Any client injury that is a result of staff or client assault, restraint, or intervention. All staff or client use of force, staff interventions, staff

restraints involving injury that requires care beyond basic first aid must be reported individually as they occur. All restraints and all seclusions in congregate care programs are considered critical incidents that must be reported.

a) "Restraint" means the involuntary method of physically restricting a person's freedom of movement, physical activity, or normal access to their body and includes chemical and mechanical restraint. Restraint does not mean an escort used to lead, guide, or direct a client.
    (1) Restraint is only allowed to prevent harm to the client or in protection of others and is only to be completed by an individual with documented training in nonviolent crisis intervention or de-escalation techniques and in accordance with 62A-2-123 as a last resort emergency safety measure only.
b) "Chemical Restraint" means any drug that is used to restrict an individual's freedom of movement for discipline, convenience, or imminent safety and not required to treat the individual's medical symptoms.
c) A Mechanical Restraint is any device, material, or equipment that immobilizes or reduces the ability of a individual to move their arms, legs, body, or head freely
d) A physical intervention is a restraint if it restricts a client's freedom of movement and a physical intervention or escort used to lead, guide or direct a client is not considered a restraint as long as it does not restrict access to their body.
e) "Seclusion" is defined in 62A-2-101 and includes social isolation.
f) Chemical (sedatives, tranquilizers) and Mechanical (handcuffs, shackles, straitjackets) restraint are not authorized interventions in DHS licensed settings and require a critical incident report to be made.
g) All staff misuse of force must be individually reported (untrained or acting outside of training, using threats or intimidation, and use of prohibited practices in a congregate care program as outlined in 62A-2-123) and misuse of force must additionally be reported to Protective Services.
h) Specific to DHS Contracted Providers serving DSPD clients, ALL physical intervention and restraint must be reported.
    (1) For DHS Contracted Providers documenting physical restraint not resulting in injury or reflected in a and b above: When a Behavior Support Plan outlines specific interventions that were correctly used in the incident, an individual report is not necessary unless there is an injury. OL will instead accept a copy of the monthly report

provided to DSPD Support Coordinators as compliant with this reporting requirement

7. Any prohibited practice as described in Section 62A-2-123
8. Any restraint in a congregate care setting.

9. Any seclusion in a congregate care setting.

10. Any body cavity search.
11. Any strip search.
12. Except for a minor infraction, any illegal activity including significant criminal activity
    a) "Significant criminal activity" means any unlawful activity by or against one of the program's clients or by or against an on duty staff member that poses a serious threat to client or staff health, safety, or well-being that includes:
       (i) possession of an illegal substance or weapon;
       (ii) illegal physical or sexual misconduct or assault;
       (iii) riot;
       (iv) suspected fraud;
       (v) suspected exploitation; and
       (vi) any significant criminal activity relevant to a program's population as described in the program's policy and procedure manual.

    (vii) Per 62A-2-106-2(a) all significant criminal activity must also be reported to law enforcement.

13. Significant Medical emergency or protective service intervention.
    a) "Significant medical emergency" means an acute injury or illness posing an immediate risk to a person's life or health or requires emergency medical care.
       (1) A visit to instacare or ER to assess a health condition that is not an evident threat or emergency is not considered a reportable critical incident
       (2) A visit to instacare or ER or ambulance ride due to an emergency need to resuscitate, triage, or immediately treat a condition not otherwise treatable by medical appointment is considered a reportable critical incident.
    b) Per 62A-2-106-2(b) All significant medical emergencies occurring on the premises of where the program operates involving its clients or on-duty staff members must be reported to medical services (911, ER, EMS) and OL.
    c) This includes hospitalization of clients for any reason (expected/unexpected) while under the program’s responsibility or resulting from an occurrence under the program’s responsibility. *“Hospitalization” means admission to the hospital.

14. The unlawful or unauthorized (by policy) presence or use of alcohol, substances, or harmful contraband items; (additionally report to law enforcement when illegal)
    a) Authorized alcohol presence only applies to adults in DSPD settings or legal age adults outside of the program's purview.

15. The unauthorized presence or misuse of dangerous weapons;
    a) Dangerous weapons include traditional weapons (knives, guns, brass knuckles, nunchucks etc) or non-traditional weapons (homemade items, broken glass, rocks) only if garnered with intent to use as a weapon or used as a weapon. A client throwing a chair out of anger is not considered a weapon (even if it injures another person) but it becomes a reportable incident when the injury occurs.

    b) Illegal presence of dangerous weapons or use of dangerous weapons must be reported to law enforcement.

16. Attempted self-directed violence.

17. Any on-duty or client-involved staff sexual misconduct or any client unlawful sexual misconduct.
    a) All 'staff with client sexual misconduct' constitutes a critical incident and requires Protective Services or Law Enforcement reporting.
    b) Adult clients are afforded consensual sexual activity which is not considered unlawful unless it is not consensual or is otherwise illegal. Additionally, providers should report all illegal activity to law enforcement.
18. Client rights violations, including rights restrictions, if not approved by the Human Rights Committee.

19. Code of conduct violations, as described in DHS Code of Conduct R495-876.

20. Medication errors resulting in impact on client's well-being, medical status, or functioning,

21. The unauthorized departure of a client from the program, which includes escape from a detention center or secure facility. However, the departure of an adult voluntarily participating in a program is considered an

authorized departure. It is up to the program to identify and follow procedures regarding what is considered an authorized departure and what is considered unauthorized in the policy and procedure manual. For example, an adult leaving a non-court ordered substance use disorder program would not be considered AWOL. In addition to following standard critical incident reporting procedure, unauthorized departure should be reported to law enforcement when the departure poses a danger to the client or community.

a) In secure and residential treatment settings, departure without individual clinical justification of decreased ratios or independence as part of a step down/transition process to less restrictive care is considered unauthorized immediately upon occurrence. in smaller settings, policies must outline and follow a threshold where departure is unauthorized (subject to OL review and recommendations for updates as needed).

22. Outbreak of a contagious illness or situation requiring notification of or consultation with the local health department.
    a) Here is a list of reportable diseases that are required by law to be reported to the health department
    b) Reminder: OL rule additionally requires that policies and procedures are updated according to DOH and CDC guidelines and are followed during such outbreaks or pandemics. Coordinate with your licensor and local/state health authorities during times of pandemic.

23. Any change to a client's environment compromising the immediate health or safety of the client including roof collapse, fire, flood, weather events, natural disasters, and infestationsReminder emergency plan, relocation rules, and policy updates (and business continuity plans for contracted providers) must be followed during times of disruption/relocation. Coordinate with your licensor during times of pandemic.

24. Any other incident that compromises client health and safety shall result in a critical incident report. This includes:
    a) damaging a facility in excess of $500, confinement/isolation exceeding 23 hours,
    b) any time law enforcement responds to a facility/program to take tactical command over an incident/riot,
    c) Fraud, and
    d) Mistreatment.
    e) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages,

or for personal or licensee gain. Fraud includes the offenses identified as fraud in Utah Code Title 76 Chapter 6.

f) "Mistreatment" means emotional or physical mistreatment:
   (1) emotional mistreatment is verbal or non-verbal conduct that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation; and may include demeaning, threatening, terrorizing, alienating, isolating, intimidating, or harassing a client;
   (2) physical mistreatment includes:
      (a) misuse of work, exercise restraint, or seclusion as a means of coercion, punishment, or retaliation against a client, or for the convenience of the licensee, or when inconsistent with the client's treatment or service plan, health or abilities;
      (b) compelling a client to remain in an uncomfortable position or repeating physical movements to coerce, punish, or retaliate against a client, or for the convenience of the licensee; and
      (c) physical punishment.

g) Specific contract language may also exist that requires additional criteria for DHS contracted providers.

B. Reporting requirements for Critical Incidents: Any incident that arises to, or meets the specific definition of a Critical Incident, as defined in section I.A. or I.B., shall be reported in accordance with Utah Administrative Code, Rule 501-1-11(2) unless stated otherwise in rule or this guide.

1. Notification shall be made to legal guardians (Legal guardian is the caseworker of the Division that holds custody, a custodial parent or as appointed by the court) of involved clients within 24 hours.
   a) In addition to parental 24 hour notification, if the critical incident involves a client or service under a DHS contract, the **critical incident report to the Office of Licensing must be completed within 1 business day**.
   b) If the critical incident involves a client or service to a youth currently in the custody of DHS or its Divisions, an immediate live-person verbal notification to the involved Division is also required.

2. Critical incident reports shall be submitted to the Office of Licensing (and any other required entities) within 1 business day and shall include the following in writing:
   a) name of provider and all involved staff, witnesses, and clients;

b) date, time, and location of the incident, and date and time of incident discovery, if different from time of incident;
c) descriptive summary of incident;
d) actions taken;
e) actions planned to be taken by the program at the time of the report; and
f) identification of DHS contracts status, if any.

3. Any incident report submitted to licensingconcerns@utah.gov that contains required elements listed in 2.a-f above satisfies licensing rule and is not required to additionally be completed on the Office of Licensing website.
    a) Contracted providers serving DSPD clients may utilize the reporting requirements outlined in II-B below regarding 1 and 5 day reporting requirements.

4. It is the responsibility of the licensee to collect, maintain, and submit as requested original witness and participant witness statements and supporting documentation regarding all critical incidents.

5. Process for reporting.
    a) Critical Incidents not involving individuals served through the DSPD system shall be submitted via the incident report form located at www.hslic.utah.gov. If, for some reason, the website is unavailable, reports may be sent to licensingconcerns@utah.gov. Furthermore, all requirements relating to the reporting process outlined in section B.1 shall be followed.

    b) In addition, notification of the incident shall also be given to the appropriate case manager, case worker or support coordinator. This may be accomplished via entry into USTEPS when applicable. Although they may conduct follow-up relative to the needs of the client, case managers, case workers, or support coordinators may not independently engage in any investigatory actions or functions relative to an incident reported to them unless directly assigned to do so by OL. Investigations of Critical Incidents will be conducted by or under the direction of the Office of Licensing.

    c) For incidents involving individuals in the DSPD system, Critical Incidents must be reported through UPI and must include any additional information required by that system. Office of Licensing staff assigned to process and evaluate these incidents will then

refer them internally, if the incident involves a licensee and rises to the level of a Critical Incident as defined above.

II. Non-Critical Incidents (only applicable to providers with DHS contracts)

Non-Critical Incidents ("NCI") are those events or occurrences that do need to be reported to the Department, but do not need to be reported to the Office of Licensing. Reporting requirements or procedures for NCIs are outlined below. In addition, the requirements relating to NCIs only apply to those entities serving a DHS population under a state contract. These do not apply to non-contracted private providers.

A. The following are NCIs that shall be reported:

1. Any admission to psychiatric facilities.
2. Suicidal ideation or threats of suicide when the individual does not have services and supports in place to address such behaviors, a description of which are also not being reported on a monthly summary to appropriate case management.
3. Use of emergency behavior interventions as such are defined in Utah Administrative Code Rule 539-4. This is applicable only to people receiving services under the DSPD system.
4. Aspiration or choking which does not result in hospitalization.
5. Evidence of a seizure or seizure like behavior in an individual with no existing seizure diagnosis, except where seizures have been ruled out and seizure like behavior is a behavior identified as a target behavior in a Behavior Support Plan and reported in a monthly behavior summary sent to the appropriate case management/support coordination.
6. Any incident involving the alleged or confirmed waste, fraud, or abuse of Medicaid funds by either a provider or a recipient of Medicaid services.
7. Any involvement of an outside entity such as fire department, law enforcement, etc.
8. Attempted escape from a detention or secure facility.
9. Unlawful or unauthorized possession of pornographic material.
10. Any pending litigation that is specifically related to the provider's services or to an individual receiving services.

B. Reporting process and requirements for NCIs.

1. Initial notification shall be made within 24 hours to the appropriate case manager, parent/guardian, case worker, or support coordinator. For those serving individuals in the DSPD system, this may be accomplished via entry into USTEPS when applicable. This initial notification shall contain the following information:
    a) Identification of the individual receiving services involved in the incident;

   b) Date of the incident;
   c) Date the incident was discovered; and
   d) A brief description of the occurring incident.
2. A full report of the incident shall be submitted to the case manager, case worker, or support coordinator within 5 business days. This report shall include the reporting criteria established in Utah Administrative Code, Rule 501-1-9(2). Those providing services to individuals in the DSPD system shall also include any additional criteria set forth in UPI/ STEPS.
3. In addition to the initial and full report, providers may be asked to provide additional information if such information is required by DHS, Department of Health or other entity making further inquiry of an incident(s).

For questions relating to Critical Incidents, providers may contact their licensor, when applicable, or contact the Office of Licensing at (801) 538-4242. For questions relating to specific Non-Critical Incidents, contracted providers should contact appropriate case management, case worker or Support Coordinator; and your quality management specialist in the Office of Quality and Design for general questions related to Non-Critical Incidents.