



## Long-Term Care Regulation Provider Letter

<b>Number:</b> PL 2024-04 (Replaces PL 2017-02 and 17-03) <b>Revised</b>
<b>Title:</b> Revised Process for Reporting and HHSC Investigations of Abuse, Neglect, and Exploitation
<b>Provider Types:</b> Intermediate Care Facilities for Individuals with an Intellectual Disability (ICF/IID) or Related Conditions
<b>Date Issued:</b> <b>Revised 03/04/2024</b>

### 1.0 Subject and Purpose

The Texas Health and Human Services Commission (HHSC), in coordination with the Department of Family and Protective Services (DFPS), plans to streamline and enhance the efficiency of the reporting and investigation process for alleged abuse, neglect and exploitation (ANE) for ICFs. These changes take place March 1, 2024.

### 2.0 Policy Details & Provider Responsibilities

**Prior** to March 1, 2024, all ICFs reported alleged ANE to DFPS Statewide Intake and report self-reported incidents to HHSC Complaint and Incident Intake (CII).

#### 2.1 Reporting Alleged ANE to CII Starting March 1, 2024

Beginning March 1, 2024, ICFs must report all ANE of an individual:

- To CII, if the facility suspects or has learned that the alleged ANE was committed by an employee, volunteer, contractor, or subcontractor of the facility.
- To DFPS, if the facility suspects or has learned that alleged ANE was committed by someone with an ongoing relationship with the individual who is not the provider, and the incident occurred in a situation where the provider is not responsible for the health

and safety of the individual (e.g., a family member, friend, household member, the individual is on leave etc.). DFPS reports are submitted online at [txabusehotline.org](https://txabusehotline.org) or by calling 1-800-252-5400.

Providers can report **incidents, including allegations of abuse, neglect, or exploitation** to CII:

- online through the [TULIP](https://txhhs.force.com/TULIP/) (Texas Unified Licensure Information Portal) system at <https://txhhs.force.com/TULIP/> (preferred method **for providers**) **available 24/7**);
- by calling 1-800-458-9858 (live agents are available Monday - Friday, 7 am-7 pm); or
- via email: [ciicomplaints@hhs.texas.gov](mailto:ciicomplaints@hhs.texas.gov).

ICFs must revise all applicable policies and procedures relating to reporting alleged ANE to reflect this reporting change. An ICF must also educate individuals on this revised process to ensure they understand whom to contact in these situations.

**All other reporters** wishing to file a complaint can call 1-800-458-9858 (live agents are available Monday-Friday, 7am-7pm) **and voicemail is available 24/7**, or through the TULIP portal <https://txhhs.my.site.com/complaint/s/>, or email CII at [ciicomplaints@hhs.texas.gov](mailto:ciicomplaints@hhs.texas.gov). Complaints are also accepted via mail and fax. Mailing and fax information for CII:

Texas Health and Human Services  
Complaint and Incident Intake  
Mail Code E249  
P.O. Box 149030  
Austin, TX 78714-9030  
Fax for Long-term Care: (877) 438-5827 or (512)438-2724

TULIP is available for all other reporters. While TULIP requires the social security number for the resident and any alleged perpetrators, if the TULIP user doesn't enter a resident or alleged perpetrator name, they can still proceed with submitting a report and list relevant information in the narrative.

For reporters wishing to [file a complaint](#) about a provider, if possible, please have the following information ready when making a complaint:

- Your name, mailing address, e-mail and daytime phone number;
- your relationship to the person on whose behalf you are making the complaint;
- name and address of the provider that you are making the complaint about;
- how you became aware of the situation, including if you witnessed the event or if you heard about it from another person;
- the person's name and how he or she was affected. You also will need this information:
  - the level of care or service he or she is supposed to get;
  - date of birth;
  - Social Security number;
  - how he or she is paying for the service;
  - unit, room or floor number;
  - pertinent medical history
- Any injuries or negative outcomes affecting the person's physical or mental well-being
- Specifics on the complaint including:
  - date, time and location of the alleged incident;
  - the names of witnesses, the alleged perpetrator and anyone else you think may have relevant information

- Your belief about the scope of the incident—for example, if other people have the same or similar problems

Note: CII staff are available Saturdays, Sundays, and holidays from 8 am-5 pm to monitor intake submissions, including making outbound contacts to obtain additional information and route Priority 1 intakes. Priority 1 intakes that are processed on weekends or holidays are sent to LTCR for investigation.

## **2.2 Reporting Incident to HHSC CII**

ICFs will continue to self-report incidents within one hour to HHSC CII.

In addition to allegations of abuse, neglect, or exploitation, providers must report:

- Sexual activity between individuals resulting from coercion, physical force, or taking advantage of the disability of a resident.
- Sexual activity involving an individual who is less than 18 years of age.
- The pregnancy of an individual.
- Individual-to-individual aggression that results in serious physical injury.
- The death of an individual.
- The inability to locate an individual if the individual's health or safety is at risk; or the individual's location has been unknown for more than eight hours.

DO NOT report the following incidents to HHSC CII:

- Drug diversions – notify the local police department.
- Burglary of a facility – notify the local police department.
- Theft of facility property – notify the local police department.
- Routine hospitalizations due to illness – promptly notify the individual's legally authorized representative of any significant illnesses (42 CFR§483.420(c)(6) (W148)).

A provider should include, in its initial report to CII, and in the PIR, as much of the following information as is known:

- the name and title of the person making the initial report;
- the name of the provider on behalf of which the report is being made;
- the facility ID number;
- the address of the ICF/IID;
- primary and alternate phone numbers, including the area code, of the person making the report;
- the date and time the person became aware of the reportable incident;
- the date, time and location of the reportable incident;
- the following information about any person involved in the incident who resides in the ICF/IID:
  - name;
  - date of birth;
  - significant medical information;
  - cognitive status, including decision-making capacity;
  - level of care and special service needs;
  - level of supervision; and
  - unit, room and/or floor number (if applicable);
- a detailed narrative of the incident;
- the name and phone number of any witnesses, alleged perpetrators, or other persons who may have knowledge of the incident or other relevant information;

- any adverse consequences to the mental, physical or psychosocial well-being, or functional status, of a resident or individual;
- any injuries or medical treatment required or provided to an individual, or other person involved in the incident and the location where the treatment was provided;
- any systemic issues associated with the incident, or which increased the likelihood that the incident would occur;
- any identified patterns associated with the incident;
- any actions taken by the provider to protect the health and/or safety of the individual, or to prevent another incident from happening (e.g., suspension or termination of an employee, in-service training specific to the incident or to an involved individual, a change in the individual's care or service plan, a change in individual's level of supervision);
- the current status of an individual involved in the incident (e.g., admitted to the local hospital, discharged to another ICF, etc.) and the current status of any alleged perpetrators; and
- the name and title of any persons who have been notified of the incident (e.g., administrator, police, ombudsman, other state agency).

In addition to reporting an allegation of ANE or incident, a provider must investigate, or ensure that an investigation was completed, to determine why it occurred, what actions the provider will take in response to the ANE or incident and what changes will be made to help prevent a similar allegation or incident from occurring. This internal investigation is part of the facility's own quality assurance measures and to ensure protection requirements for individuals and does not take the place of the official impartial investigation conducted by HHSC or any other official investigation.

### **2.3 Submitting Form 3613-A**

Within five working days after making a report to HHSC CII of either suspected ANE or a self-reported incident, the facility must conduct an investigation of the incident and send a written investigation report on [Form 3613-A](#), Provider Investigation Report (PIR) to HHSC CII.

The PIR must include all information from the initial report and any additional information the provider has obtained since making the initial report, including witness statements. The provider must submit the PIR within five working days.

Each intake submitted to CII requires a separate PIR. Please ensure the PIR is signed and includes the CII intake number from the initial report. PIRs should be submitted once through TULIP, fax, or email; please avoid multiple submissions.

Form 3613-A can be submitted with an HHSC intake number:

- Online via TULIP;
- Email to [ciiprovider@hhs.texas.gov](mailto:ciiprovider@hhs.texas.gov);
- Fax to 1-877-438-5827; or
- Mail to:  
Texas Health and Human Services Commission Regulatory  
Services Complaint and Incident Intake  
Mail Code E-249  
PO BOX 149030  
Austin, TX 78714-9030.

The [HHSC website](#) has additional information about reporting incidents. The site provides information on how to identify a reportable incident, deadlines for reporting and investigating incidents, program-specific instructions and links to required forms.

#### **2.4 HHSC Investigation of Abuse, Neglect, and Exploitation**

HHSC CII will triage reports of ANE and send them to regional survey units for investigation. All surveys will be unannounced, and the facility will be notified of the allegation at the time of the entrance conference.

### 2.4.1 What to Expect

**Entrance Conference** - The surveyor uses the entrance conference to notify the administrator of the investigation and allegation, names of the alleged perpetrator and alleged victim, and purpose of the visit.

**Evidence Collection** - HHSC conducts interviews, gathers records, and conducts observations to reach a preponderance of the evidence as to whether the alleged abuse, neglect, or exploitation occurred.

**Findings** – The surveyor will review the evidence to determine whether the finding is substantiated or unsubstantiated. HHSC substantiates or unsubstantiates findings of abuse, neglect, and exploitation involving the alleged perpetrator. They may also cite provider non-compliance regarding federal or state regulations during an investigation of ANE. If ANE is substantiated for an employee, the surveyor will make the appropriate referrals.

**Exit Conference** – The surveyor will provide the facility administrator the following:

- HHSC Form 3701, Preliminary Findings Based on Survey, Inspection, or Investigation. This form will include:
  - Federal citations listed by condition of participation cited;
  - State citations listed as state violations cited;
  - Results of ANE investigation(s) (separate finding(s) for each allegation, the name of the alleged perpetrator(s) and intake number(s) will be listed) and;
  - Results of non-ANE investigation(s) (separate finding(s) for each allegation will be listed)
- A copy of the core sample list and HIPAA list
- A letter explaining how to report survey/surveyor inconsistencies.



**Post Exit-** The facility will receive a 3724/2567 documenting the investigation findings for each visit. If there are deficiencies/violations cited, the facility will have 10 calendar days from receipt of the 2567 and 10 business days from the receipt of the 3724 to submit an acceptable plan of correction.

### **3.0 Background/History**

This collaborative effort between DFPS and HHSC to simplify the reporting and investigations process will eliminate duplicative efforts for reporting allegations of ANE to one entity and incidents to another. In 2017, the Provider Investigations (PI) Unit transitioned from DFPS to HHSC the Regulatory Services Section. In September 2020, the PI Unit integrated into Long Term Care Regulatory. This change in reporting and investigation processes better aligns visits by combining the review of regulatory compliance along with the investigation of ANE allegations.

### **4.0 Resources**

Providers can access through the [HHSC website](#), Form 3613-A, Provider Investigation Report (PIR) and instructions on how to complete and submit it.

### **5.0 Contact Information**

If you have any questions about this letter, please contact the Policy and Rules Section by email at [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov) or call (512) 438-3161.