Critical Incident Reporting Guidelines

Authority: 46:11:03:02. Critical incident reports -- Submission to division. The provider shall give verbal notice of any critical incident involving a participant to the division no later than the end of the division's next business day or the provider's next administrative business day, whichever occurs first, from the time the provider becomes aware of the incident. The provider shall submit a written critical incident report utilizing the division's on-line reporting system within seven calendar days after the initial notice is made. A report must be submitted for the following:

1. Deaths;
   - Providers will need to report each death as a separate critical incident report. This is true even if a critical incident report regarding the circumstances that led up to the death was previously reported.

2. Life-threatening illnesses or injuries;
   - Examples include, but are not limited to: suicide attempts, head injury with the loss of consciousness, unplanned hospital admissions, choking incidents that require medical follow-up, victim of altercation resulting in *severe* injury, and any *life threatening* medical diagnosis.

3. Alleged instances of abuse, neglect, or exploitation against or by any participant;
   - Providers will report all *abuse, neglect*, and *exploitation* allegations to the division. Abuse includes *verbal, physical, sexual* and *psychological abuse*.

4. Changes in health or behavior that may jeopardize continued services;
   - Examples include, but are not limited to: *missing person*, behavior that led to *severe* altercations towards others, sexual contact with someone who is unable to or did not provide consent, *severe* self inflicted injury, inpatient psychiatric stays, and increase in behavioral issues.
   - All AWOL/Missing persons incidents are reportable CIRs unless there is a plan in place to respond to the missing person and the plan was followed. In extreme circumstances the missing person should still be reported.

5. Serious medication errors. A serious medication error is the inappropriate administration of a medication to the participant by a provider that results in emergency medical treatment, hospitalization, or death.

6. Illnesses or injuries that resulted from unsafe or unsanitary conditions;
   - Examples include, but are not limited to: fractures or dislocations, or *unexplained injuries*.

7. Any illegal activity that involves a participant in which there is law enforcement involvement;
   - Examples include, but are not limited to: arrests, incarceration, criminal court appearances/charges, illegal drug use, probation/parole violation and shoplifting.

8. Any use of physical, mechanical, or chemical intervention;
    - Highly restrictive procedures include *physical restraints, mechanical restraints, chemical restraints,* use of *time-out* (time-out may only be used as part of an approved behavior support plan) and other techniques with similar degrees of restriction or intrusion, e.g. preventing egress from vehicles and/or rooms, as described in ARSD. All highly restrictive procedures must receive due process through the agency's Human Rights Committee and Behavior Intervention Committee.

9. Any bruise or injury resulting from the use of a physical, mechanical, or chemical intervention;
    - All highly restrictive procedures utilized that are part of or not part of an approved behavior intervention plan that result in bruising or injury to the person. Highly restrictive procedures include *physical restraints, mechanical restraints, chemical restraints,* use of *time-out*.
    - Time Out: A time-out refers to a highly restrictive procedure in which the participant is denied egress from an enclosed area when exhibiting a problem behavior. A time-out shall follow the criteria in § 46:11:05:06.01 and shall meet the following requirements:

        (1) Provider staff shall provide continuous observation of the participant;

        (2) A time-out may not occur in an enclosed area that may be locked with a key;

        (3) Provider staff shall have immediate access to the participant;

        (4) The use of a designated time-out room is prohibited; and

        (5) A time-out may only be used as part of a behavior support plan approved by both the human rights and behavior support committees.

    - A time-out may not be used in a punitive fashion. Each use of a time-out may not exceed 15 minutes. If after 15 minutes, the participant continues to exhibit a problem behavior that poses a threat to the participant or others, the use of a time-out may continue for another 15 minutes. The maximum amount of time a participant may be in time-out shall not exceed one continuous hour. The provider shall document any use of the time-out.
    - All highly restrictive procedures must receive due process through the agency's Human Rights Committee and Behavior Intervention Committee.

10. Any diagnosed reportable *communicable disease* involving a participant;
    - A communicable disease, syndrome, or condition declared by the Department of Health to be dangerous to public health and reportable in accordance with Department of Health Administrative Rule 44:20.

11. Alleged instances of corporal punishment, seclusion, denial of food, or other practices prohibited in SDCL 27B-8-42; and
    No agency, community service provider, facility, school, or person who receives public funds and provides services to persons with developmental disabilities may engage in the following practices:
    (1) Corporal punishment--physical or verbal abuse, such as shaking, screaming, swearing, name calling, or any other activity that would be damaging to a person's physical well-being or self-respect;
    (2) Seclusion--placement of a person alone in a room or other area from which egress is prevented except if utilized by the South Dakota Developmental Center or a community support provider in accordance with §§ 27B-8-52, 27B-8-54, and 27B-8-56;
    (3) Denial of food--preventing a person from having access to a nutritionally adequate diet as a means of modifying behavior. Persons enrolled in residential programs or living units are expected to partake in meals at a predetermined scheduled time.
    No person with a developmental disability receiving services may discipline other persons with developmental disabilities receiving services, and no community service provider or facility may mistreat, exploit, neglect, or abuse any person with a developmental disability.

12. Any other critical incident as required by the division.

The report must contain a description of the incident, specifying what happened, when it happened, and where it happened. The report shall also include any action taken by the provider necessary to ensure the participant's safety and the safety of others and any preventative measures taken by the provider to reduce the likelihood of similar incidents occurring in the future. The division may request further information or follow-up related to the critical incident.

The provider shall notify the participant's parent if the participant is under 18 years of age, or the participant's guardian, if any, that a critical incident report has been submitted and the reason why unless the parent or guardian is accused of the incident.

Source: 22 SDR 104, effective February 13, 1996; 26 SDR 96, effective January 24, 2000; 27 SDR 63, effective December 31, 2000; 40 SDR 102, effective December 3, 2013; 43 SDR 9, effective August 2, 2016.

General Authority: SDCL 27B-2-26(4).

Law Implemented: SDCL 27B-2-26.

Cross-Reference: Communicable disease control, chapter 44:20.

Other rights not limited by receipt of services--Certain practices prohibited, SDCL 27B-8-42.

Reporting of Critical Incidents

The reporting requirements identified here replace those previously outlined in policy Memorandum 06-03. The following is the process for reporting a critical incident to the Division of Developmental Disabilities.

1. Contact your assigned program specialist by telephone to report the incident.

2. When your assigned program specialist is out of the office, your call may be transferred to another program specialist for reporting.
3. If all program specialists are unavailable, the division secretary will take incident information and inform the program specialist.
4. If all division staff are unavailable, your call will be transferred to your assigned program specialist telephone and a voice mail should be left.

Guiding Principles

A critical incident is an occurrence involving at least one or more participants receiving services where the health, welfare, or safety of the participant(s) was or may have been at risk.

Generally, a critical incident involving two or more participants requires a separate incident report for each participant involved.

It is important to remember the above events only give some examples of reportable situations. There may be situations not identified on this document that may constitute a report. If you have questions as to whether an event requires you to complete a critical incident report, a program specialist at the division should be contacted. An incident report may be requested for increase in behaviors that result in an Extraordinary Needs Request, request for individual services and supports, consultations from the SDDC or other professionals, or significant change request. If this occurs, one incident report should be submitted, describing a culmination of events leading up to the request for additional services.

Content Requirement

For each critical incident, the documentation must contain an account of the incident and specify what happened, when it happened, where it happened, the participant's status, and actions taken by the provider. As appropriate, the provider should review the incident to identify possible causes and provide suggestions, plans, or actions for the prevention of similar incidents in the future. The division may request further information relating to the incident or the provider may have additional information related to the incident. This information is submitted by using the follow-up option within the on-line critical incident report.

Definitions

Abuse: Physical harm, bodily injury, attempt to cause physical harm or injury, infliction of fear of imminent harm or bodily injury.

Altercation: Any incident where the physical attack directed at another person results in *severe* physical injury to the other person.

Chemical restraint: The use of any psychoactive medication as a restraint to control behavior or restrict the individual's freedom of movement that is not a standard treatment for the individual's medical or psychiatric condition.

Communicable disease: an illness due to a specific infection agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal, fomite, or reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector, or the inanimate environment (DOH ARSD 44:20)

Corporal punishment: physical or verbal abuse, such as shaking, screaming, swearing, name calling, or any other activity that would be damaging to a person's physical well-being or self-respect.

Denial of food: preventing a person from having access to a nutritionally adequate diet as a means of modifying behavior. Persons enrolled in residential programs or living units are expected to partake in meals at a predetermined scheduled time.

Exploitation: The wrongful taking of someone's property or exercising of control over a person's property without the appropriate due process, unfair or no compensation for labor, selling items to a person that are not of the same worth as price received.

Life threatening: diseases or conditions where the likelihood of death is high. Pre-existing conditions should be considered when determining the severity.

Mechanical restraint: The use of any physical device to control behavior and restrict movement for the purpose of preventing harm to self or others.

Missing person: A person who is on an unauthorized absence and at risk of harm to self or others. If the person has a protocol or plan that addresses unauthorized absences, a report is not necessary unless the plan is not implemented as written.

Neglect: Harm to a person's health or welfare, without reasonable medical justification, caused by the conduct of another who is responsible for the person's health or welfare, within the means available for the adult, including the failure to provide adequate food, clothing, shelter or medical care.

Physical restraint: The application of physical force by one or more individuals that reduces or restricts the ability of an individual to move his or hers arms, legs, or head freely, for the purpose of preventing harm to self or others.

Psychological abuse: Emotional or psychological abuse is defined as the infliction of anguish, pain or distress through verbal or nonverbal acts. Emotional/psychological abuse includes but is not limited to verbal assaults, insults, threats, intimidation, humiliation and harassment. In addition, isolating a person from his/her family, friends, or regular activities; giving a person the "silent treatment;" and enforced social isolation are examples of emotional/psychological abuse.

Severe: Injury requiring clinic, hospital, or emergency room care.

Sexual abuse: Sexual abuse is defined as non-consensual sexual contact of any kind with a person. Sexual contact with any person incapable of giving consent is also considered sexual abuse. It includes but is not limited to unwanted touching, sexually explicit photographing, and all types of sexual assault or battery, such as rape, sodomy, and coerced nudity.

Seclusion: placement of a person alone in a room or other area from which egress is prevented except if utilized by the South Dakota Developmental Center or a community support provider in accordance with §§ 27B-8-52, 27B-8-54, and 27B-8-56.

Suicide attempt: A potentially self-injurious behavior for which there is evidence that the person intended to kill himself or herself; a suicidal act may result in death, injuries, or no injuries.

Time-out room: An enclosed area in which an individual is placed contingent upon the exhibition of a maladaptive behavior, in which reinforcement is not available and from which egress is denied until appropriate behavior is exhibited.

Unexplained injuries: Injuries that cannot otherwise be attributed to environmental factors, medical or dental appointments, or activities. The provider will determine that the injury cannot be related to any environmental factors, medical or dental appointments or activities. Injuries that are suspicious in nature or part of an identified trend should be reported to DDD.

Examples include, but are not limited to:

- Welts, bruises, discoloration that may indicate abuse (i.e. bilaterally on upper arms indicating grabbing, shaking, bruises of different colors indicating repeated injuries, etc.)
- Burns (i.e. cigarette burns, scalding, and iron burn) DO NOT report minor sunburns.
- Fractures of any bone.
- Cuts, lacerations, puncture wounds, or other injuries.

Injuries may or may not require emergency medical treatment. Unexplained injuries may or may not be an element of an allegation of abuse.

Verbal abuse: Verbal abuse is the use of words to cause harm to the person being spoken to. Verbal abuse may consist of shouting, insulting, intimidating, threatening, shaming, demeaning, or derogatory language, among other forms of communication.

References

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Medication Administration, Administrative Rules of South Dakota, Article 46:11, Chapter 7.

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