Nebraska Department of Health & Human Services

To: All Children and Family Services Staff
Licensure Unit, Public Health
Professions & Occupations Investigative Unit

From: Kerry T. Winterer, CEO

Date: March 30, 2012

RE: Working cooperatively with other Department Divisions in investigations of abuse and neglect.

Effective: Immediately

Duration: Until Revised

Purpose:

The purpose of this memo is to understand the roles and responsibilities of the Licensure Unit, Professions and Occupations Investigative Unit, and Children and Family Services staff in investigation possible child and/or adult abuse or neglect in licensed and certified facilities, as outlined in the attached document.

Action Required:

While it is recognized that joint investigations into allegations of child or adult abuse or neglect in facilities may not always be practical or possible, it is important that involved entities work together cooperatively. Children and Family Services staff will make efforts to coordinate with other involved Department partners, and will share relevant information to assist in the completion of required assessments and investigations.

At the conclusion of the assessment or investigation, each Division will notify the alleged perpetrator as to the outcome of the assessment or investigation as required by their individual regulations and protocol. Each Division will also provide a letter to the facility director informing him or her of the outcome of the investigation, and any suggested improvement in practice or corrective action plan that may be deemed necessary to prevent a similar situation from occurring in the future. Letters to the facility director will clearly explain that the finding and recommended improvements represent only the opinion of the Division from whom the letter is received. It may be possible that the facility will receive additional findings and recommendations from other divisions who have also participated in the assessment or investigation process, because each Division has unique statutory and regulatory obligations and guidelines.

Administrators of each Division impacted will ensure that the processes identified in the attached documents are reviewed and discussed with current staff no later than June 30, 2012 and that the content and materials are shared with new staff as part of their training.

Investigations in Licensed and Certified Facilities By Entities Having Overlapping Responsibilities

A. Division of Public Health –

1. Licensure Unit

The Nebraska Department of Health and Human Services, Division of Public Health, the Licensure Unit (licensing) has the legal responsibility to license facilities which provide varying levels of health care services. These include:

a. Child Care Facilities

b. Health Care Facilities

- Adult Day Care
- Acute Care
- Assisted Living Facility
- Home Health
- Hospice Care
- Hospitals
- Intermediate Care Facilities for the Mentally Retarded
- Long-term care (nursing home)
    - Skilled Nursing Facility means a facility where medical care, skilled nursing care, rehabilitation or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured or disabled.
    - Nursing Facility means a facility where medical care, nursing care, rehabilitation or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured or disabled.
    - Intermediate Care Facility means a facility where shelter, food and nursing care or related services are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured or disabled and do not require hospital or skilled nursing facility care.
- Substance Abuse Treatment Centers

The Division of Public Health, through its Licensure Unit, has the duty to also ensure that these facilities comply with the State's minimum standards for safety and quality of services and that the needs of residents are appropriate for the level of care being provided. Due to the nature of their responsibilities, for such facilities surveyors will be in contact with children and adults who are vulnerable and may be in need of protective services.

The Department of Public Health, Licensure Unit, scope of services includes the following:

- Licensure means: The Department has issued a license to operate a facility in the State of Nebraska to an individual, governmental unit, corporation, partnership, limited liability company, or other form of business operation that is legally responsible for the facility's operation.
- Certification means: The facility is in compliance with the federal requirements (42 CFR Part 483.1 – 483.335) and is eligible to receive payment under the

Medicare/Medicaid programs. The facility must have a license prior to being certified for Medicaid/Medicare programs.

- The Division of Public Health, Licensure Unit reviews all allegations of resident neglect and abuse, and misappropriation of resident property by nurse aides and medication aides. If there is reason to believe, either through oral or written evidence that an individual used by a facility to provide services to residents could have abused or neglected a resident or misappropriated a resident's property, the State investigates the allegation.
- The State reviews all allegations regardless of their source. Contact the Licensure unit for issues/complaints about Nurse Aides 402-471-0537 and Medication Aides 402-471-4910.

2. **Professions and Occupations Investigative Unit**
   Professions and Occupations Investigative Unit is charged with investigation of licensed, registered or certified health care professionals and professionals in healthcare-related fields; as well as investigations into unlicensed healthcare practice; pre-licensure investigations; and determines compliance with provisions of the Uniform Credentialing Act. Rules and regulations governing professional practice, and the Uniform Controlled Substances Act can be found at http://www.dhhs.ne.gov/reg/INVEST-P.HTM.

B. Division of Children and Family Services

1. Child and Adult Protective Services

The Nebraska Adult Protective Services Act mandates the Department of Health Human Services to provide Adult Protective Services. The law requires that Adult Protective Services staff receive and investigate reports of abuse, neglect, or exploitation of adults. If the alleged abuse/neglect incident meets APS statutory guidelines for investigation, regardless of the setting, APS will be responsible for investigating, reaching a finding, and carrying out the work of an APS investigation. Similarly, the Family Policy Act requires investigation and service provision in situations where children are alleged to be victims of abuse or neglect.

The investigation and provision of services to children and adults in facilities include:

- Notifying law enforcement and licensing authorities upon receipt of the referral;
- Making a timely response;
- Interviewing the alleged child or adult victim and others with knowledge about the situation;
- Performing investigative tasks necessary for determining the validity of the report of abuse, neglect, or exploitation of the child or vulnerable adult;
- Determining the safety and risk status of the alleged victim;
- Assessing and providing appropriate intervention and services;
- Notifying appropriate agencies and divisions of the investigative findings; and
- Maintaining confidential records.

C. **Cooperative Referral**

1. Division of Public Health – Licensure Unit

a. Upon receipt of any complaint that alleges abuse, neglect and/or exploitation of a child or vulnerable adult alleged victim, the Division of Public Health, Licensure Unit will immediately make a report to the Adult and Child Abuse and Neglect Hotline at 1-800-652-1999.
b. When abuse, neglect or exploitation is not identified in an initial complaint, but is confirmed during the course of a licensing investigation, the licensing staff will report this information to the Adult and Child Abuse and Neglect Hotline.

2. Division of Children and Family Services
    a. Upon receipt of a report that alleges abuse, neglect, or misappropriation of resident's property of a resident of a facility, Adult and Child Abuse and Neglect Hotline staff will enter the information into the Department's Computer Information System so that the Division of Public Health, Licensure Unit can access the report. Hotline staff will indicate whether or not the report is accepted for safety assessment or investigation.
    b. The Division of Public Health, Licensure and NE Medicaid Units are responsible to access the Division of Children and Family Services Computer Information System to receive reports of abuse, neglect, or exploitation in a licensed facility and/or a Medicaid facility.
    c. Licensing will inform Child and Family Services staff of the anticipated response to the intake and the priority assigned based on Licensure regulations and protocols.
    d. While conducting a CPS assessment or an APS investigation, the CFS Specialist staff may become aware of some general complaints regarding the operation of, or the care provided within, the facility, such as poor care or poor conditions, which may be in violation of licensing standards. In these cases, a call will be made to the Licensure Unit Complaint intake line (402) 471-0316 or by Faxing the complaint to (402) 471-1679. http://www.hhs.state.ne.us/crl/invest/invest.htm#Ways

D. Investigations

In the case where both licensure staff and CFS staff have accepted the intake alleging abuse, neglect, or exploitation for an assessment or investigation, staff from each division will make efforts to coordinate their response whenever possible, and to share relevant information to assist in the completion of the investigations.

Relevant information may be found in the following types of documentation:

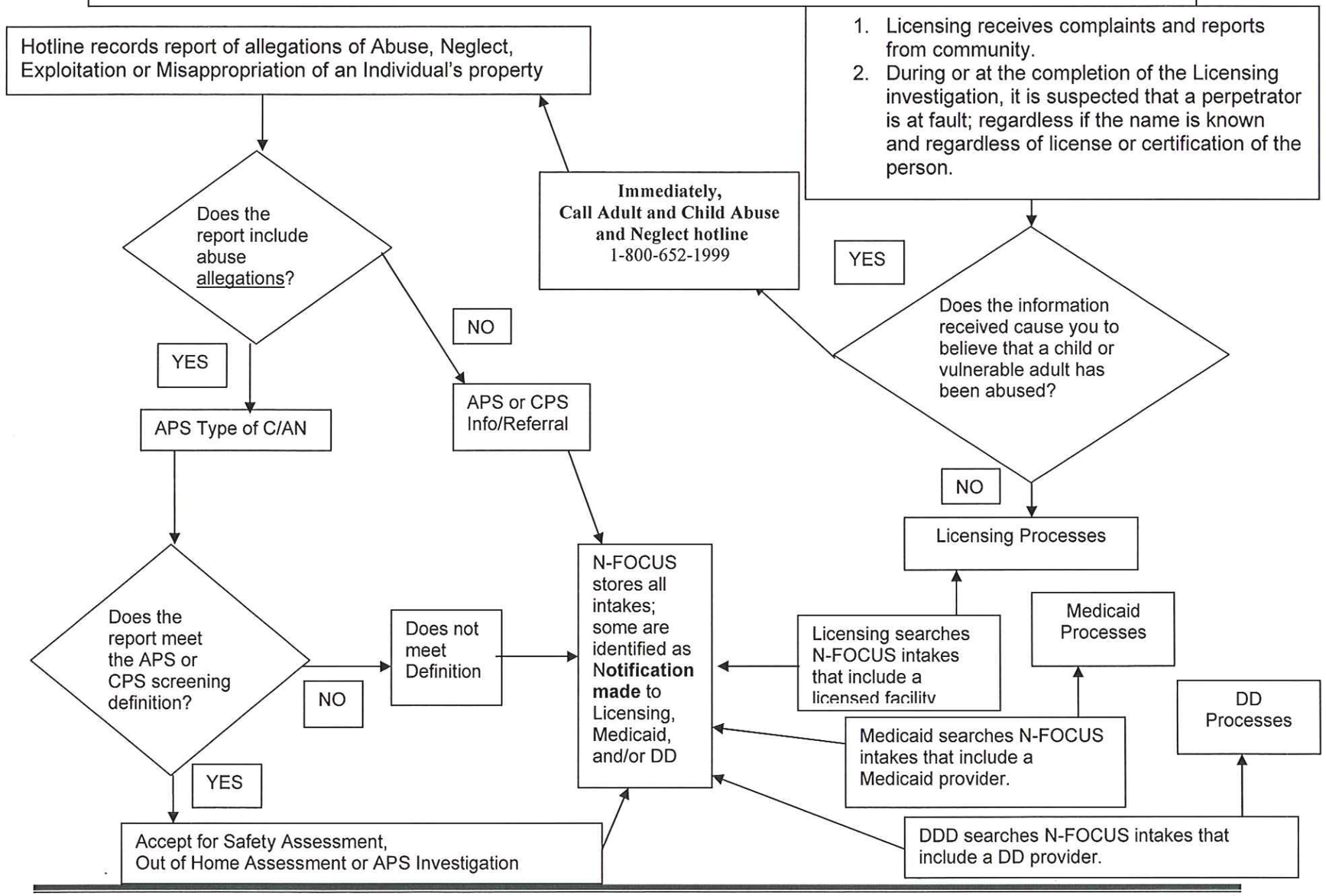
Licensing	**Adult and Child Protective Services**
Facility internal investigation reports	CPS and APS initial contact narratives
Licensing investigation report	Child and Adult Protective Services Investigation
Nurse Aide and Med Aide Registry	Case Status Determination
	Recommendation to the Organization/Facility

Division staff will share relevant information with staff from other divisions throughout the course of the investigation/assessment as appropriate. Investigative protocols will be followed as required by statute and regulations.

E. Concluding the Investigation/Assessment

At the conclusion of the investigation/assessment, each division will notify the alleged perpetrator as to the outcome of the investigation/assessment as required by their individual regulations and protocol. Each division will also provide a letter to the facility director informing him/her of the outcome of the investigation, and any suggested improvements in practice or corrective action plan that may be deemed necessary to prevent a similar situation from occurring in the future. Letters to the facility director will clearly explain that the finding and recommended improvements represent only the opinion of the division from whom the letter is received. It may be possible that the facility will receive additional findings and recommendations from other divisions who have also participated in the investigation/assessment process, because each division has unique statutory and regulatory obligations and guidelines.

Cooperative Referral between Licensing, Medicaid, and the Division of Developmental Disabilities and Vulnerable Adult and Child Abuse and Neglect Hotline



NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
Facility adult and child abuse/neglect reporting instructions

An Abuse/Neglect Related Reportable Incident

There is reason to suspect or believe abuse has occurred,

an allegation has been made,

or conditions are present that could result in abuse/neglect?

- Take steps to protect resident
- Notify Administration

Immediately report to:
Adult and Child Abuse and Neglect hotline
1-800-652-1999

Is there a reasonable suspicion of a crime?

YES

Is there a serious physical injury?

YES

Report to local law enforcement within two hours of forming suspicion

NO

Report to local law enforcement within 24 hours of forming suspicion

NO

Conduct Internal Investigation

Send report to:
Health Facility Investigations
Attn: Intakes
PO BOX 94986
Lincoln, NE 68509 OR
DHHS.HealthFacilitiesInvestigation@nebraska.gov OR
Fax Number: (402) 471-1679

Phone Number: (402) 471-0316

- **For Nursing Homes:**

Due within 5 working days from the allegation.

- **For ICF/MR:**

Due within 7 working days from the allegation

- **All others,**

Due as requested

9-6-11

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

Facility Adult and Child Abuse/Neglect Reporting Instructions

Individual is injured

- Take steps to protect individual
- Notify Administration
- Begin internal investigation

Was the source of the injury:

1. observed by any person
2. is explained by the resident and the explanation is reasonable?

YES

Does the explanation create reason to suspect or believe abuse or neglect occurred?

YES

Go to Abuse/ Neglect Related Reportable Incident flowchart

NO

NO

No Report to the Hotline Required

Document the reasons that no report was required and take steps to prevent future occurrence.

Was the injury suspicious because of:

1. The extent of the injury;
2. The location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma)
3. The number of injuries observed at one particular point in time **or** the incidence of injuries over time?

NO

Is there a reasonable suspicion of a crime?

YES

Meets definition of Injury of unknown origin

YES

NO

Is there a serious physical injury?

NO

YES

Call Adult and Child Abuse and Neglect Hotline

1-800-652-1999

Report to local law enforcement within 24 hours of forming suspicion

Report to local law enforcement within two hours of forming suspicion

Complete Internal Investigation

Send report to:

Health Facility Investigations
Attn: Intakes
PO BOX 94986
Lincoln, NE 68509 OR

DHHS.HealthFacilitiesInvestigation@nebraska.gov OR

Fax Number: (402) 471-1679

Phone Number: (402) 471-0316

- **For Nursing Homes:**

Due within 5 working days from the allegation.

- **For ICF/MR:**

Due within 7 working days from the allegation

- **All others,**

Due as requested

9-6-11

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
Facility adult and child abuse/neglect reporting instructions

Individual to Individual Aggression

- Take steps to protect Individual
- Notify Administration
- Begin internal investigation

Was event isolated (1st time), NOT preventable, or NOT foreseeable?

YES

Was there a serious physical injury? (Neglect is a possibility)

NO

No need to report to Abuse Neglect Hotline

1. Record findings that validate this conclusion
2. Act to prevent recurrence of incident and protect resident - i.e., any needed re-assessment, care revision, staff training and equipment modification at assure resident's safety.

NO

The incident is **not** isolated (There is a pattern and/or prior knowledge of this person's behaviors), And was preventable, And/or was foreseeable

YES

Call Adult and Child Abuse and Neglect hotline
1-800-652-1999

The hotline will screen the report for abuse, neglect, including lack of proper supervision.

Is there a reasonable suspicion of a crime?

YES

Report to local law enforcement within 24 hours of forming suspicion

NO

Is there a reasonable suspicion of a crime?

YES

Report to local law enforcement within two hours of forming suspicion

NO

Complete Internal Investigation

Send completed report to:

Health Facility Investigations
Attn: Intakes
PO BOX 94986
Lincoln, NE 68509 OR

DHHS.HealthFacilitiesInvestigation@nebraska.gov OR

Fax Number: (402) 471-1679

Phone Number: (402) 471-0316

- **For Nursing Homes:**

Due within 5 working days from the allegation.

- **For ICF/MR:**

Due within 7 working days from the allegation

- **All others,**

Due as requested

9-6-11