

## Long-Term Care Survey Alert

### Test Yourself : Abuse Investigation Requirements

**Could your facility get an F (tag that is) for not knowing the answers to these questions?**

Here are the answers from last month's "Test Yourself" on preventing F tags for abuse and neglect investigating and reporting.

**True or false?**

1. Federal requirements for abuse reporting and investigations supercede less stringent state ones.

**Answer:** True. More stringent federal requirements trump less strict state ones.

2. A facility has 10 working days to investigate an allegation of abuse and report its preliminary findings to the state survey agency and other agencies designated by state law.

**Answer:** False. The facility must report its findings to the state survey agency in all cases and report to other officials in accordance with state law within five working days of the incident, according to a December 2004 **Centers for Medicare & Medicaid Services** survey and certification letter to states ([www.cms.hhs.gov/medicaid/survey-cert/sc0509.pdf](http://www.cms.hhs.gov/medicaid/survey-cert/sc0509.pdf)).

3. Facilities should place employees on leave who are accused of abuse or suspected of intentionally causing an injury of unknown source pending outcome of an investigation.

**Answer:** This one is tricky. "Federal regs and interpretive guidance speak to the need to protect residents while an investigation of alleged abuse is in process," says **Marie Infante**, an attorney in Washington, DC. This has been broadly interpreted to mean that facilities should place an employee on paid administrative leave to safeguard both the employee and the residents until the facility concludes the investigation.

Yet, facilities must take into account state employment law, state reporting law issues and/or union contract issues before taking any job action like placing an employee on administrative leave with pay, adds Infante.

4. Surveyors can cite a facility if nursing staff can't explain the internal abuse reporting protocol.

**Answer:** True. "A facility can definitely get cited if the nursing staff can't relay to surveyors the internal abuse reporting protocol," says attorney **Chris Lucas** in Mechanicsburg, PA.