**PACSTX**
**2025 Annual Conference:**

# Internal Investigations in Licensed Facilities: Beyond Basic Regulatory Compliance

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## Defining the issue – why it's important

- Regulatory requirements
  - Clock is ticking…5 working-day deadline
  - Format requirements
  - Balancing thoroughness, accuracy, and timeliness
  - Resolving conflicting information to draw accurate conclusions
  - Protecting clients
- Conclusions determine how to move forward with staff and individuals
- Directly affects perceptions of quality internally and externally
- Opportunity to determine trends, areas for improvement and prevention

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# What's at stake?

- Client health and safety
- Staff retention and morale
- Perceptions
  - Professionalism of the investigator – sensitivity, objectivity
  - Professionalism of the staff
  - Confidence of current family members regarding safety
  - Organization's reputation – potential clients, potential staff, outside services, surveyors
  - Clients' perception of a safe environment in their own home!
- Regulatory upheaval – cycle of citations, plans of correction, return visits, new citations
- Preventing future incidents frees up time and resources

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# What are the major challenges?

- **Separating management of investigation from management of actual incident**
  - Minimizes bias
  - Leadership ensures individuals, family members, and staff receive proper care.
  - Investigators focus on their task at hand
- **Multiple and well-trained investigators**
  - Potential for multiple simultaneous incidents
  - "Spin off" allegations may require second internal investigation
  - Time constraints
  - Some incidents may require a specific investigator to recuse self
  - Life happens – A primary investigator may be unavailable
  - One investigator will burn out; internal investigations are draining. regular work on hold and snowballs quickly

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## More challenges

- Prevent retaliation (which is typically driven by fear, not revenge)
- Witness cooperation – safe space, positive interview methods
- Methodically resolve inconsistencies in witness testimony
- Getting as close to the truth as possible
- Very difficult to resist pressure from others to finish quickly
- Bringing back a staff from suspension before surveyor's concurrent investigation is complete can result in citations and penalties if internal has a poorly supported conclusion.
- Even when unconfirmed, staff may have committed other unacceptable offenses…especially with neglect situations

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## Role of leadership

- **Manage the incident, assign the internal investigation to another:**
  - Internal investigation requires time, energy, thought, and writing
  - Leadership must ensure client care, family concerns, special precautions, possible moves (client or staff), medical intervention
  - Leadership must monitor investigation progress and keep the pressure on
  - Leadership must support the outside surveyor – surveyors ask for a lot and want it quickly, including policies, employee records, other evidence…and expect immediate system changes to address issues they uncover
  - In the unfortunate event that an admin penalty is imminent, the clock is ticking; leadership fixes root problems quickly to minimize $ losses
  - Leaders who do not conduct the investigation are more likely disagree with the conclusion, when that the conclusion is not well-supported

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## Role of leadership - continued

- **Chief communicator**
  - With family members
  - With nurse
  - With suspended staff – reassurance promotes cooperation to meet with surveyor
  - With remaining direct care and professional staff – control gossip
  - With internal investigator to get frequent updates, answer questions
  - Possibly with law enforcement
  - Possibly with neighbors or other outside parties that may have witnessed or have concerns
  - With corporate leadership, depending on specific company expectations
- **Keeping processes moving quickly**
  - Medical attention, including mental health
  - Staff moving around due to shortage may require new training and delegation
  - With remaining staff – control gossip
  - With office staff – control gossip

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## Role of leadership - continued

- **Chief planner** – thinking ahead to prevent more of the same
  - Policy changes resulting from unique circumstances
  - Rethinking training and orientation routines
  - Beefing up systems to prevent reoccurrence
  - Controlling gossip
  - Getting frequent updates from surveyors
  - Working with law enforcement
  - Keeping corporate leadership informed, getting approval to implement changes (even if temporary

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## Internal Investigation - Step 1

Clearly define the allegation:

- What's is specifically alleged?
- What is being investigated outside…is it different?
- Seek guidance form leadership for any necessary clarification to prevent starting down the wrong trail

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## Internal Investigation - Step 2

Get the coversheet started - Form 3613-A:

- Complete as much as possible right away, especially to document initial interventions
- What is being investigated outside…is it different?
- Seek clarifying guidance from leadership to prevent starting down the wrong trail regarding what allegedly happened

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# Internal Investigation - Step 3

**Verify all necessary actions taken by the facility** (report concerns to leadership):

- Nursing/medical care (including mental health)
- Suspension of staff
- Family and client notification
- Special precautions
- Client re-alignment, if necessary
- Immediate re-training, if necessary (e.g., reporting procedure)

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# Internal Investigation - Step 4

**Secure physical evidence quickly:**

- Audio/Video/photographic evidence
- Text messages, voicemails, emails/electronic chats, phone call records
- Medical assessments, preserve of sexual assault
- Pictures and/or diagrams of the scene
- Clinical/medical data
- Staff time records
- Transportation data - GPS, gas receipts, mileage logs
- Financial data – purchase requests, purchase receipts

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# Internal Investigation - Step 5

**Schedule witness interviews and statements**

- Make a thorough list of potential witnesses; don't leave anyone out.
- Schedule quickly; get help from leadership, as needed
- Secure a proper location…not necessarily in a busy office where people gossip. Some witnesses might need to go back to the incident location
- Schedule in-person witness statements with spaces in-between meetings to prevent witnesses seeing each other in waiting areas

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# Internal Investigation - Step 5 (continued)

**Witness interviews - dos and don'ts**

- Do interview everyone with direct knowledge, including alleged victim(s)
- Don't go right into it. Warm up a little. Lighten the mood.
- Do be supportive, understanding, and affirming (regardless of what you may be thinking)
- Don't ever let any skepticism show.
- Don't barrage with clarifying questions if you think you're getting an incorrect answer; move on to the next question and go back to the issue later…and ask it a different way.
- Do ask open-ended questions – "W" questions. Let the witness talk with little interruptions
- Do discuss what witness observed. Re-direct opinions by asking what observation that might support it.. Focus on objective information that can be verified.
- Use transcription technology, if needed.
- Get signatures

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# Internal Investigation - Step 6

**Initial evaluation of evidence, statements, and witness credibility**

- Match witness claims to factual data; mentally recreate events to determine what data can support or refute
- Identify elements of witness' statements that concur
- Identify elements of witness statements that contradict other statements and/or factual data

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# Internal Investigation - Step 7

**Resolve inconsistencies when witness stamens contradict facts or each other's claims…delve into credibility** (this is one of the most important regulatory requirements)

- Use timesheets and photographic evidence to verify or refute witnesses' presence
- Use any other data possible that can help support or refute conflicting statements
- Determine if most witnesses concur, but one lone witness contradicts
- Re-interview witnesses, as needed. Ask questions in a different way to see if the same key elements are explained similarly, or differently. Work your way there…don't jump right to the conflict
- Give a reason for the 2nd interview that doesn't create suspicion or paranoia. Explain that you may be confused and need a few extra details to better understand. DON'T discuss the discrepancies and tip off the witness.
- Consider motives, but don't get carried away. Use facts, not feelings or hearsay that can't be verified
- Thoroughly document how the accurate version is consistent with facts and doesn't have story changes.

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# Internal Investigation - Step 8

**Initial report of findings to leadership** (by day 3 at the latest)

- Review facts, statements, and how conclusions were determined
- Seek leaderships guidance to address discrepancies.
- Follow leaderships instructions.

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# Internal Investigation - Step 9

**Write investigation summary**

- Summarize investigative procedures
- Summarize each statement and assess its credibility
- Summarize objective data
- Explain how inconsistencies were resolved

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# Internal Investigation - Step 9 (continued)

- Develop a conclusion based on a preponderance of evidence
  - **Confirmed** - The allegation is supported by the strength of the evidence that best concurs with reason and probability, for example, the facts are more probably one way than another
  - **Unconfirmed** - It is reasonable to conclude the allegation did not occur or is unlikely to have occurred.
  - **Inconclusive** - There is insufficient evidence to support or refute the allegation.
  - **Unfounded** - The allegation is untrue or patently without factual basis. Example: The alleged perp was on vacation in another city at the time
- Include initial call intake number, type of allegation, provider type and contract number
- Include names of all involved parties
- Include Date, time, and location of alleged incident
- Include summary of all actions taken by the facility
- Make recommendations for further intervention and summarize any lingering concerns.
- Sign it as internal investigator

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# Internal Investigation - Step 10

**Review with leadership -** If leadership disagrees entirely or has concerns about any part of the investigation process that, if done differently, would have likely led to a different outcome:

- The leader can take actions by the facility contrary to what is recommended in the internal investigation
- Re-assign the investigation to be re-done, with notice to HHSC after the initial investigation has been sent it (if out of time)

**Send it in:**

- online through the 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 a.m.-7 .p.m.); or
- via e-mail: ciicomplaints@hhs.texas.gov

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## Patterns and Trends to be Corrected

- What do reportable events seem to have in common in your organization
- How well are employees trained? How quickly are staff reporting concerns?
- What is the level of morale and teamwork?
- How well do employees know polices and procedures?
- How quickly are individuals getting medical attention?
- How quickly are family members and Service coordinators being notified?
- How comfortable are staff and supervisors in sharing information?
- Does your organization have a supervisory bypass communication system for any staff to go right to the top when that's necessary?
- How often are key management and professional staff getting into homes and day programs to identify warning signs and provide spot training, as needed?
- What is leadership doing to promote accountability and address patters?

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## Resources

HHSC website – Form 3613-A Instructions (including link to download the form): https://www.hhs.texas.gov/regulations/forms/3000-3999/form-3613-a-snf-nf-icfiid-alf-dahs-including-iss-providers-ppecc-provider-investigation-report-cover#:~:text=If%20the%20provider%20notified%20the,or%20patently%20without%20factual%20basis

Provider Letter (2025-02) for ICF - Revised Process for Reporting Incidents, Complaints and HHSC Investigations of Abuse, Neglect, and Exploitation: Provider Letter (PL) 2025-02 *Process for Reporting Incidents, Complaints and HHSC Investigations of Abuse, Neglect, and Exploitation*

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# Questions?

Thank you for participating!!

Please use QR code below to share you feedback on your phone:

SESSION SURVEY

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