

Right to Appeal Decision

You can appeal the Department's decision to enter a finding on the Registry by writing to the Department of Administration, Division of Hearings and Appeals (DHA), within 30 days of receiving the decision. DHA will schedule a fair hearing. While the fair hearing decision is pending, no information will be entered on the Caregiver Registry or given to the public.

You may have a representative help you with the hearing. Both you and the Department can present facts and witnesses. The hearing examiner reviews all information presented at the fair hearing and makes a final decision.

If the hearing examiner does not agree with the Department's finding, no information will be entered on the Caregiver Misconduct Registry or given to the public. If the hearing examiner agrees with the Department's finding, the decision is then entered on the Caregiver Misconduct Registry.

Caregiver Misconduct Registry

The Wisconsin Caregiver Misconduct Registry is a record of the names of nurse aides and other non-credentialed caregivers with a substantiated finding of caregiver misconduct (abuse or neglect of a client or misappropriation of a client's property).

Information regarding employment eligibility of non-credentialed caregivers, including nurse aides, is available at:

<http://www.pearsonvue.com>

- **For a nurse aide (NA):** Information will be provided regarding the aide's employment eligibility and whether a finding of misconduct has been placed under the aide's name.
- **For any other caregiver (CGE):** In accordance with Wisconsin state regulations, any individual who is identified as a caregiver (nurse, social worker, personal care worker, maintenance worker, laundry aide, etc.) and who has a finding on the Caregiver Misconduct Registry may not be employed as a caregiver (as that term is defined in Chapters 50.065 or 48.685, Wis. Stats.) in any entity regulated by the Wisconsin DHFS unless approved through the Rehabilitation Review process

Work Limitations

Under federal regulations, nurse aides with a misconduct finding are permanently barred from working in federally certified nursing homes and, in certain situations, may be barred from working in federally certified nursing homes and Intermediate Care Facilities for the Mentally Retarded (ICFs/MR).

State regulations bar all caregivers with a finding of misconduct (including nurse aides) from working in facilities that the Department regulates, unless the caregiver is approved under the Rehabilitation Review process.



Making a difference.

WISCONSIN'S CAREGIVER PROGRAM

STATE OF WISCONSIN
Department of Health and Family Services
Division of Quality Assurance
Office of Caregiver Quality

February 2008

PQA-3141 (Rev. 02/08)

CONTACT INFORMATION

Questions about
The Caregiver
Program?

Office of Caregiver Quality (OCQ)
Division of Quality Assurance
P.O. Box 2969
Madison, WI 53701
Phone: (608) 261-8319
FAX: (608) 264-6340
E-mail:
caregiver_intake@dhfs.state.wi.us

Need to report
caregiver
misconduct?

Questions about
the Rehabilitation
Review process?

Office of Legal Counsel
Phone: (608) 266-8428
E-mail: rehabrc@dhfs.state.wi.us

Need to verify a
caregiver's
employment
eligibility?

Wisconsin Nurse Aide Registry
<http://www.pearsonvue.com>
Phone: (866) 329-8760

Other questions?

See our web site:

<http://dhfs.wisconsin.gov/caregiver/index.htm>

or

<http://www.dhfs.state.wi.us> (Select on "Topics A-Z," "C," and then "Caregiver Program.")

WISCONSIN'S CAREGIVER PROGRAM

This is an overview of Wisconsin Caregiver Program. Please read this information carefully. Contact phone numbers and addresses are available on the back of this brochure if you need more information.

Please also see the Caregiver Program website at:

<http://dhfs.wisconsin.gov/caregiver/index.htm>

Wisconsin's Caregiver Program responds to concerns about the potential physical, emotional, and financial abuse and neglect of vulnerable citizens by caregivers in health care settings. The program applies to all caregivers, including nurse aides, who have access to clients in facilities regulated by the Department. The program provisions include:

Caregiver Background Check

If you are a caregiver who has regular, direct contact with clients, your employer must complete a caregiver background check on you at the time of hire and every 4 years thereafter. This requirement applies to all employees who provide direct care and may also include housekeeping, maintenance, dietary, administrative, and other staff.

A caregiver with a conviction of a serious crime or a history of improper behavior is barred from working in any facility regulated by the Department, unless the person is approved through the Rehabilitation Review process.

Rehabilitation Review

If you have been convicted of a serious crime or have a finding entered on the Caregiver Misconduct Registry, you may request a Rehabilitation Review to give evidence that you are not likely to repeat the behavior that led to your conviction or finding. An initial application for a Rehabilitation Review may be filed with the Department at any time.

The Rehabilitation Review panel reviews your application and other personal and professional information. You are encouraged to meet with the Rehabilitation Review panel to answer any questions. The panel will issue a decision based on

the evidence of your ability to safely work in state regulated facilities

Reporting Requirements

The Caregiver Law requires health care facilities to report incidents of caregiver misconduct and some injuries of unknown source to the Department of Health and Family Services, Division of Quality Assurance (DQA). Caregiver misconduct means:

- abuse of a client,
- neglect of a client, or
- misappropriation of a client's property.

Abuse is an act that contradicts a health care facility's policy and procedures and is intended to cause harm. The harm may be physical, mental, or emotional and it may result in pain, injury, or death. Examples of abuse include:

- **physical abuse:** hitting, slapping, pinching, kicking;
- **sexual abuse:** harassment, inappropriate touching, assault;
- **verbal abuse:** threats of harm, saying things to intentionally frighten a client; and
- **mental abuse:** humiliation, harassment, intimidation with threats of punishment or the depriving of care or possessions.

Neglect is the carelessness, negligence, or disregard of policy or care plan, which causes or could be reasonably expected to cause pain, injury, or death.

The major difference between abuse and neglect is that, in a case of abuse, the caregiver intends to harm the client; in neglect, the caregiver does not intend to harm the client but does purposely act or fail to act.

Misappropriation is an action, such as theft of a client's money, credit cards, or jewelry, or misuse of a client's personal property, such as using a client's phone or other personal property without consent.

Injury of Unknown Source is an injury that occurs to a client where the source of the injury is not immediately apparent when the injury is discovered.

Your Responsibility

All staff persons having contact with clients must report incidents of possible caregiver misconduct or injuries of unknown source to a person of authority in their health care facility. It is then the facility's responsibility to decide how to proceed.

Facility Responsibility

The health care facility must investigate to try and determine if caregiver misconduct has occurred. When a health care facility's investigation of an incident results in a possible case of caregiver misconduct, that incident must be reported to the Wisconsin Department of Health and Family Services, Division of Quality Assurance (DQA). The health care facility may also report an incident to DQA if, after their internal investigation, they are still not certain that caregiver misconduct did not occur.

Your employer must inform you if they submit a report to DQA naming you as an accused caregiver involved in an allegation of caregiver misconduct.

DQA Responsibility

Once an incident is reported to the Division of Quality Assurance, DQA reviews the report to determine whether to complete a follow-up investigation. DQA will send you a letter to inform you whether or not they will conduct an investigation. If an investigation is needed, the letter will state the complaint, the purpose of the investigation, the results if the complaint is found to be true, and your ability to have a representative present during any meeting with the Department's investigators. No information about the complaint is given to the public during the investigation.

- If the Department determines that caregiver misconduct **did not occur**, you will receive written notice of that decision. No information about the report will be entered on the Caregiver Misconduct Registry or given to the public.
- If the Department determines that caregiver misconduct **did occur**, you will receive written notice that the Department intends to enter the finding on the Caregiver Misconduct Registry. You are also informed of the steps to file an appeal if you do not agree with the decision.