

PATHWAYS, INC. DD SERVICES	DATE ISSUED	DATE REVISED 12/15	PAGES 1 of 10	TOPIC NO. 2.40
POLICIES AND PROCEDURES MANUAL	<u>FUNCTION:</u> INCIDENT REPORTING			
<u>SOURCE/REFERENCE:</u> NYCRR – 624.4	<u>SUBJECT:</u> Serious Notable Occurrence			
	<u>TOPIC:</u> Processing of a Serious Notable Occurrences			

Section 624.4 Notable occurrences, defined.

- **Notable occurrences:** are events or situations that meet the definitions in subdivision (c) of OPWDD part 624.4 and occur under the auspices of Pathways Inc. Notable occurrences shall not include events and situations which meet the definition of a reportable incident identified in OPWDD section 624.3 even if the event or situation otherwise meet the definitions of one of the categories in subdivision (c) of this section. An exception is that deaths that also meet the definition of a reportable incident shall be reported both as the reportable incident and as a notable occurrence.

Serious Notable Occurrence:

Serious notable occurrences include;

Death: The death of any person receiving services, regardless of the cause of death, is a serious notable occurrence. This includes all deaths of individuals who live in residential facilities operated or certified by OPWDD and other deaths that occur under the auspices of an agency.

Sensitive situations: Those situations involving a person receiving services that do not meet the criteria of the definitions of reportable incidents as defined in section 624.3, which may be of a delicate nature to the agency, and which are reported to ensure awareness of the circumstances. Sensitive situations shall be defined in agency policies and procedures, and shall include, but not be limited to, possible criminal acts committed by an individual receiving services. Sensitive situations are serious notable occurrences.

General Reporting Requirements.

All agency employees, interns, volunteers, consultants, contractors, and family care providers are required to report any event or situation that meets the criteria of a notable occurrence. Custodians of programs and facilities certified or operated by OPWDD are mandated reporters and are also required to report reportable incidents pursuant to section 491 of the Social Services Law. Reports shall be made in accordance with agency policies/procedures.

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Internal Reporting.

All serious notable occurrences, as defined in section 624.4, shall be reported to the agency’s President & CEO (or designee, AOC) immediately upon occurrence or discovery.

The Service Coordinator must be notified within 24 hours of the completion of the written initial incident / occurrence or entry of initial information in to IRMA. The Service Coordinator must be provided with subsequent information that may be needed to update an individual’s plan of service and to monitor protective, corrective and other actions taken following an occurrence which include the investigative conclusion, recommendations, protections and treatment. Staff names involved in the incident must be redacted.

This information must be provided within 10 days after completion of the investigation or within 10 days after receiving notice of an investigation completed by OPWDD or the Justice Center.

All Serious Notable Occurrences will be entered in to the IRMA system within 48 hours of occurrence or discovery or by close of the next working day, whichever is later.

All serious notable occurrences shall be reported immediately to OPWDD by calling the Incident Management Unit Compliance Officer followed by immediate entry of initial information into the OPWDD Incident Report and Management Application (IRMA).

Immediate Protections.

A person's safety must always be the primary concern of the President & CEO (or designee, AOC). He or she shall take necessary and reasonable steps to ensure that a person receiving services who has been harmed receives any necessary treatment or care and, to the extent possible, take reasonable and prudent measures to immediately protect individuals receiving services from harm and abuse.

Qualified Persons Report

Pathways will provide telephone notice to one of the following: a person's guardian, parent, spouse or adult child. (Qualified Person)

Pathways will not provide such notice to a party in the following situations:

- There is written advice from the guardian, parent, spouse or adult child that he or she objects to such notification to himself or herself (notice shall then be provided to another party who is a guardian, parent, spouse or adult child, if one exists); or
- If the person receiving services is a capable adult who objects to such notification being made. If the capable adult objects to notification of all parties who are a guardian, parent, spouse or adult child, the capable adult shall be provided the notice described in this subdivision; or
- If the guardian, parent, spouse or adult child is the alleged abuser.

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The telephone notice shall be provided as soon as reasonably possible, but no later than 24 hours after completion of the written initial incident/occurrence report or entry of initial information in IRMA by the agency.

The telephone notice shall include:

- A description of the event or situation and a description of initial actions taken to address the incident or occurrence, if any;
- An offer to meet with the President & CEO (or designee) to further discuss the incident or occurrence; and
- For reports of abuse and neglect, an offer to provide information on the status and/or finding of the report. Requested information shall be provided verbally or in writing, unless the person is a capable adult and objects to the provision of this information. In providing such information, Pathways will protect the privacy rights of other parties.

Once the phone call has been completed, the caller will document all information noted above on the **qualified persons report** and attach to the original incident documentation.

The complete telephone notice may be comprised of more than one call, so long as the initial call includes a description of the event or situation and is within the required period of time or is attempted within the required period of time. Follow-up calls with the additional required information will be made within a reasonable timeframe after the initial call. Notice may be made in person instead of by telephone.

Notice may be provided by other methods at the request of the party receiving the notice.

Methods of notification.

The complete telephone notice may be comprised of more than one call, so long as the initial call includes a description of the event or situation and is within the required period of time or is attempted within the required period of time. Follow-up calls with the additional required information shall be made within a reasonable timeframe after the initial call.

Notice may be made in person instead of by telephone.

Notice may be provided by other methods at the request of the party receiving the notice.

(6) If the person does not have a guardian, parent, spouse or adult child, or if such parties are not reasonably available, or if there is written advice that such parties do not want to be notified; the agency shall provide notice to the following parties in the manner (and subject to the same limitations) specified in this subdivision:

- the person receiving services, if the person is a capable adult; and
- the person's advocate or correspondent (if one exists).

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Requests for the written initial incident/occurrence report.

Process for requests.

Requests may be made for a copy of the written initial incident/occurrence report by the person receiving services (or who formerly received services), guardian, parent(s), or correspondent/advocate.

Such request shall be in writing. However, at the discretion of the agency, documented verbal requests may be accepted in lieu of a written request.

If the person is a capable adult and objects to the provision of the written initial incident/occurrence report, such report shall not be provided to otherwise eligible requestors.

If an otherwise eligible requestor is the alleged abuser, the written initial incident/occurrence report shall not be provided to that requestor.

Reporting Subsequent Information in IRMA.

Subsequent information is information concerning the incident or occurrence that is not included in the initial information entered in IRMA. This includes, but is not limited to, information about required notifications that was not reported as part of the initial information and any updates to information related to deaths (e.g. autopsy reports).

Subsequent information shall be entered by the close of the fifth working day after the action is taken or the information becomes available, except as follows:

- Subsequent information about immediate protections shall be entered into IRMA within 24 hours after the action is taken or by the close of the next working day, whichever is later.
- Subsequent information about a death shall be entered in IRMA within five working days of the discovery of the death, in the manner and form specified by OPWDD.
- If another provision of this Part identifies a different timeframe for the entry of specific information, agencies must comply with that timeframe requirement instead. Specific timeframes are identified in provisions concerning:
 - ❖ reporting updates
 - ❖ notification of law enforcement officials
 - ❖ minutes of special review committee

General Investigation Requirements.

Any report of a notable occurrence (both serious and minor) shall be thoroughly investigated by an investigator designated by the President & CEO, unless OPWDD or the Justice Center advises the

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President & CEO that the incident or occurrence will be investigated by OPWDD or the Justice Center and specifically relieves the agency of the obligation to investigate.

Investigations of all notable occurrences shall be initiated immediately, with further investigation undertaken commensurate with the seriousness and circumstances of the situation.

Pathways shall commence an investigation immediately even when it anticipates that the Justice Center or Central Office of OPWDD will assume the responsibility for the investigation. However, if Pathways can reasonably anticipate that the Justice Center or the Central Office of OPWDD is likely to investigate the incident, the actions taken by Pathways are restricted to:

- securing and/or documenting (e.g. photographing) the scene as appropriate;
- collecting and securing physical evidence;
- taking preliminary statements from witnesses and involved parties; and performing such other actions as specified by the Justice Center or OPWDD.

In the event that law enforcement directs that Pathways forgo any of the actions the agency shall comply with such direction.

Pathways is responsible for monitoring IRMA to ascertain whether the Justice Center, the Central Office of OPWDD, or Pathways is responsible for the investigation.

If the Justice Center or the Central Office of OPWDD is responsible for the investigation, Pathways shall fully cooperate with the assigned investigator but shall not conduct an independent investigation.

Notwithstanding any other provision in this subdivision, Intermediate Care Facilities shall take steps as needed to comply with federal requirements for the completion of investigations within specified timeframes, including assuming the responsibility for conducting the investigation if necessary.

Investigations conducted by Pathways or the Central Office of OPWDD shall incorporate the following:

1. If a person is physically injured, an appropriate medical examination of the injured person shall be obtained. The name of the examiner shall be recorded and his or her written findings shall be retained.
2. Witnesses to the incident or occurrence shall be identified and shall be interviewed in as private an environment as possible.
3. Interviews should be conducted separately by qualified, objective parties. Interviews of individuals receiving services should be conducted by parties with an understanding of the persons' unique needs

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and/or capabilities.

4. Pertinent information shall be reviewed (e.g., records, photos, observations of incident scene, expert assessments).
5. Physical evidence, if any, shall be identified and appropriate steps shall be taken to safeguard and preserve physical evidence.

For all notable occurrences, investigative reports shall be in the form and format specified by OPWDD.

For serious notable occurrences, the full text of the investigative report shall be entered into IRMA (Note: In the event that the Central Office of OPWDD conducts an investigation of an incident or notable occurrence, the Central Office of OPWDD will make the investigative report available through IRMA.)

The investigation shall continue through completion regardless of whether an employee or other custodian who is directly involved leaves employment (or contact with individuals receiving services) before the investigation is complete.

Pathways shall maintain the confidentiality of information regarding the identities of reporters, witnesses, and subjects of reportable incidents and notable occurrences, and limit access to such information to parties who need to know, including, but not limited to, personnel administrators and assigned investigators.

Restrictions that may compromise the independence of investigators.

Any party who has been assigned to investigate a notable occurrence, in which he or she recognizes a potential conflict of interest in the assignment, shall report this information to their Supervisor or Executive Vice President of Quality Assurance. The assigned investigator shall be relieved of the duty to investigate if it is determined that there is a conflict of interest in the assignment.

No one may conduct an investigation of any serious notable occurrence in which he or she was directly involved, in which his or her testimony is incorporated, or in which a spouse, domestic partner, or immediate family member was directly involved.

No one may conduct an investigation in which his or her spouse, domestic partner, or immediate family member provides supervision to the program where the incident took place or provides supervision to directly involved parties.

Members of a special review committee (SRC) shall not routinely be assigned the responsibility of investigating incidents or occurrences.

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For serious notable occurrences:

The agency shall assign an investigator whose work function is at arm’s length from staff who are directly involved in the serious notable occurrence.

No party in the direct line of supervision of staff who are directly involved in the serious notable occurrence may conduct the investigation of such an incident or occurrence, except for the President & CEO.

Although the President & CEO is in the direct line of supervision of all staff, the President & CEO. (not a designee) may conduct the investigation of a serious notable occurrence unless he or she is the immediate supervisor of any staff who are directly involved in the reportable incident or serious notable occurrence.

When an incident or occurrence is investigated or reviewed by OPWDD and OPWDD makes recommendations to the agency concerning any matter related to the incident or occurrence (except during survey activities), Pathways shall either:

- implement each recommendation in a timely fashion and submit documentation of the implementation to OPWDD; or
- in the event that the agency does not implement a particular recommendation, submit written justification to OPWDD, within a month after the recommendation is made, and identify the alternative means that will be undertaken to address the issue, or explain why no action is needed.

For serious notable occurrences, Pathways will enter reporting updates into IRMA on at least a monthly basis or more frequently as requested by OPWDD, until closure of the incident or occurrence.

Agencies shall complete required fields in IRMA for the reporting update. Among other required information, the reporting update shall include:

- a brief review of additions to the summary of evidence and specific investigatory actions taken since the last update was entered into IRMA, if any; and
- if there have been no additions to the summary of evidence or investigatory actions taken since the last report, an explanation of why no progress has been made.

If the agency is not responsible for conducting the investigation, the agency shall complete the required fields to the extent possible given information provided to the agency.

If the agency is responsible for conducting the investigation and if the investigation has not been completed within the timeframe specified, Pathways shall inform OPWDD of the reason for extending the timeframe of the investigation and shall continue to keep OPWDD informed on at least a monthly basis of the progress of the investigation and other actions taken.

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Timeframe For Completion of the Investigation.

When the agency is responsible for the investigation of an incident or notable occurrence:

(1) The investigation shall be completed no later than 30 days after the incident or notable occurrence is reported to the Justice Center and/or OPWDD, or, in the case of a minor notable occurrence, no later than 30 days after completion of the written initial occurrence report or entry of initial information in IRMA. An investigation shall be considered complete upon completion of the investigative report.

The agency may extend the timeframe for completion of a specific investigation beyond 30 days if there is adequate justification to do so. The agency shall document its justification for the extension.

Circumstances that may justify an extension include (but are not limited to):

- ❖ whether a related investigation is being conducted by an outside entity (e.g. law enforcement) that has requested that the agency delay necessary investigatory actions; and
- ❖ whether there are delays in obtaining necessary evidence that are beyond the control of the agency (e.g. an essential witness is temporarily unavailable to be interviewed and/or provide a written statement).

OPWDD and the Justice Center have the right to review and/or investigate any reportable incident and/or notable occurrence regardless of the source of the information. All relevant records, reports, and/or minutes of meetings at which the incident or occurrence was discussed shall be made available to reviewers or investigators.

For all Serious Notable Occurrences

Immediately look for any signs or symptoms of injury or distress and provide all necessary protective actions. At this time the suspected staff target will be removed from the situation for their protection and the individual’s protection.

In conjunction with the witness to the event, the reporting Supervisor / Manager will conduct a preliminary investigation using the designated preliminary investigation form to determine the circumstances to the event and to identify all witnesses” Once the preliminary investigation is complete, notify the Administrator on Call (AOC) to discuss and make determination.

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Serious Notable Event	Report to OPWDD	Entry in to IRMA	Report to the Justice Center	Report to the AOC
Injury	Yes	Yes	No	Yes
Unauthorized Absence	Yes	Yes	No	Yes
Death	Yes	Yes	YES	Yes
Choking, no known risk	Yes	Yes	No	Yes
Theft or Financial Exploitation	Yes	Yes	No – Unless the amount exceeds \$100.00	Yes
ICF Violation	Yes	Yes	No	Yes
Sensitive Situation	Yes	Yes	No	Yes

- Notify OPWDD by calling the Incident Management Unit Compliance Officer if the incident occurs between the hours of 8:30 am and 4:30 pm M-F at (585) 241-5707. If after hours, notify the Incident Management Unit at 1-888-479-6763.
- Notify parent, guardian, correspondent, etc. within 24 hours unless the involved individual is a capable adult and requests that he/she/they not be notified or unless he/she/they have requested in writing that they not be notified of these occurrences. All notifications will be made by utilizing the Qualified Persons notification report. Notifying staff will complete the report and attach to the incident packet.
- Enter preliminary information in to the Incident Reporting Management Application (IRMA) within 24 hours. For an incident of Death, the Justice Center will initiate the IRMA entry, Pathways then enters all other IRMA information in on the original Justice Center entry.
- No party in the direct line of supervision of staff who are directly involved in the reportable incident or serious notable occurrence may conduct the investigation of such an incident or occurrence, except for the chief executive officer.
- The assigned investigator will complete the Notable Occurrences Investigation form and copy in to the IRMA system. Complete the Notable Occurrences Investigation form electronically and email to the QA department within 5 business days.
- Enter preliminary information in to the Incident Reporting Management Application (IRMA) within 24 hours. Enter final investigative report in to IRMA within 5 business days

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In the case of any reportable incident where a crime may have been committed, it is the responsibility of Pathways Inc. to notify law enforcement officials.

- 1) Pathways Inc. is responsible for notifying law enforcement officials if there is reasonable basis to believe that a person who receives services may be the victim of criminal activity or may have committed a crime, unless a report to law enforcement has already been made.
- 2) It is the responsibility of the agency to make this notification even if the person or the person’s parents or guardian object.
This obligation to report is derived from the Mental Hygiene Law, sections 13.21(b) and 16.13(b) and applies regardless of whether the possible crime was committed by an employee or another person or by the person receiving services.
- 3) Crimes committed by persons receiving services would be reported on the OPWDD 147 in accordance with Part 624. Crimes committed by employees do not get reported on the Form OPWDD 147 as a possible criminal act because, by regulatory definition, “possible criminal acts” are actions that can only be made by persons receiving services. Instead, crimes committed by employees are reported, classified and monitored in accordance with agency policy/procedures.
- 4) Possible crimes must be reported to appropriate law enforcement officials as soon as possible and, in any event, must be reported within 24 hours.
- 5) In addition to notifying law enforcement officials, provider agencies must also report possible crimes which are reportable incidents to OPWDD and the Justice Center.
 - Once the investigation is complete, the investigation packet will include the following
 - ❖ Completed preliminary findings report
 - ❖ Immediate protections provided to the consumer(s)
 - ❖ Completed Qualified Persons Report
 - ❖ Completed Serious Notable Occurrence Notification Log
 - ❖ Completed version of OPWDD form 147
 - ❖ Completed version of OPWDD form 148 (*QA Only*)
 - ❖ Completed version of OPWDD form 150 if applicable
 - ❖ If applicable, copy of completed notification to Law Enforcement
 - ❖ All relevant documents such as clinical history
 - ❖ Written statements by staff / consumer witnesses
 - ❖ All evidence if applicable. Photos, clothing, diagrams etc.
 - ❖ Completed Notable Occurrences Investigation form
 - ❖ **Send completed packet to the Executive Vice President of Quality Assurance**

Record Keeping

All Notable Occurrences will be maintained by the Quality Assurance Department for seven years from the date of the conclusion of the incident.