



WISCONSIN CAREGIVER PROGRAM

State of Wisconsin / Department of Health Services / Division of Quality Assurance
P-63141 (09/2018)

This publication is an overview of the Wisconsin Caregiver Program (WCP). The WCP is a response to the concern in Wisconsin and around the nation about the potential for physical, emotional, and financial abuse 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 of Health Services (DHS), Division of Quality Assurance (DQA). Wisconsin Caregiver Law can be found at Wis. Admin. Code Chapters [DHS 12](#) and [DHS 13](#). General program provisions are provided below.

Caregiver Background Checks

An employer must complete a caregiver background check on all caregivers who have regular, direct contact with clients at the time of hire and every four years thereafter. This requirement 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.

See DQA publication [P-63159, Wisconsin Caregiver Program: Background Checks](#).

Rehabilitation Review

A caregiver who has been convicted of a serious crime or has a finding entered in the Caregiver Misconduct Registry may request a rehabilitation review to give evidence that he/she is not likely to repeat the behavior that led to the convictions or findings. An initial application for a rehabilitation review may be filed with the department at any time.

The Rehabilitation Review Panel reviews the application and other relevant personal and professional information. The caregivers is encouraged to meet with the Rehabilitation Review Panel to answer any questions. The panel will issue a decision based on the evidence of the caregiver's ability to safely work in state-regulated facilities.

See DQA publication [P-63160, Wisconsin Caregiver Program: Rehabilitation Review Process](#).

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 Services, Division of Quality Assurance.

CAREGIVER MISCONDUCT means abuse of a client, neglect of a client, or misappropriation of a client's property. (See DQA publication, [P-63158, Wisconsin Caregiver Program: Misconduct Reporting Requirements](#).)

- **Abuse** is an act which contradicts a health care facility's policies and procedures and which 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, or intentionally causing harm
 - **Sexual abuse:** harassment, inappropriate touching, or assault
 - **Verbal abuse:** threats of harm, saying things to intentionally frighten a client
 - **Mental abuse:** humiliation; harassment; intimidation with threats of punishment, of depriving a client of care, or of the client's 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 intention. In a case of abuse, the caregiver intends to harm the client. In a case of 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 personal property (money, credit cards, jewelry, identity) or misuse of property (e.g., using a client's phone or other personal property without consent).

INJURY OF UNKNOWN SOURCE is an injury that occurs to a client and the source of the injury is not immediately apparent at the time that the injury is discovered.

Responsibilities

Caregiver 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 to 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 Services, Division of Quality Assurance. The health care facility must also report an incident to DQA if, after their internal investigation, they are still not certain that caregiver misconduct did **not** occur.

An employer must inform an employee that they submitted a report to DQA naming the employee as an accused caregiver involved in an allegation of caregiver misconduct.

DQA Responsibility: Once an incident is reported to DQA, the division reviews the report to determine whether or not to complete a follow-up investigation. DQA will send the accused caregiver a letter to inform him/her that DHS will or will not 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 the fact that the employee has the right to be accompanied by a representative during any meeting with the department investigators. No information about the complaint is given to the public during the investigation.

- If the Department determines that caregiver misconduct **did not occur**, the accused caregiver will receive written notice of that decision. No information about the report will be entered in the Caregiver Misconduct Registry or given to the public.
- If the Department determines that caregiver misconduct **did occur**, the accused caregiver will receive written notice that the department intends to enter the finding in the Caregiver Misconduct Registry. The caregiver is also informed of the steps needed to file an appeal if he/she does not agree with the decision.

Right to Appeal Decision

A caregiver may appeal the department’s decision to enter a finding in the Caregiver Misconduct Registry by writing to the Department of Administration (DOA), 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 in the Caregiver Misconduct Registry or given to the public.

The caregiver may have a representative to help with the hearing. Both the caregiver and DHS 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 in the Caregiver Misconduct Registry or given to the public. If the hearing examiner agrees with the DHS finding, the decision is then entered in 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://hdmaster.com/testing/cnatesting/wisconsin/WI_CNA_Home.htm.

- **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 Wis. Stats. §§ 50.065 or 48.685) in any entity regulated by the Wisconsin DHS 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 individuals with intellectual disabilities (ICFs/IID).

State regulations bar all caregivers with a finding of misconduct (including nurse aides) from working in facilities that are regulated by DHS, unless the caregiver is approved under the rehabilitation review process.

CONTACT INFORMATION

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<p>The Caregiver Program:</p> <p>DHS / Div. of Quality Assurance Office of Caregiver Quality P.O. Box 2969 Madison, WI 53701-2969</p> <p>608-261-8319 (phone) 608-264-6340 (fax)</p> <p>dhscaregiverintake@wisconsin.gov</p>	<p>Reporting caregiver misconduct:</p> <p>DHS / Div. of Quality Assurance Office of Caregiver Quality P.O. Box 2969 Madison, WI 53701-2969</p> <p>608-261-8319 (phone) 608-264-6340 (fax)</p> <p>dhscaregiverintake@wisconsin.gov</p>	<p>Rehabilitation review process:</p> <p>DHS / Office of Legal Counsel 1 W Wilson St, Rm 651 PO Box 7850 Madison, WI 53707-7850</p> <p>608-266-8428 (phone)</p> <p>DHSRehabReviewCoordinator@wisconsin.gov</p>	<p>Verification of a caregiver’s employment eligibility:</p> <p>Wisconsin Nurse Aide Registry</p> <p>888-401-0465</p> <p>http://hdmaster.com/testing/cnatesting/wisconsin/WI_CNA_Home.htm</p>
<p><i>For more information, visit us online at http://dhs.wisconsin.gov/caregiver/index.htm and https://www.dhs.wisconsin.gov/.</i></p>			