

Provider Responsibilities and the Stephen Komninos' Law 2018



PROVIDER OVERVIEW

PRESENTED BY

THE NEW JERSEY DEPARTMENT OF HUMAN SERVICES
OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY

MAY, 2018



Learning Objectives

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- ❖ Provide an overview of the Stephen Komninos' Law
- ❖ To help you understand your responsibilities within this law
- ❖ Provide you with information for ensuring compliance

The Stephen Komninos' Law

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- This law, P.L.2017, c.238, strengthens protections for individuals with developmental disabilities
- **Effective May 1, 2018**, every person who is employed by any DHS-funded, licensed or regulated program serving adults with developmental disabilities is subject to the requirements of this law



The Stephen Komninos' Law

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- The law establishes requirements for:
 - State-operated developmental centers
 - Agencies serving individuals in community based, residential settings, including group homes, supervised apartments and community care residences
 - And other types of service providers, including day programs and programs serving individuals with a traumatic brain injury



The Stephen Komninos' Law

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- Significant changes to key practice areas:
 - ✓ Two unannounced site visits every year by a DHS representative to community residential settings
 - ✓ Two-hour timeframe for reporting injury to guardians/family
 - ✓ Injury verification within 48 hours by a DHS representative
 - ✓ Strengthened requirements for reporting abuse, neglect and exploitation
 - ✓ Additional penalties for failing to report
 - ✓ Drug testing of direct care staff

The Stephen Komninos' Law

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Changes to key practice areas:

- ✓ Expanded inclusion of guardians/family members in multiple practice areas, including:
 - Exchange of guardian/parent contact information
 - Guardian observation of a DHS investigative interview of the individual the guardian represents
 - Provision of reports and records of an investigation if the information is needed to provide care, treatment, an assessment of, or supervision to an individual and as determined by the Division of Developmental Disabilities to be in the individual's best interest

Department of Human Services – Information for Providers

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DHS is working to implement the provisions of the Stephen Komninos' Law

- Met with leaders and members of provider trade organizations and presenting information on the law
- Created various informational documents and posting this material on the Department's website and social media
- Worked with the College of Direct Supports to create a mandatory training module and post-test for all direct care staff

You Have a Critically Important Role

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- You have an important role in providing services and care to individuals with developmental disabilities
- Regardless of where you work, you have a responsibility to keep the individuals in your care healthy, protected and safe from harm



What are the Requirements of the Law

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Two (2) unannounced site visits annually



Your Role – Unannounced Visits

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Your role is to cooperate with the Department of Human Services, Office of Program Integrity and Accountability, Field Safety and Services Unit staff conducting the visit



Your Role – Unannounced Visits

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These visits are an opportunity for DHS and providers to identify potential issues and address them *before* they develop into incidents that impact on the health, safety or well being of individuals



What are the Requirements of the Law

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Effective May 1st, 2018, the Stephen Komninos' Law requires that guardians of individuals be notified in-person or by telephone - **within two hours** – of all minor, moderate or major injuries that are required to be reported to the Department



Your Role – Guardian Notification

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For staff working in developmental centers, this means that **all reportable** minor, moderate and major incidents involving injuries to the individual are also required to be reported to the individual's guardian or family member

Your Role – Guardian Notification

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This element of the law applies to
State-operated, developmental centers;
providers of community-based,
residential programs;
and providers of day programs

Notify the guardian or family member within two hours

Any delay beyond two hours requires a written
explanation to the guardian/family member and DHS

Your Role – Guardian Notification

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- It is important that providers:
 - Report injuries to the individual's guardian/family member as soon as possible, but no later than within two hours
 - Follow the Department's policies for reporting all incidents, including reporting incidents timely, and **immediately** reporting all incidents and/or suspicions of abuse, neglect or exploitation
 - Train staff on all notification and incident reporting policies
 - DHS facilities should follow their internal policies regarding the staff responsible to notify guardians/families

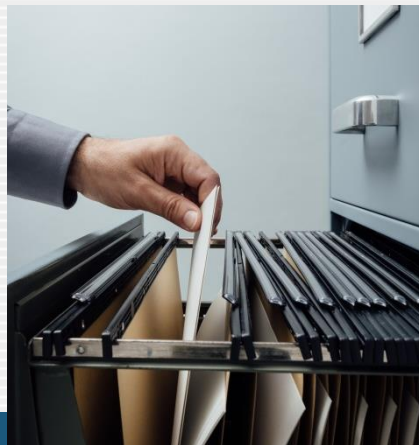
Your Role – Guardian Notification

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A guardian or family member may express in writing that he or she does not wish to be notified

Obtain notification preference information from all guardians or a family member

Keep that information on file;
keep it updated and accessible



Your Role – Guardian Notification

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DHS requires documentation that the injury was reported to the guardian/family member on its incident reporting form

It is also important to maintain internal documentation that the injury was reported

Make at least three, documented attempts within two hours



Your Role – Guardian Notification

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Voice mail messages are permitted –
but **SHOULD NOT** include
specific, health-related information
(HIPAA protected)
or that is otherwise protected
by other confidentiality laws



Your Role – Guardian Notification

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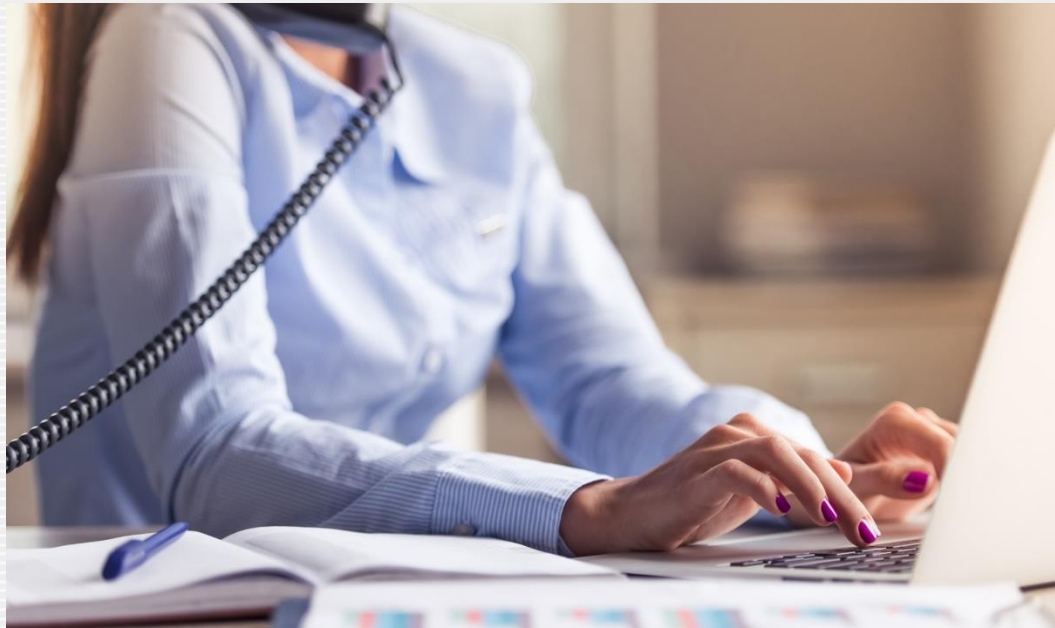
When leaving a voice mail message, remember to:

- Provide the name of the person calling, the agency name, the date and time of the call and a number for the guardian or family member to call back.
- It is important to ask that the guardian or family member call back so that the nature of the incident and injury can be explained and the guardian or family member can ask questions

What are the Requirements of the Law

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Injury verification within 48 hours



Your Role – Injury Verification

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The Department established an Incident Verification Unit within the Office of Program Integrity and Accountability, Critical Incident Management Unit to perform this function

The verification must be completed within 48-hours

The individual must be seen

Your Role – Injury Verification

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The OPIA representative will contact the agency to establish the current location of the individual and will provide an approximate time the OPIA representative will arrive to verify the incident



Your Role – Injury Verification

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- It is important that providers and staff:
 - Identify a liaison(s) to work with the Department of Human Services, OPIA, Incident Verification Unit representative
 - Cooperate with the OPIA representative
 - Allow the representative access to the individual(s)
 - Answer any questions the representative may have
 - Provide any documents or photographs as requested



Your Role – Injury Verification

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Reporting incidents
timely, accurately and according to
DHS and DDD policies
is critical



What are the Requirements of the Law

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Opportunities for
guardians and parents to exchange
contact information



Your Role – Information Exchange

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Consider any special requests or preferences a guardian or parent may have regarding the contact information provided

Important to develop a policy for information sharing which includes a document for guardians and parents to sign indicating their permission and preference

Keep the document on file

What are the Requirements of the Law

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Reporting abuse, neglect and exploitation

- Anyone working with individuals with developmental disabilities in a licensed, funded or regulated program **MUST** immediately report any incident or allegation of abuse, neglect and exploitation
- Failing to report is a criminal offense
- If convicted of failing to report, there is a fine of \$350 for each day the abuse, neglect or exploitation was not reported

Your Role – Reporting Abuse, Neglect and Exploitation

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All incidents or suspicions involving abuse, neglect or exploitation **MUST** be reported to the Division of Developmental Disabilities as soon as possible

The Department maintains an allegation-based system

Providers do not need to confirm abuse, neglect or exploitation **BEFORE** it is reported

Your Role – Reporting Abuse, Neglect and Exploitation

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Incidents should be reported immediately or
as soon as possible
per DHS and DDD policies

More information can be found at:

www.state.nj.us/humanservices/ddd/news/publications/dc14.html

Your Role – Reporting Abuse, Neglect and Exploitation

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DDD Unusual Incident Coordinators

Flanders UIR UNIT

(Bergen, Hudson, Morris, Passaic, Sussex, Warren)

973-927-2111

DDD-NRO.UIRS@dhs.state.nj.us

Mays Landing UIR UNIT

(Atlantic, Camden, Burlington, Cape May, Cumberland, Salem, Gloucester)

609-476-5080

DDD-SRO.UIRS@dhs.state.nj.us

Trenton UIR UNIT

(Hunterdon, Mercer, Middlesex, Monmouth, Ocean)

609-292-1903

DDD-CRL.UIRS@dhs.state.nj.us

Plainfield UIR UNIT

(Essex, Somerset, Union)

908-561-4587

DDD-CRU.UIRS@dhs.state.nj.us

Your Role – Reporting Abuse, Neglect and Exploitation

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Direct care staff must complete all required College of Direct Support trainings and agency-specific trainings

This includes the new training module related to the Stephen Komninos' Law



Your Role – Reporting Abuse, Neglect and Exploitation

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If known, information about whether staff failed to report or delayed reporting should be included on the updated unusual incident reporting form

This information will be tracked by the Department

Providers should also track incidents involving staff failure to report



Your Role – Reporting Abuse, Neglect and Exploitation

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- When an incident or allegation is reported, follow the Division's incident reporting policies and include the following information:
 - The name and address of the individual
 - The name of the guardian or any other person involved with the individual
 - The name of the person who is or may be responsible for the abuse, neglect or exploitation
 - If known, describe the individual
 - If known, say if the individual has any injuries, where those injuries are on the individual and how severe the injuries are
 - If known, say if there are previous injuries
 - And report any other information you believe might help

Your Role – Reporting Abuse, Neglect and Exploitation

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The **Division of Developmental Disabilities** also maintains a toll-free number for other entities to call to report allegations, suspicions or incidents of abuse, neglect or exploitation

1-800-832-9173

When in doubt, REPORT!

What are the Requirements of the Law

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A guardian may participate in a DHS Office of Investigations (OI) interview of the individual the guardian represents

The guardian has the right to terminate the interview; unless termination would impede the investigation

A guardian or family member may provide information to facilitate an investigation

Your Role – Guardian Participation in Interview

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- The Department's Office of Investigations routinely contacts guardians, advises that an investigation is underway and seeks input
- The Office of Investigations will routinely invite a guardian to participate in the interview of the individual the guardian represents
- Providers will be advised and may also be asked to assist, particularly in situations where supervision of the individual must be maintained

What are the Requirements of the Law

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The guardian of an individual will be provided with a written summary of the findings of a DHS investigation involving an alleged incident of abuse, neglect or exploitation of the individual

If the individual does not have a guardian, a family member may receive the summary, unless the individual prohibits the family member from receiving information

What are the Requirements of the Law

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Findings Letters for a DHS Investigation

The DHS Office of Investigations
routinely provides
detailed findings letters
to guardians

Providers also receive a findings letter



What are the Requirements of the Law

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Drug Testing for Direct Care Staff Applicants and Employees

- Prior to employment
- Randomly – at least once per year
- Anytime drug use is suspected
- Staff in State-operated developmental centers are already subject to drug testing policies



Your Role – Drug Testing

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Tests for controlled, dangerous substances

Anyone refusing testing **WILL NOT** be considered for employment

All current employees are subject to random testing

DHS will cover the cost

Your Role – Drug Testing

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- Begin to develop policies and procedures related to drug testing
- Work within your Human Resources or Personnel Office for unique and special circumstances
- Remember you have a responsibility to help keep the individuals you work with healthy, protected and safe from harm



Additional Information

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DHS is working to update regulations affected by the enactment of the Stephen Komninos' Law

- N.J.A.C. 10:44A - Standards for Community Residences For Individuals With Developmental Disabilities
- N.J.A.C. 10:44B - Manual of Standards For Community Care Residences
- N.J.A.C. 10:44C - Standards For Community Residences For Persons with Head Injuries
- N.J.A.C. 10:44D - Central Registry of Offenders Against Individuals With Developmental Disabilities
- Amendments to Department Administrative Orders, Division Circulars and other internal policies

Additional Information

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For licensed agencies or programs, the Office of Licensing will check for compliance during routine and unannounced site visits


For non-licensed, community programs, DDD's Provider Performance and Monitoring Unit will check for compliance




Summary

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- You have a critically important job and the work you do every day matters
- You have a responsibility to ensure staff keep individuals safe from harm, healthy and protected from abuse, neglect and exploitation
- DHS and facilities, agencies and programs, have a shared responsibility to abide by all laws, regulations and policies


IT'S THE LAW 


Professionals and volunteers who abuse, neglect or exploit individuals with developmental disabilities may be added to The Department of Human Services, Central Registry of Offenders.



Caregivers serving individuals with a developmental disability could lose their jobs and be banned from future employment.

REPORT ABUSE
by following your agency or program protocols,
or by calling **1-800-832-9173**

 State of New Jersey
Phil Murphy, Governor
Shirley O'Hair, Lt. Governor

 Department of Human Services
Carole Johnson, Acting Commissioner

Thank you for the work you do every day to provide care to individuals with intellectual and/or developmental disabilities

- Questions -

DHS-SKLAW.OPIA@dhs.state.nj.us

The New Jersey Department of Human Services

