



## Policy 4-4: Right to Request Incident Records

Changes from Previous Version: This policy was adapted from elements of previous Advance Care Alliance of New York (ACA/NY) Policies, as follows: Policy 400 Part 624 Incidents and Notable Occurrences, Policy 401 Part 625 Events and Situations and Policy 402 Internal Incidents. It is now a standalone policy. The timelines for when incident records will be provided to eligible requestors were updated to reflect regulation.

ACA/NY is committed to ensuring the health and wellbeing of members. We take incidents very seriously and want to ensure that members, their families, and advocates, understand what an incident is, how to report an incident, what the regulations are for incidents and how to request records on any incident involving them.

Members have the right to request copies of ACA/NY's Incident Management policies, a copy of the Part 624/625 OPWDD regulations, the OPWDD brochure titled, "Learning about Incidents" and any other guidance/regulations provided by OPWDD. This information can be accessed on our website. If a member would prefer a paper copy, they should request this from the ACA/NY Customer Service Center by emailing [questions@myacany.org](mailto:questions@myacany.org) or calling (833) 692-2269.

The organization will ensure:

- Members and their family/advocate are provided with information about how to access ACA/NY Incident Management Policies, Part 624/625 regulations, and OPWDD Learning about Incidents brochure electronically and/or offered a paper copy upon intake and annually thereafter.

Any member who is the subject of a reportable 624 incident is entitled to request records and documents related to the incident. The only people who can request the records (Eligible Requestors) are :

- A member who is the subject of the reportable incident and/or:
- Any guardian, parent, spouse, adult child, or adult sibling of a member who is the subject of the reportable incident, so long as they meet the definition of a "qualified person" according to paragraph 33.16(a)(6) of Mental Hygiene Law.
- If the member is an adult, 18 or older and is a capable adult, as defined in part 624 regulations, they can object to the records release to an otherwise eligible requestor. All objections and denial of records release will be documented in writing.
- If an otherwise eligible requestor is the alleged abuser, they are not entitled to the records.



Eligible requestors may request a copy of the OPWDD form 147, and/or a copy of the full investigative report.

If a request is made for the OPWDD form 147, ACA/NY will provide a redacted copy as soon as reasonable, but no later than 10 days after the request is made.

If a request is made for the full investigative report, ACA/NY will provide a redacted copy no later than 21 days after receipt of the request, in cases where the incident has already been closed. In cases where the incident remains open, ACA/NY will provide the redacted investigative report within 21 days after incident closure.

Records must have a cover letter, stating "pursuant to section 33.25 of the Mental Hygiene Law, the enclosed records and reports shall not be further disseminated, except that you may share the report with:

- A health care provider
- A behavioral health care provider
- Law enforcement if you believe a crime was committed or
- Your attorney

To request a copy of the records for the incident, the eligible requestor should make the request in writing via email at [ACAIncidents@myacany.org](mailto:ACAIncidents@myacany.org) or via mail at Advance Care Alliance, 1410 Broadway, 2<sup>nd</sup> Floor New York, New York 10018 Attn: Incident Management department.

Upon receipt of the request, ACA/NY will:

- Review the request to ensure the person is an eligible requestor.
- If eligible, ACA/NY will ensure that all reports are redacted to remove the names and other identifying information of employees and other person's receiving services.
- Release all records related to the incident. This will not include personnel files or disciplinary records.
- All records requests will be documented, including the date and time of receipt of the request. Additionally, the released records and the date and time of the release of records will also be documented.

Related Standard Operating Procedures: N/A

Approval:

Approved by:	<p>DocuSigned by: <i>Lauren Albaroni</i> F47F5CFB5F47484...</p> <p>3/29/2023</p> <p>Lauren Albaroni, Senior Vice President of Quality Assurance, Corporate Compliance and Risk Management</p>
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