



The Compliance Store

Because Getting It **Right** Matters



Resident Abuse Prevention and Reporting

Protecting a Vulnerable Population

Knowledge Objectives

Participants will be able to:

- ❖ Define abuse, neglect, exploitation, and misappropriation of resident property.
- ❖ Verbalize procedures for reporting incidents, including time frames.
- ❖ Identify activities that constitute abuse, neglect, exploitation, and misappropriation of resident property.

Overview and Introduction

- ❖ **Resident Rights**
- ❖ **Who Are the Abusers?**
- ❖ **Definitions**

Resident Rights - Abuse

All residents have the same rights and it is every staff member's responsibility to ensure those rights are protected. Each resident has the right to a dignified existence which encompasses the following :

- ❖ The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation.

Who are the Abusers?

Who may be capable of abusing a resident? It can be anyone! This includes, but is not limited to:

- ❖ Staff members
- ❖ Volunteers
- ❖ Other residents
- ❖ Spouses/partners/significant others
- ❖ Family members
- ❖ Visitors

Definitions

Abuse - The willful (the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm) infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. This includes:

- ❖ Deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being.
- ❖ Verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology.

Definitions

Neglect - The failure of the facility, its employees or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.

Exploitation - Taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion.

Misappropriation of Resident Property - The deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident's belongings or money without the resident's consent.

Understanding Abuse

- ❖ **Examples of Abuse**
- ❖ **Actual Situations Resulting in Citations**
- ❖ **Signs of Abuse**
- ❖ **Resident to Resident Abuse**

Examples of Abuse

Physical Abuse:

- ❖ Hitting, slapping, pinching and kicking.
- ❖ Controlling behavior through corporal punishment (using physical force as a means of discipline).
- ❖ May be staff to resident, resident to resident, or family/visitor to resident.

Verbal Abuse:

- ❖ The use of oral, written or gestured language that willfully includes disparaging and derogatory terms to residents or their families, or within their hearing distance, regardless of their age, ability to comprehend, or disability.
- ❖ Threats of harm; saying things to frighten a resident, such as telling a resident that he/she will never be able to see his/her family again.
- ❖ Yelling mean things at the resident.

Examples of Abuse

Sexual Abuse:

- ❖ Non-consensual sexual contact of any type with a resident “Non-consensual” and “unwelcome” are the critical words. They do not mean “involuntary”. A victim may participate, even though it is offensive and objectionable. He/she may be afraid to resist or may be cognitively unable to consent.
- ❖ Sexual harassment which is unwelcome behavior of a sexual nature including but not limited to:
 - ❖ Pressure for sexual favors
 - ❖ Sexual gestures
 - ❖ Letters, telephone calls, or materials of a sexual nature
- ❖ Sexual coercion which is the use of intimidation to trick or force someone into having sex without physical force: use of drugs, threats, manipulation.
- ❖ Sexual assault which is the use of physical force to get someone to engage in sex against their will: rape (vaginal, anal, or oral), groping.

Psychological/Mental Abuse:

- ❖ Humiliation, harassment, threats of punishment or deprivation.
- ❖ Taking or using photographs or recordings in any manner that would demean or humiliate a resident.

Actual Situations Resulting in Citations

Citation	Situation
<p>F-600 Freedom from Abuse, Neglect, and Exploitation</p> <p>§483.12(a)(1) Free from Abuse and Neglect</p>	<p>Resident A had been repeatedly wandering into resident B's room at night, cursing, yelling, and hitting resident B. As a result, resident B is fearful, upset and anxious. She states, "I can't take it anymore. I feel terrible, it upsets me. Sometimes I feel like pulling my hair out by it's roots". The facility knew this was occurring, and failed to protect the resident from verbal and physical abuse.</p>
<p>F-603 Freedom from Abuse, Neglect, and Exploitation</p> <p>§483.12(a)(1) Free from Involuntary Seclusion</p>	<p>A resident without cognitive deficits, that the facility's DON confirmed is able to make decisions about her care and her future, was found to have a wanderguard attached to her ankle. Resident was tearful and stated "I am a prisoner". Staff reported that the wanderguard was placed because they were worried she would not return if allowed out for the day, being that she wants to be discharged home.</p>
<p>F-607 Freedom from Abuse, Neglect, and Exploitation</p> <p>§483.12(b)(1)-(4) Develop/Implement Abuse/Neglect, etc. Policies</p>	<p>Resident had \$200 in a purse hanging on her wheelchair, was transferred to the hospital, and when she returned the money was gone. The resident reported it to staff, but nothing was done about it. The facility did not have policies in place to address regulatory requirements for reporting misappropriation of resident property and reporting suspicion of a crime.</p>

Actual Situations Resulting in Citations

Citation	Situation
<p>F-607 Freedom from Abuse, Neglect, and Exploitation</p> <p>§483.12(b)(5) Reporting of Reasonable Suspicion of a Crime</p>	<p>CNA witnessed a nurse at a resident's bedside with his hand under the blanket, moving quickly. Although the facility began an internal investigation for an allegation of sexual abuse, they failed to report suspicion of a crime within specified timeframe and did not transfer the resident to the hospital for a forensic exam until 2 days after the incident occurred.</p>
<p>F-609 Freedom from Abuse, Neglect, and Exploitation</p> <p>§483.12(c)(1)(4) Reporting of Alleged Violations</p>	<p>Resident reported to a surveyor that she had been "cursed out" by a CNA earlier that week. Resident was without cognitive deficits, and had specific details of what was said to her. The resident had reported it to the unit manager, who reported it to the DON. The DON acknowledged that this was verbal abuse, but had not initiated an investigation or reported it to the State survey agency/ Department of Health per law in that State.</p>
<p>F-610 Freedom from Abuse, Neglect, and Exploitation</p> <p>§483.12(c)(2)-(4) Investigate/Prevent/Correct Alleged Violation</p>	<p>Resident had noticeable bruising around her eye and staff did not know how it occurred. Charge nurse reported that she noticed it but "did not document anything on it because there was no incident, but I guess I should have documented it". RN Supervisor said she noticed it as well but did not initiate an investigation.</p>

Signs of Abuse

The following are indicators of abuse. When you notice a resident displaying any of these indicators, some type of abuse may have occurred.

The resident:

- ❖ Has unexplained bruises, scratches, pain
- ❖ Presents as fearful, jittery, nervous, and/or acts submissive
- ❖ Hesitates to talk or is talking less
- ❖ Won't make eye contact, has vacant stares
- ❖ Withdraws from activities of interest, self-isolates
- ❖ Show signs and symptoms of depression, episodes of crying, etc.
- ❖ Begins acting suspicious of others
- ❖ Becomes uncharacteristically aggressive and hostile

Resident to Resident Abuse

- ❖ Resident to resident altercations should be reviewed as a potential situation of abuse.
- ❖ Every resident to resident altercation is not necessarily abuse. For example, infrequent arguments or disagreements that occur during the course of normal social interactions (e.g., dinner table discussions) would not constitute abuse.
- ❖ In cases where either or both residents have a cognitive impairment or mental disorder, abuse can still occur. Having a mental disorder or cognitive impairment does not automatically preclude a resident from engaging in deliberate or non-accidental actions.
- ❖ It is important to remember that abuse includes the term “willful”. The word “willful” means that the individual’s action was deliberate (not inadvertent or accidental), regardless of whether the individual intended to inflict injury or harm.
 - ❖ An example of a deliberate (“willful”) action would be a cognitively impaired resident who strikes out at a resident within his/her reach, as opposed to a resident with a neurological disease who has involuntary movements (e.g., muscle spasms, twitching, jerking, writhing movements) and his/her body movements impact a resident who is nearby.

Resident to Resident Abuse

Staff should monitor for any behaviors that may provoke a reaction by residents or others, which include, but are not limited to:

- ❖ Verbally aggressive behavior, such as screaming, cursing, bossing around/demanding, insulting to race or ethnic group, intimidating.
- ❖ Physically aggressive behavior, such as hitting, kicking, grabbing, scratching, pushing/shoving, biting, spitting, threatening gestures, throwing objects.
- ❖ Sexually aggressive behavior such as saying sexual things, inappropriate touching/grabbing.
- ❖ Taking, touching, or rummaging through other's property; and Wandering into other's rooms/space.

Regulations on Reporting Abuse

❖ **Reporting Requirements**

❖ **Elder Justice Act**

Reporting Requirements

What should be reported?

- ❖ **All allegations** of abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property (referred to collectively as “abuse” for the purpose of this training).

Reporting Requirements

Time frames for reporting:

- ❖ All alleged violations involving abuse must be reported immediately, but no later than 2 hours after the allegation is made, if the events that cause the allegation involve abuse result in serious bodily injury.

Or

- ❖ No later than 24 hours if the events that cause the allegation do not involve abuse and do not result in serious bodily injury.

Serious bodily injury is considered:

- ❖ An injury involving extreme physical pain.
- ❖ An injury involving substantial risk of death.
- ❖ An injury involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- ❖ An injury requiring medical intervention such as surgery, hospitalization, or physical rehabilitation.

Reporting Requirements

Who should receive a report of an abuse allegation?

- ❖ Facility Administrator
- ❖ The resident's physician (if there is bodily injury)
- ❖ The resident's representative
- ❖ Law Enforcement (if there is suspicion of a crime)
- ❖ State Survey Agency
- ❖ Nurse Aide Registry or professional licensing authorities
- ❖ Adult Protective Services
- ❖ Any other agencies in accordance with State law

Elder Justice Act - Background

- ❖ **Section 1150B of the Social Security Act was established by the Elder Justice Act (Section 6703 of the Affordable Care Act) which states:**
 - ❖ A facility must develop and implement written policies and procedures that ensure reporting of crimes occurring in federally-funded long-term care facilities in accordance with section 1150B of the Social Security Act.
 - ❖ A federally-funded facility is any facility that accepts Medicare and/or Medicare payments.
 - ❖ A crime is defined by the law of the applicable political subdivision where the facility is located.
- ❖ **Every covered individual who is aware of a crime, or activities that are suspicious of a crime, are required to report under the Elder Justice Act.**
 - ❖ Covered individual: an owner, operator, employee, manager, agent, or contractor of a long-term care facility that receives at least \$10,000 in federal funds during the preceding year.

Elder Justice Act – Employee Rights

- ❖ You have the right to know your obligations to report.
- ❖ You have the right to know the penalties for not reporting:
 - ❖ In general: subject to a civil money penalty of not more than \$200,000.
 - ❖ Increased harm: (if the violation exacerbates the harm to the victim of the crime or results in harm to another individual) subject to a civil money penalty of not more than \$300,000.
 - ❖ In either case, failure to report, may exclude you from participation in any Federal health care program.
- ❖ You have the right to lawfully report without fear of retaliation.
 - ❖ Lawful reporting protections include making a report, causing a report to be made, or taking steps in furtherance of making a report as required by law.

Elder Justice Act – Facility Responsibilities

The Facility Must:

- ❖ Establish policies and procedures for the prevention and reporting of abuse.
- ❖ Post a sign specifying the rights of employees under this section. Such sign shall include a statement that an employee may file a complaint with the Secretary against a long-term care facility that violates the provisions of this subsection and information with respect to the manner of filing such a complaint.
- ❖ The facility will not discharge, demote, suspend, threaten, harass, or deny promotion or other employment-related benefit to an employee, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful reporting.
- ❖ The facility will not file a complaint or a report against a nurse or other employee with the State professional disciplinary agency because of lawful reporting.

Facility Specific Procedures

- ❖ **Staff Responsibilities**
- ❖ **What is Reportable?**
- ❖ **Who Do You Report to?**
- ❖ **Protect and Comply**

Staff Responsibilities

- ❖ Each and every staff member, regardless of position or department, is responsible for reporting abuse!
- ❖ Our facility Abuse Prevention Coordinators are:
 - ❖ Assisted Living: Pamela Boone, Administrator
 - ❖ Health Center: Ryan Alsup, Administrator

What is Reportable?

You **must** report all allegations and observations of the following:

- ❖ Abuse
- ❖ Neglect
- ❖ Exploitation
- ❖ Mistreatment
- ❖ Injuries of unknown source
- ❖ Misappropriation of resident property
- ❖ Any suspicion of a crime

(Examples of situations that would likely be considered crimes in all subdivisions: murder, manslaughter, rape, assault and battery, sexual abuse, theft/robbery, drug diversion, identity theft, and fraud/forgery).

Who Do You Report to? – Abuse, Neglect, Exploitation

You will:

- ❖ Take immediate action to protect the resident from further potential abuse.
- ❖ Report to your immediate supervisor, who will then report to the administrator. You may report to the administrator, too.
- ❖ Provide a verbal and written statement of what you witnessed.
- ❖ Comply with any facility specific requests.

The Administrator, Facility Abuse Prevention Coordinator, or designee will then:

- ❖ Gather verbal and written reports from all witnesses and begin the investigation procedure.
- ❖ Provide those verbal and written reports to the State Survey Agency, law enforcement, and any other agencies in accordance with State law.
- ❖ Revise the resident's care plan if the resident's medical, nursing, physical, mental, or psychosocial needs or preferences change as a result of an incident of abuse.
- ❖ *Add additional facility specific information here.*

Who Do You Report to? – Suspicion of a Crime

You will:

- ❖ Take immediate action to protect the resident.
- ❖ Report directly to law enforcement and the State Survey Agency.
- ❖ It is the policy of this facility that employees also report suspicions to the Administrator, or designee. *(insert facility specific policy if different)*.

The Administrator / Facility Abuse Prevention Coordinator, or designee will then:

- ❖ Assist the staff member with reporting requirements and ensure compliance with specified timelines*.
- ❖ Gather verbal and written reports from all witnesses and begin the investigation procedure.
- ❖ Provide those verbal and written reports to the State Survey Agency, law enforcement, and any other agencies in accordance with State law.
- ❖ Revise the resident's care plan if the resident's medical, nursing, physical, mental, or psychosocial needs or preferences change as a result of the abuse/crime.
- ❖ *Add additional facility specific information here.*

****It remains the responsibility of each staff member to ensure that his/her individual reporting responsibility is fulfilled.***

Protect and Comply

- ❖ You must do your part to protect the resident(s) involved from any additional abuse.
- ❖ All allegations will result in an investigation and all employees are expected to comply with the investigation.
- ❖ You will not be discriminated against, nor will the facility retaliate against you, for reporting abuse or for your participation in an abuse investigation.

Reporting Findings

- ❖ The results of all investigations must be reported to the State Survey Agency, and any other agencies in accordance with State law within 5 working days of the incident.
- ❖ If the alleged violation is substantiated, appropriate corrective action must be taken.
- ❖ Investigation results will be reported to the nurse aide registry or professional licensing board, and any other officials in accordance with State law.

Abuse Prevention

- ❖ **Vulnerable Populations**
- ❖ **Communication Strategies**
- ❖ **Understanding Behaviors**
- ❖ **Brainstorming**
- ❖ **Responding to Abuse**

Vulnerable Populations

- ❖ **Residents with cognitive impairment are at greater risk for abuse and neglect. This can include:**
 - ❖ Alzheimer's Disease
 - ❖ Vascular Dementia
 - ❖ Lewy Body Demetria
 - ❖ Parkinson's Disease
 - ❖ Huntington's Disease
 - ❖ Any other disease that results in loss of memory and other mental abilities severe enough to interfere with daily life.

- ❖ **Remember, residents with cognitive impairment can't help their behaviors. They're having a hard time, they're not giving you a hard time!**

When working with residents suffering from cognitive impairments, it's important to remember:

- ❖ Changes in the resident's brain have caused them to lose the ability to communicate effectively.
- ❖ Listening is about understanding the message the resident is sending through both words and actions.
- ❖ Speaking is about the message you send others with your words, tone of voice, and body language.
- ❖ Try and see things from the resident's point of view. Meet the resident where they are.
- ❖ Residents with cognitive impairments can't change the way they communicate, so we must be the ones who change.

Communication Strategies

- ❖ Identify yourself and call the resident by the name he or she prefers.
- ❖ Be at the resident's eye level and make eye contact.
- ❖ Pay attention to your body language.
- ❖ Pay attention to the resident's body language to see what they're trying to communicate.
- ❖ Use visual and verbal cues to get your message across.
- ❖ Speak slowly, simply, and in short sentences.
- ❖ Give the resident enough time to respond.
- ❖ Avoid using negative words, saying "no", and arguing with the resident.

Understanding Behaviors

Our negative responses to a resident's behavior may result in abuse!

- ❖ An action is something you do. A reaction is how you respond to your environment, the actions of others, or to a situation.
- ❖ Consider the behaviors of a person with cognitive impairment as a series of actions and reactions. They are trying to communicate with you.
- ❖ Evaluate possible reasons behind the actions and reactions. When we understand what the person is communicating, then we can determine how to respond. This is the root of person-centered care.
- ❖ Remember what works for one resident, may not work for another.

When working with cognitively impaired residents, begin by thinking:

- ❖ What are some ways to prevent behaviors before they occur?
- ❖ What are some appropriate ways to respond to behaviors if they do occur?
- ❖ What are some possible reasons behind the resident's actions?
- ❖ What can I do to make the resident's quality of life better?
- ❖ Is the resident responding to something I did or said?
- ❖ Who can I go to if I need help or a break?

Responding to Abuse - SAFE

Stop – Can you interrupt the chain of events before the situation escalates to abuse? Can you safely stop the abuse from happening or intervene between the abuser and the person being abused?

Alert – Be alert and do not get hurt trying to intervene; alert others with a call button or yell for help if you can't stop the abuse.

Friend – Stop or defuse the situation by being calm; try to calm those involved; reassure those involved.

Emergency – If you see the situation becoming an emergency or if there is serious bodily injury, call 911.

Questions?

Bibliography

Centers for Medicare & Medicaid Services, Department of Health and Human Services. *State Operations Manual (SOM): Appendix PP Guidance to Surveyors for Long Term Care Facilities*. (October 2022 Revision).

Section 1150B of the Social Security Act: *Reporting to Law Enforcement of Crimes Occurring in Federally Funded Long-Term Care Facilities*.

https://www.ssa.gov/OP_Home/ssact/title11/1150B.htm