

# Abuse, Neglect, and Exploitation



*Division of Nursing  
Homes*

# Overview of 42 CFR 483.12

- F600 – Abuse and Neglect
- F602 -Misappropriation of Resident Property and Exploitation
- F603 –Involuntary Seclusion
- F604 – Physical Restraints
- F605 – Chemical Restraints

# Overview of 42 CFR 483.12

- F606 – Prohibit Employment for Individuals with Adverse Actions
- F607 – Policies and Procedures
- F608 – Reporting of Suspected Crimes
- F609 – Reporting of Alleged Violations
- F610 – Response to Alleged Violations

# Areas with Critical Element Pathways

- Abuse and Neglect (F600)
- Physical Restraints (F604)

# Areas with Investigative Protocols

- Misappropriation of Resident Property and Exploitation (F602)
- Involuntary Seclusion (F603)
- Chemical Restraints (F605)
- Reporting of Suspected Crimes (F608)

# F600-Abuse and Neglect

The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart. This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms.

(a) The facility must—

Not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion;

# F600-Definition of Abuse

Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology.

# F600-Definition of Abuse

The willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish.

“Willful” means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.



# Definition of Sexual Abuse

- **“Sexual abuse,”** is defined at §483.5 as “non-consensual sexual contact of any type with a resident.”

# Some Examples of Sexual Abuse:

- Unwanted intimate touching of any kind especially of breasts or perineal area; all types of sexual assault or battery, such as rape, sodomy, and coerced nudity;
- Forced observation of masturbation and/or pornography; and
- Taking sexually explicit photographs and/or audio/video recordings of a resident(s) and maintaining and/or distributing them (e.g. posting on social media). This would include, but is not limited to, nudity, fondling, and/or intercourse involving a resident.

# Resident to Resident Sexual Abuse: Prevalence Of The Problem

- Dementia-driven resident-to-resident sexual abuse is the most common form of sexual abuse in nursing homes.
- As the nursing home population grows older, more feeble, and with more cognitive impairments, the opportunities for sexual abuse by residents with dementia.

# F600-Definition of Neglect

“Neglect” means 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.

# F602-Definitions

- “**Exploitation**,” as defined at §483.5, means “taking advantage of a resident for personal gain, through the use of manipulation, intimidation, threats, or coercion.”
- “**Misappropriation of resident property**,” as defined at §483.5, means “the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident’s belongings or money without the resident’s consent.”

# F603-Involuntary Seclusion

Separation of a resident from other residents or from her/his room or confinement to her/his room (with or without roommates) against the resident's will, or the will of the resident representative.

# F604/F605-Restraints

**§483.10(e) Respect and dignity. The resident has a right to be treated with respect and dignity, including:**

**§483.10(e)(1) The right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms, consistent with §483.12(a)(2).**

§483.12 The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart. This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms.

§483.12(a) The facility must--

(2) Ensure that the resident is free from physical or chemical restraints imposed for purposes of discipline or convenience and that are not required to treat the resident's medical symptoms.

**When the use of restraints is indicated, the facility must use the least restrictive alternative for the least amount of time and document ongoing re-evaluation of the need for restraints.**

# F605-Unnecessary Medication?

- Adequate indication for use
- Excessive dose and/or duration of the medication
- Adequate monitoring for the effectiveness and any adverse consequences
- For a resident using a psychotropic drug(s)
  - Gradual dose reduction and behavioral interventions, unless clinically contraindicated
  - If received pursuant to a PRN, is the medication necessary to treat



# F606 – Prohibitions on Employment

§ 483.12(a) The facility must—

(3) Not employ **or otherwise engage** individuals who—

(i) Have been found guilty of abuse, neglect, exploitation, misappropriation of property, or mistreatment by a court of law;

(ii) Have had a finding entered into the State nurse aide registry concerning abuse, neglect, exploitation, mistreatment of residents or misappropriation of their property; or

**(iii) Have a disciplinary action in effect against his or her professional license by a state licensure body as a result of a finding of abuse, neglect, exploitation, mistreatment of residents or misappropriation of resident property.**

(4) Report to the State nurse aide registry or licensing authorities any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff.

# F607– Policies & Procedures

§483.12(b) The facility must develop and implement written policies and procedures that:

- (1) Prohibit **and prevent** abuse, neglect, and exploitation of residents and misappropriation of resident property,
- (2) Establish policies and procedures to **investigate any such allegations**, and
- (3) Include **training** as required at paragraph § 483.95.

# F608 Reporting Suspected Crimes

§483.12(b) The facility must develop and implement written policies and procedures that:

- (5) Ensure reporting of crimes occurring in federally-funded long-term care facilities in accordance with section 1150B of the Act.

# F608-Policies and Procedures

- Who is a covered individual
- Timeframe for reporting
- Examples of crimes
- Serious bodily injury

# F608-Definition-Serious Bodily Injury

**“Serious bodily injury”** means an injury involving extreme physical pain; involving substantial risk of death; involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; requiring medical intervention such as surgery, hospitalization, or physical rehabilitation; or an injury resulting from criminal sexual abuse (See section 2011(19)(A) of the Act).

# F608-Policies and Procedures

- Who is a covered individual
- Timeframe for reporting
- Examples of crimes
- Serious bodily injury
- Which entities must receive reports

# F608-Policies and Procedures

- Annual notification of the covered individuals' reporting obligations
- Retaliation
- Posting a notification of employee rights

# F609 - Reporting of Alleged Violations

§483.12(c) In response to allegations of abuse, neglect, **exploitation**, or mistreatment, the facility must:

(1) Ensure that all alleged violations involving abuse, neglect, **exploitation** or mistreatment, including injuries of unknown source and misappropriation of resident property, are reported immediately, **but not later than 2 hours after the allegation is made, if the events that cause the allegation involve abuse or result in serious bodily injury, or not later than 24 hours if the events that cause the allegation do not involve abuse and do not result in serious bodily injury**, to the administrator of the facility and to other officials (including to the State Survey Agency and **adult protective services where state law provides for jurisdiction in long-term care facilities**) in accordance with State law through established procedures.

(4) Report the results of all investigations to the administrator or his or her designated representative and to other officials in accordance with State law, including to the State Survey Agency, within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken.



# F609-Reporting Timeframes

- Immediately (or as soon as possible)
  - Abuse or result in serious bodily injury-Not later than 2 hours, or
  - Do not involve abuse and do not result in serious bodily injury-Not later than 24 hours

## Investigation reports

- Within 5 working days of the incident

# Reporting of Suspected Crimes v. Alleged Violations

	Suspected Crimes	Alleged Violations
What	Any reasonable suspicion of a crime against a resident	<ol style="list-style-type: none"> <li>1) All alleged violations of abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property</li> <li>2) The results of all investigations of alleged violations</li> </ol>
Who is required to report	Any covered individual, including the owner, operator, employee, manager, agent or contractor of the facility	The facility
To whom	SA and one or more law enforcement entities for the political subdivision in which the facility is located (i.e., police, sheriffs, detectives, public safety officers; corrections personnel; prosecutors; medical examiners; investigators; and coroners)	The facility administrator and to other officials in accordance with State law, including to the SA and the adult protective services where state law provides for jurisdiction in long-term care facilities
When	<p>Serious bodily injury- Immediately but not later than 2 hours after forming the suspicion</p> <p>No serious bodily injury- not later than 24 hours</p>	<p>All alleged violations-Immediately but not later than</p> <ol style="list-style-type: none"> <li>1) 2 hours- if the alleged violation involves abuse <u>or</u> results in serious bodily injury</li> <li>2) 24 hours- if the alleged violation does not involve abuse <u>and</u> does not result in serious bodily injury.</li> </ol> <p>Results of all investigations of alleged violations- within 5 working days of the incident</p>

# F610 - Response to Alleged violations

§483.12(c) In response to allegations of abuse, neglect, exploitation, or mistreatment, the facility must:

(2) Have evidence that all alleged violations are thoroughly investigated.

(3) Prevent further potential abuse, neglect, exploitation, or mistreatment while the investigation is in progress.

(4) Report the results of all investigations to the administrator or his or her designated representative and to other officials in accordance with State law, including to the State Survey Agency, within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken.

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