

## ABUSE PREVENTION PROGRAM

Facility	Policy #	Effective Date	Revised Date
			12-2017
<b>Regulatory Reference Source</b>			
State Operations Manual F-Tag #		F600, F602, F603, F606, F607, F609, F610, F943	
CFR Reference		§483.12(a)(1), §483.12(a)(3)(4), §483.12(c)(1)-(4) §483.12(b)(1)-(4), §483.95(c)(1)-(3)	
MDS Version 3.0		N/A	

### **Abuse, Neglect, and Exploitation Policy**

#### **Policy:**

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

Instances of abuse of all residents, irrespective of any mental or physical condition may 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.

Residents must not be subject to abuse by anyone, including, but not limited to: facility staff, physicians, physician assistants, beauticians, staff of governmental agencies, consultants or volunteers, staff of other agencies serving the resident, other residents, family members, legal guardians, friends or other individuals, and volunteers.

#### **Procedure Guidelines:**

The Abuse coordinator in the facility may be the Director of Nursing, Administrator, or facility appointed designee. Report allegations or suspected abuse, neglect or exploitation immediately to:

- **Administrator**
- **Other Officials in accordance with State Law**
- **State Survey and Certification agency through established procedures**

#### **Definitions:**

1. "Abuse" is the *willful* infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. 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. Willful, as used in this definition of abuse, means the individual must have acted deliberately, not that

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the individual must have intended to inflict injury or harm. The following are specific types of abuse:

- Verbal - Verbal abuse is 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. Examples of verbal abuse include, but are not limited to: threats of harm and saying things to frighten a resident, such as telling a resident that he/she will never be able to see his/her family again.
  - Sexual – Sexual abuse includes, but not limited to: sexual harassment, sexual coercion, or sexual assault. Sexual abuse is non-consensual sexual contact of any kind with a resident. Sexual contact can include touching of the body with the intent to cause sexual satisfaction.
  - Physical – Physical abuse includes hitting, slapping, pinching and kicking. It also includes controlling behavior through corporal punishment.
  - Mental – Mental abuse includes, but not limited to: humiliation, harassment, threats of punishment or deprivation. Mental abuse may be verbal or non-verbal conduct that may cause the resident to experience fear, shame, agitation, or degradation. Any photographs or recordings of the resident, or other uses of technology that may demean or humiliate the resident.
  - Involuntary Seclusion - Involuntary seclusion is the separation of a resident from other residents, from his or her room, or confinement to his or her room (with or without roommates) against the resident’s will or the will of the resident representative. In certain circumstances, involuntary seclusion may not qualify as abuse. Emergency or short term monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used for a limited period of time as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident’s needs.
2. “Exploitation” means taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion.
  3. “Neglect” is 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, mental illness. Neglect may include, but not limited to, being left to sit or lie in urine or feces, isolation

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dependent residents by leaving them in their rooms or other isolated occasions, or failing to answer call lights to provide needed assistance.

4. “Misappropriation of Resident Property” means the deliberate misplacement, exploitation, or wrongful, temporary or permanent, use of a resident’s belongings or money without the resident’s consent. Acts that constitute the misappropriation of resident property include, but are not limited to: the theft or attempted theft of the resident’s money or personal property, theft of the resident’s medication, or the inappropriate use of a resident’s funds or property.
5. “Willful” – Willful means the individual must have acted deliberately, not that the individual must have 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.

The components of the facility abuse prevention plan:

### I. Employee Screening

Background, reference and credentials’ checks should be conducted on employees prior to or at the time of employment, by facility administration, in accordance with applicable state and federal regulations. Any person having knowledge that an employee’s license or certification is in question should report such information to the Administrator.

The facility must 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.

### II. Employee Training

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In addition to the freedom from abuse, neglect, and exploitation requirements facilities must also provide training to their staff that at a minimum educates staff on—

- (1) Activities that constitute abuse, neglect, exploitation, and misappropriation of resident property.
- (2) Procedures for reporting incidents of abuse, neglect, exploitation, or the misappropriation of resident property
- (3) Dementia management and resident abuse prevention.

New employees should be educated on abuse, neglect and exploitation and misappropriation of resident property, procedures for reporting incidents of abuse, neglect, exploitation, or the misappropriation of resident property, as well as Dementia management and resident abuse prevention.

This training should occur during initial orientation of the employee.

Annual education and training is provided to all existing employees. Front line supervisors or other department heads should provide education as situations arise.

### III. Prevention of Abuse, Neglect, and Exploitation

The facility will consider utilization of the following tips for prevention of abuse, neglect, and exploitation of residents:

- Train staff in appropriate interventions to deal with aggressive and/or catastrophic reactions by residents.
- Observe resident behavior and their reaction to other residents, roommates, tablemates. Place residents in accommodations and environments that keep them calm.
- Recognize signs of burnout, frustration and stress in employees that may lead to abuse.
- Provide education on what constitutes abuse, neglect and misappropriation of property.
- React to all allegations or questions of abuse by residents, family members, employees or visitors.
- Take appropriate actions when abuse, neglect or exploitation is suspected.
- Provide residents, staff and family member's information on how and to whom they may report concerns, incidents and grievances without the fear of reprisal.
- Provide feedback to residents, staff and family members who voice grievances.

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- Identify areas of the physical environment that may make abuse or neglect more likely to occur, such as secluded areas.
- Provide instructions to staff on care needs of residents.
- Educate and supervise staff to identify inappropriate behaviors, such as using derogatory language, rough handling, ignoring residents while giving care, and/or directing residents who need toileting assistance to urinate or defecate in their beds.
- Assess, monitor and develop appropriate plans of care for residents with needs and behaviors which might lead to conflict or neglect, such as residents with a history of aggressive behaviors, residents who have behaviors such as entering other resident's rooms, residents with self-injurious behaviors, residents with communication disorders and those that require heavy nursing care and/or are totally dependent on staff.
- Assess, monitor, and develop appropriate plans of care for residents with inappropriate sexual behavior, whether towards staff or other residents.

#### IV. Identification of Abuse, Neglect, and Exploitation

The facility will consider factors indicating possible abuse, neglect, and/or exploitation of residents, including, but not limited to, the following possible indicators:

- Resident, staff or family report of abuse
- Physical marks such as bruises or patterned appearances such as a hand print, belt or ring mark on a resident's body
- Physical injury of a resident, of unknown source
- Resident reports of theft of property, or missing property
- Verbal abuse of a resident overheard
- Physical abuse of a resident observed
- Psychological abuse of a resident observed
- Failure to provide care needs such as feeding, bathing, dressing, toileting, turning & positioning

***The facility must 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.***

#### V. Investigation of Alleged Abuse, Neglect and Exploitation

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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.

(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.

Once the resident is cared for and initial reporting has occurred, an investigation should immediately be conducted. Components of an investigation may include:

- Interview the involved resident, if possible, and document all responses. If resident is cognitively impaired, interview the resident several times to compare responses.
- Interview all witnesses separately. Include roommates, residents in adjoining rooms, staff members in the area and visitors in the area. Obtain witness statements, according to appropriate policies. All statements should be signed and dated by the person making the statement.
- Document the entire investigation chronologically.

### VI. Resident Protection after Alleged Abuse, Neglect and Exploitation

The facility will make efforts to protect any and all residents after alleged abuse, neglect and/or exploitation. Examples of ways to protect a resident from harm during an investigation of abuse, neglect and exploitation may include, but are not limited to:

- Temporary (less than 24 hours) separation from other residents if a resident's behavior poses a threat of abuse or violence

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- Temporary or permanent room or roommate change, where incompatibility creates the potential for abuse
- Safeguard valuables in a locked area (provide receipts to resident)
- Involve family members to sit with resident
- Temporary one on one supervision of a resident
- Engage a resident in diversionary activities
- Reassignment of nursing staff duties
- Time off for nursing staff
- Involve clergy, social services, and/or counselors as appropriate

### VII. Response and Reporting of Abuse, Neglect and Exploitation

Anyone in the facility can report suspected abuse to the abuse agency hotline.

When abuse, neglect or exploitation is suspected, the Licensed Nurse should:

- Respond to the needs of the resident and protect them from further incident (document)
- Notify the Director of Nursing and Administrator (document)
- Initiate an investigation immediately
- Notify the attending physician, resident's family/legal representative and Medical Director
- Obtain witness statements, following appropriate policies. Suspend the accused employee pending completion of the investigation. Remove the employee from resident care areas immediately
- Contact the State Agency and the local Ombudsman office to report the alleged abuse.
- Monitor and document the resident's condition, including the response to medical treatment or nursing interventions
- Document actions taken in steps above in the medical record

The Administrator should follow up with government agencies, during business hours, to confirm the report was received, and to report the results of the investigation when final, as required by state agencies.

Facility administration should report to the state nurse aide registry or nursing board, any knowledge it has of any actions by a court of law which would indicate an employee is unfit for service as a nurse aide or other facility staff.

### VIII. Ensure reporting of crimes

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Annually notifying covered individuals, as defined at section 1150B(a)(3) of the Act, of that individual's obligation to comply with the following reporting requirements.

(A) Each covered individual shall report to the State Agency and one or more law enforcement entities for the political subdivision in which the facility is located any reasonable suspicion of a crime against any individual who is a resident of, or is receiving care from, the facility.

(B) Each covered individual shall report not later than 2 hours after forming the suspicion, if the events that cause the suspicion result in serious bodily injury, or not later than 24 hours if the events that cause the suspicion do not result in serious bodily injury.

(C) Posting a conspicuous notice of employee rights.

(D) Prohibiting and preventing retaliation.

### OPTIONAL:

#### IX. Facility Oversight-Quality Assurance

The Quality Assurance Committee would conduct a Quarterly review of the reporting process, investigation process, and corrective actions of incidents process to ensure these processes were properly completed as per facility policy. This monitoring process by the Quality Assurance Committee would be an integral part of the Abuse process, with oversight and monitoring of potential and actual reported allegations.