

# Abuse, Neglect, Exploitation, and Misappropriation of Property in Nursing Homes: What You Need to Know

## Overview:

This presentation provides information, actions, and resources for preventing and reporting abuse, neglect, exploitation, and misappropriation of property.

## What is Abuse, Neglect, and Exploitation?<sup>1</sup>

### Abuse

- **Definition:** a deliberate act that results in physical harm, pain, or mental anguish. It can be physical, verbal, sexual or mental. Abusers can be staff, residents, or visitors.
- There are four types of abuse – physical, verbal, mental, or sexual.
- **Examples:** rough handling, withholding care or assistance, isolating or restricting a resident, improper use of physical or chemical restraints, yelling, ridiculing, hitting, pushing, grabbing, taking or using photographs or recordings of residents that would demean or humiliate a resident.
- **Signs:** unusual bruising, unexplained injury, sudden changes in a resident's behavior or activities.

### Neglect.

- **Definition:** the failure by the nursing home, its staff, or outside service providers to provide services and goods to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.
- **Examples:** untreated bed sores, not responsive to requests for assistance, dehydration, unexplained weight loss, poor hygiene and appearance, delayed contact to medical personnel, residents who wander away from the facility, unexplained falls or injuries, unsanitary and unclean conditions.

### Exploitation

- **Definition:** taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion.
- **Examples:** Coercing or deceiving a resident to sign documents, such as a will or contract, unknown charges to the resident's credit card, stopping the resident

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<sup>1</sup> For definitions and the nursing home regulations, see 42 CFR 483.5 and [http://ltombudsman.org/library/fed\\_laws/federal-nursing-home-regulations](http://ltombudsman.org/library/fed_laws/federal-nursing-home-regulations)

from using his/her own money or withholding information about the resident's finances, not placing a resident's money in a separate interest-bearing account, where required.

### **Misappropriation of Property**

- **Definition:** the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident's belongings or money without the resident's consent.
- **Examples:** Stealing or embezzling a resident's money or personal property, such as real estate, jewelry or clothing, forging a resident's signature and attempting to cash or cashing a check, using a resident's personal property such as a TV, clothing or phone.

### **How Can Abuse, Neglect, Exploitation, and Misappropriation of Property be Prevented?**

#### **Know and Exercise Your Rights**

- Right to be free from abuse, neglect, and exploitation
- Right to voice grievances
- Right to get contact information and talk to your Ombudsman program representative

#### **Take Action**

- Get to know your Ombudsman program representative and nursing home staff
- Participate in care plan meetings
- Speak up if something doesn't feel right or you're not getting the care you need
- Connect with other residents who stay in their rooms or have few visitors
- Participate in the Resident Council or start one
- Report any suspicions you have of abuse, neglect, or exploitation

#### **Additional Actions for Family and Friends**

Especially for residents who are not able to advocate for themselves:

- Visit regularly
- Observe the resident for unusual bruising, behaviors, weight loss, appearance
- Participate in or form a Family Council.

#### **What is the Nursing Home Required to Do?**

- Provide individualized care to support or improve each resident's well-being.
- Have policies and procedures to prevent and address abuse, neglect, exploitation, and misappropriation of property.
- Screen, train, and supervise employees.
- Investigate allegations of abuse and take corrective action.

- Protect residents during and after an investigation.
- Report allegations to the state licensing and certification agency and/or adult protective services.
- If an alleged crime against a resident may have occurred, report to law enforcement.<sup>2</sup>
- Prohibit and prevent retaliation.

### Why Is It Important to Report?

- The resident receives added support and protection.
- An investigation is conducted.
- Improvements in preventing abuse and protecting all residents can be made.
- If found guilty, a perpetrator's license can be revoked; and
- Criminal acts can be prosecuted.

If you need assistance with the report, your Ombudsman program representative, or a trusted family member, friend, or staff person can help you.

### How Do I Make Report?

- Put your report in writing, date it and keep a copy. Provide as much information as possible including:
  - Who
  - What
  - Where
  - When
- Give your report to:
  - The nursing home's administrator, director of nursing, and social worker.
  - The state survey agency. Every state has an agency responsible for the licensing, certification, and regulation of long-term care facilities. This agency also investigates complaints. Facilities are required to post the contact information for complaints or to locate your state survey agency visit [www.ltombudsman.org/ombudsman](http://www.ltombudsman.org/ombudsman).
  - In addition to reporting to nursing home staff and your state licensing and certification agency, you can also make your report to:
    - **Long-Term Care Ombudsman Program.** For additional information and contact information visit: [www.ltombudsman.org/ombudsman](http://www.ltombudsman.org/ombudsman).
    - **Adult Protective Services (APS).** APS investigates reports of abuse, neglect and exploitation of elders and, in many states, individuals with disabilities. To locate APS services in your area visit: [www.napsa-now.org/report](http://www.napsa-now.org/report).
    - **Local law enforcement**, as the abuse could be a crime.

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<sup>2</sup> See CMS Survey and Certification memo 11-30-NH for more information regarding "Reporting Reasonable Suspicion of a Crime in a Long-Term Care Facility (LTC)" <http://ltombudsman.org/uploads/files/issues/sc-letter.pdf>

## After Reporting

- If you are a family or friend, make sure that the abuse, neglect, or exploitation has stopped and that the resident is getting the support she/he needs.
- Follow up with the person or agency conducting the investigation. Ask for written copies of findings, if allowed by law.
- Substantiated findings by a State survey agency, or a finding of guilt by a court, that a nurse aide or licensed staff person has abused, neglected, or exploited a resident, or misappropriated their property must be reported to the State nurse aide registry or the State licensing board. Facilities must not engage individuals with these findings, or who have had a disciplinary action taken against his/her professional license, meaning facilities must not hire the individual or allow them to volunteer.

## What about Retaliation?

- There are strict laws prohibiting acts of retaliation. If you or your loved one experiences retaliation, you can contact the state survey agency that licenses, certifies, and regulates nursing homes.
- Your Ombudsman program representative can support you and, with your permission, act quickly if there are any signs of retaliation.

## RESOURCES

- **The National Long-Term Care Ombudsman Resource Center (NORC):** <http://ltcombudsman.org/>
  - **NORC Abuse, Neglect, and Exploitation in LTC Facilities page-** <http://ltcombudsman.org/issues/abuse-neglect-and-exploitation-in-long-term-care-facilities>
  - **NORC Nursing Homes page-** <http://ltcombudsman.org/nursing-homes>
  - **NORC Federal Nursing Home Regulations page-** [http://ltcombudsman.org/library/fed\\_laws/federal-nursing-home-regulations](http://ltcombudsman.org/library/fed_laws/federal-nursing-home-regulations)
  - **Locate and Learn about the Long-Term Care Ombudsman Program:** [http://theconsumervoice.org/get\\_help](http://theconsumervoice.org/get_help)
- **The National Consumer Voice for Quality Long-Term Care (Consumer Voice)** [www.theconsumervoice.org](http://www.theconsumervoice.org)
  - **Consumer Voice Nursing Home Residents page-** <http://theconsumervoice.org/issues/recipients/nursing-home-residents>
  - **Consumer Voice Federal Nursing Home Regulations page-** [http://theconsumervoice.org/issues/issue\\_details/proposed-revisions-to-the-federal-nursing-home-regulations](http://theconsumervoice.org/issues/issue_details/proposed-revisions-to-the-federal-nursing-home-regulations)
- **Department of Justice Elder Justice Initiative:** <https://www.justice.gov/elderjustice>
- **National Center on Elder Abuse (NCEA):** <https://ncea.acl.gov> or call 1-855-500-3537