

 **HIGHLIGHTS: Overview of Requirements**

- There are now **9** total tags related to freedom from abuse, neglect and exploitation. Deficiency citation at any of the **9** can lead to a determination of substandard quality of care.
- Definitions for the following words have been added or changed from previous definitions:
 - Abuse, including a definition of “willful”
 - Neglect
 - Sexual abuse
- The interpretive guidance is updated to provide guidance on various types of abuse, including staff to resident, resident to resident, visitor to resident, and identifies characteristic of specific types of abuse including physical abuse, deprivation of goods and services, mental and verbal abuse, and sexual abuse.
- New reporting timelines **based on real (clock) time, not business hours**:
 - Allegations of abuse, including injuries of unknown source or serious bodily injury must be reported immediately but not later than 2 hours from time the facility is made aware
 - Allegations **that alleged violations involving neglect, exploitation, mistreatment, or misappropriation of resident property; and does not result in serious bodily injury** must be reported within 24 hours
 - **Results of all investigations of alleged violations- within 5 working days of the incident**
- For F600 (Freedom from Abuse and Neglect) and F606 (Not Employ/Engage Staff with Adverse Actions), the definition of “staff” is expanded to include: employees, the medical director, consultants, contractors and volunteers, caregivers who provide care and services to resident on behalf of the facility, students in the facility’s nurse aide training program, and students from affiliated academic institutions, including therapy, social, and activity programs.
- The facility is responsible to determine if a resident has capacity to consent to sexual activity. The revised interpretive guidance discusses capacity and consent, including the role of legally appointed representatives.
- Interpretive guidance states that in certain instances, “position change alarms” **and “bedrails”** may be considered physical restraints.
- Note that guidance at several tags specifies: “When a nursing home accepts a resident for admission, the facility assumes the responsibility of ensuring the safety and well-being of the resident... A facility cannot disown the acts of staff since the facility relies on them to meet the Medicare and Medicaid requirements for participation by providing care in a safe environment.”

 **REVIEW & ACTION: Implementation Strategies and Tips****Phase I – by November 28, 2016**

- ✓ This section of the regulations is implemented in Phase I **except** (b)(4) *Coordination with QAPI Program and (b)(5) Reporting crimes/1150B.*

Phase II – by November 28, 2017

- ✓ (b)(5) Reporting crimes/1150B
 - Do your center’s policies, procedures and training materials incorporate the new definitions for these terms: abuse, willful, neglect, sexual abuse, and staff?
 - Does your training effectively differentiate between (a) reporting the suspicion of a crime and (b) reporting an allegation of abuse?
 - Do your policies and procedures include the new time frames for reporting allegations of abuse?
 - Do you have an effective training program for all new and existing staff that includes training on activities that constitute abuse; procedures for reporting incidents of abuse; and dementia management and resident abuse prevention?

Phase III – by November 28, 2019

- ✓ (b)(4) Coordination with QAPI Program

Interpretive Guidance: Phase II-Revisions and Phase III-New Guidance - by October 24, 2022

- ✓ §483.12(a) F600-Freedom from Abuse, Neglect, and Exploitation-Removed language regarding sexual abuse and included additional guidance related to neglect.
 - Do your policies include steps to ensure that the resident is protected from abuse to include evaluating whether the resident has the capacity to consent to sexual activity?
 - When instances of abuse are identified, do your policies include all of the steps to remediate the noncompliance and protect resident from additional abuse?
 - Do your facility procedures include a process for communication across all shifts for communicating necessary care and information between staff, practitioners, and resident representatives?
- ✓ §483.12(e) F604-Respect and Dignity- Provided clarification for when bed rails meet the definition of a physical restraint.
 - Does your bed rail keep a resident from voluntarily getting out of bed in a safe manner due to his/her physical or cognitive inability to lower the bed rail independently?

- ✓ §483.12(b) F607-Develop/Implement abuse/neglect policies- Added guidance for coordination with QAPI and provisions from the former F608. F608-Reporting of Suspected Crimes-CMS deleted this guidance and added it to F-tags F607 and F609.
 - Do your abuse policies and procedures address screening procedures for individuals prior to employment?
 - Has your facility posted a conspicuous notice of employee rights, to include the right to file a complaint with the State Survey Agency if they believe the facility has retaliated against an employee or individual who reported a suspected crime and how to file such a complaint?
 - Do your written policies and procedures define how staff will communicate and coordinate situations of abuse, neglect, misappropriation of resident property and exploitation with the QAPI program?
- ✓ §483.12(b)(5)- F609-Reporting Alleged Violations-Revised definitions and guidance related to the timing of reports, added language related to what facilities must report, and added provisions from the former F608.
 - Do your policies and procedures include reporting time frames that align with updated regulations? Reporting all alleged violations 1) Immediately but not later than 2 hours*- if the alleged violation involves abuse or results in serious bodily injury 2) Not later than 24 hours*- if the alleged violation involves neglect, exploitation, mistreatment, or misappropriation of resident property; and does not result in serious bodily injury Results of all investigations of alleged violations- within 5 working days of the incident.
 - Do your policies and procedures address all the actions necessary to ensure reporting of a reasonable suspicion of a crime?
 - Do your staff understand examples of instances related to abuse, neglect, misappropriation of resident property and exploitation that are required to be reported and those not required to be reported?

 **RESOURCES: Additional Materials to Help You****Tips**

- Review the [Interpretive Guidance](#) for each tag.
- Review the Abuse Critical Element Pathway and Neglect Critical Element Pathway
- Note the changes to definitions and timeframes and incorporate into policies and procedures and any other relevant materials.
- Update staff training on abuse consistent with new regulations and new interpretive guidance.
- Update staff training on reporting the suspicion of a crime/1150B with updated information.
- Update required notices for reporting the suspicion of a crime/1150B.
- Utilize CMS templates for initial report [[Exhibit 358](#)] and the follow-up investigation report [[Exhibit 359](#)].

Resources

- LTC Survey Pathways, under Downloads at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Nursing-Homes.html>

ACTION BRIEF: **§ 483.12 Freedom from Abuse, Neglect, and Exploitation**

- SOM Appendix PP under Downloads at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Nursing-Homes.html>
- [Provider Self-Assessment and Mitigation Tools for Resident-to-Resident Occurrences](#)
- [Psychosocial Outcome Severity Guide](#)