

NEGLECT AND ABUSE

Consumer Information Sheet

According to the Nursing Home Reform Act of 1987, all residents in nursing homes are entitled to receive quality care and live in an environment that improves or maintains the quality of their physical and mental health. This entitlement includes freedom from neglect, abuse, and misappropriation of funds. Neglect and abuse are criminal acts whether they occur inside or outside a nursing home. Residents do not surrender their rights to protection from criminal acts when they enter a facility. This information sheet presents resident rights with regard to neglect and abuse, and steps to take if these rights are jeopardized.

WHAT ARE NEGLECT AND ABUSE?

Neglect: Neglect is the failure to care for a person in a manner, which would avoid harm and pain, or the failure to react to a situation which may be harmful. Neglect may or may not be intentional. For example, a caring aide who is poorly trained may not know how to provide proper care. Examples include:

- ☞ Incorrect body positioning -- which leads to limb contractures and skin breakdown;
- ☞ Lack of toileting or changing of disposable briefs – which causes incontinence and results in residents sitting in urine and feces, increased falls and agitation, indignity and skin breakdown;
- ☞ Lack of assistance eating and drinking -- which leads to malnutrition and dehydration;
- ☞ Lack of assistance with walking – which leads to lack of mobility;
- ☞ Lack of bathing – which leads to indignity, and poor hygiene;
- ☞ Poor handwashing techniques -- which leads to infection;
- ☞ Lack of assistance with participating in activities of interest – which leads to withdrawal and isolation.
- ☞ Ignoring call bells or cries for help.

Abuse: Abuse means causing intentional pain or harm. This includes physical, mental, verbal, psychological, and sexual abuse, corporal punishment, unreasonable seclusion, and intimidation. Examples include:

- ☞ Physical abuse from a staff member or an intruder or visitor from outside the facility -- including hitting, pinching, shoving, force-feeding, scratching, slapping, and spitting;
- ☞ Psychological or emotional abuse -- including berating, ignoring, ridiculing, or cursing a resident, threats of punishment or deprivation;
- ☞ Sexual abuse – including improper touching or coercion to perform sexual acts;
- ☞ Substandard care which often results in one or more of the following conditions -- immobilization, incontinence, dehydration, pressure sores, and depression;
- ☞ Rough handling during care giving, medicine administration, or moving a resident.

Misappropriation of Property/Funds: This means the deliberate misplacement or misuse of a resident's belongings or money without the resident's consent. Examples include:

- ☞ Not placing resident funds in separate interest-bearing accounts where required;
- ☞ Stealing or embezzling a resident's money or personal property, such as jewelry or clothing.

Nursing homes are required by federal law to have intervention strategies and regular monitoring to prevent neglect and abuse. The nursing home must reevaluate these measures on a regular basis.

REPORTING NEGLECT AND ABUSE

It is a violation of State and Federal law for any person, including facility staff, volunteers, visitors, family members or guardians, or another resident, to neglect or abuse a resident.

- ☞ Anyone can and should report neglect and abuse. If you suspect neglect or abuse, or if a resident tells you they are experiencing this problem, it is important to believe the resident and **REPORT THE ALLEGATION IMMEDIATELY**. This will help prevent further suffering by any resident.
- ☞ Many states have laws that require the reporting of abuse and neglect. Find out what your state requires.
- ☞ Put your report in writing, date it, and keep a copy. Convey as much information as you can about the situation. Remember to include:

WHO The name of the victim, including age and address; the name of the facility and the people responsible for the victim's care; the identity of the person who you believe abused or neglected the resident;

WHAT The nature and extent of harm and any physical signs of abuse or neglect; any previous incidents; what happened;

WHERE and WHEN The place where the incident happened and time and date of the incident.

Provide as much background information as possible. A thorough report will help the investigator to address the situation quickly.

Make Your Report To:

- ☞ The nursing home's administrator, director of nursing, and social worker
- ☞ The state or local ombudsman
- ☞ The local police or State law enforcement
- ☞ A Protection and Advocacy or Adult Protective Services agency
- ☞ The state survey agency that licenses and certifies nursing homes (often in the Health Department)
- ☞ A citizen advocacy group, or other church or community group that visits regularly.

Keep trying until you get the assistance you need.

AFTER THE REPORT

- ☞ Follow up with the resident and facility to make sure the neglect or abuse has stopped.
- ☞ Follow up with the person or agency conducting the investigation. Ask for written copies of findings if allowed by law.
- ☞ If the perpetrator is charged with abuse or neglect, the charge will be referred to the state licensing authority. If the guilty person is a nurse aide, the charge will be reported to the state nurse aide registry. This registry is used by nursing homes to prevent abusive aides from working with the elderly. Nursing homes are required to check the registry before hiring a person.
- ☞ If all the safety options fail, you may have to contact the local media, the U.S. Justice Department, or seek private legal assistance.

If you are interested in learning more, the National Citizens' Coalition for Nursing Home Reform (NCCNHR) has several publications that may be of interest. Call 202-332-2275 for a publication list or visit the website at <http://www.nccnhr.org>.

☞ **Nursing Homes: Getting Good Care There**, Cost: \$14.95

☞ **Using Resident Assessment and Care Planning: An Advocacy Tool for Residents and their Advocates**, Cost: \$12

- ☛ **Avoiding Physical Restraint Use *and* Avoiding Drugs Used as Chemical Restraints - consumer booklets**, Cost: \$7.50 each or both booklets (1 of each) for \$14
- ☛ **Where Do I Go From Here?: A Guide for Nursing Home Residents, Families, and Friends on Consulting an Attorney**, Cost: \$7.50

Prices listed do not include shipping or handling.