

# LONG TERM CARE COMMUNITY COALITION

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## Definitions of Abuse, Neglect, and Crime Against Nursing Home Residents

Abuse and neglect, including incidents that constitute a crime, too often impact the lives of people living in nursing homes. The persistence of these problems is due, in part, to a lack of understanding of the rights of residents and what must be reported to, and investigated by, the state survey agency and/or law enforcement.

The purpose of this fact sheet is to provide a summary of definitions and useful examples of abuse and neglect which should be reported and investigated. For more information and resources, visit the [Abuse, Neglect, & Crime Reporting Center](http://www.nursinghome411.org) at [www.nursinghome411.org](http://www.nursinghome411.org).

## Abuse and Neglect

### Definitions

- **Abuse** is “the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish.”<sup>1</sup>
- **Neglect** is the “failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.”<sup>2</sup>

### Types of Abuse

- **Physical abuse** – Physical abuse is the infliction of pain or injury on a person. Some examples include slapping, pinching, shoving, rough handling, or inappropriately using drugs or physical restraints.
- **Psychological abuse** – Psychological abuse may include the inappropriate use of antipsychotic drugs, staff members not addressing resident needs in a timely/appropriate manner, and staff taking advantage of resident’s cognitively impaired state.
- **Emotional abuse** – Emotional abuse may include aggressive or hostile behavior/attitude towards a resident, staff speaking to residents with disrespect or contempt, and staff ignoring residents or leaving them socially isolated.
- **Sexual abuse** – Sexual abuse may include inappropriate sexual/physical contact and staff using sexually-explicit language towards residents. Signs of sexual abuse include torn, stained, or bloody underclothing; unexplained vaginal or anal bleeding; and bruises around the breasts or genital area.

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<sup>1</sup> *CMS Regulations and Guidance: State Operations Manual Appendix Q*, 42 CFR Part 488.301. Available at [https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap\\_q\\_immedjeopardy.pdf](https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_q_immedjeopardy.pdf).

<sup>2</sup> *Id.*

## LTCCC: Definitions of Abuse, Neglect, and Crime Against Nursing Home Residents

### Signs of Abuse

- **Signs of physical abuse** include bruises, wounds, cuts, restraint or grip marks.
- **Signs of emotional, psychological, and sexual abuse** include emotional distress or agitation; being extremely withdrawn, non-communicative, or non-responsive; acting nervous or fearful; and unusual behaviors (such as rocking back and forth or hitting oneself).

### Examples of Abuse and Neglect

There are many ways in which residents may become victims of abuse and neglect. Following are a few examples of situations that have a significant potential of involving abuse and/or neglect:

- **Inappropriate physical contact** – Staff members may inappropriately touch or make other physical contact with a resident, which could lead to emotional distress or physical injuries, such as bruises and wounds.
- **Falls** – Residents who are not provided appropriate monitoring or care services are susceptible to falls and resulting injury. Examples include: when a resident wanders a facility at night; a resident whose call bell goes unanswered and gets up herself to go to the bathroom; and a resident who is not properly secured or cared for while using a wheelchair or Hoyer lift.
- **Pressure ulcers** – Insufficient care and monitoring, including basic repositioning, can result in the development of pressure ulcers which, if not treated in a timely and effective manner, can be life-threatening.
- **Wandering** – In the absence of appropriate monitoring and safeguards, residents may wander within or outside of the facility. Injuries can result from entering a dangerous area of the facility (such as a stairwell) or being exposed to dangerous or treacherous conditions outside of the facility.
- **Chemical restraints** – Staff may use antipsychotic drugs on residents, particularly those with dementia, in order to sedate or restrain them.<sup>3</sup>
- **Infections** – Residents may develop or contract infections due to staff not addressing resident wounds or utilizing standard sanitary practices.
- **Malnutrition** – Residents may not be receiving nutrition in accordance with their needs or care plans. Residents may appear to have lost weight or seem dehydrated.
- **Fraud & theft** – Facility staff, family, or friends may take advantage of a resident's personal and/or financial information or misappropriate a resident's possessions.
- **Isolation** – Facility staff may use isolation, or the threat of isolation, as a form of discipline or punishment. Examples include locking a resident in a room, placing a resident who uses a wheelchair in a room or area that is isolated from other residents or activities, or withholding access to facility activities such as the TV room, gym, or other activity spaces.

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<sup>3</sup> The inappropriate use of antipsychotic drugs and other psychotropic medications is widely acknowledged to be a persistent problem. Antipsychotic drugs carry a "Black Box" warning from the U.S. Food and Drug Administration because they are highly dangerous for elderly individuals with dementia and are not clinically indicated for so-called dementia-related psychosis. For more information on this issue, visit our Dementia Care & Antipsychotic Drugging page, <https://nursinghome411.org/learning-center/dementia-care-antipsychotic-drugging/>.

## LTCCC: Definitions of Abuse, Neglect, and Crime Against Nursing Home Residents

### Crime

Crimes against nursing home residents are a serious, yet under-recognized problem. Crimes are defined under federal, state, and local laws and, thus, vary by jurisdiction. Nevertheless, there are four widely recognized categories of crime:

- **Personal crimes** – Personal crimes result in physical or mental harm. Assault, battery, false imprisonment, kidnapping, rape, and homicide are all examples of personal crimes.
  - ♦ **Assault:** “[A]ny intentional act that causes another person to fear that she is about to suffer physical harm. This definition recognizes that placing another person in fear of imminent bodily harm is itself an act deserving of punishment, even if the victim of the assault is not physically harmed.”<sup>4</sup>
  - ♦ **Battery:** “[A] physical act that results in harmful or offensive contact with another person without that person's consent.”<sup>5</sup>
  - ♦ **Criminal threat:** “A criminal threat involves one person threatening someone else with physical harm. The threat must be communicated in some way, though it doesn't necessarily have to be verbal. A person can make a threat through email, text message, or even through non-verbal body language such as gestures or movements. However, some states require written or verbal threats, and in those states gestures are not enough.”<sup>6</sup>
- **Property crimes** – Property crimes occur when a perpetrator interferes with the victim's right to use and enjoy his or her property. Larceny, robbery, embezzlement, and false pretenses are all examples of property crimes.
- **Inchoate crimes** – Inchoate crimes are incomplete crimes, meaning that the perpetrator(s) took a substantial step towards completing the crime but the crime was never actually completed. Attempted murder, attempted rape, attempted robbery, conspiracy, and solicitation are all examples of inchoate crimes.
- **Statutory crimes** – Statutory crimes are prohibited by statute and include both personal and property crimes. Statutory rape and public intoxication are examples of statutory crimes.<sup>7</sup>

For more information about the specific elements of any given crime in your community, please refer to the state laws online (via the state's website, the Library of Congress (<https://www.loc.gov/law/help/guide/states.php>), or a reliable provider, such as [www.findlaw.com](http://www.findlaw.com)).

**The Long Term Care Community Coalition (LTCCC) is a non-profit organization dedicated to improving care, dignity, and quality of life for seniors in nursing homes and other residential care setting. For more information and resources, please visit our website:**

**[www.nursinghome411.org](http://www.nursinghome411.org).**

<sup>4</sup> Bergman, Paul, *Assault, Battery, and Aggravated Assault*. Available at <https://www.nolo.com/legal-encyclopedia/assault-battery-aggravated-assault-33775.html>.

<sup>5</sup> Cornell University, Legal Information Institute, *Battery*. Available at <https://www.law.cornell.edu/wex/battery>.

<sup>6</sup> Theoharis, Mark, *Criminal Threats*, Criminal Defense Lawyer. Available at <https://www.criminaldefenselawyer.com/crime-penalties/federal/Criminal-Threats.htm>.

<sup>7</sup> Justia, *Types of Criminal Offenses*. Available at <https://www.justia.com/criminal/offenses/>.