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RESIDENT ASSAULT AND ABUSE

BACKGROUND AND PERSPECTIVES

DR. JENNIFER MARIE MOORE DNP MSN BS RN CNECL NY-SAFE EMT
STEPHANIE PATON, RN, DIRECTOR, NURSING HOME SURVEILLANCE
ASHLEY COKGOREN, DEPUTY DIRECTOR, NURSING HOME SURVEILLANCE

MISSION, VISION, VALUES - NEW YORK STATE DEPARTMENT OF HEALTH

Mission, Vision and Values

Mission	Vision	Values
To protect and promote health and well-being for all, building on a foundation of health equity.	New York is a healthy community of thriving individuals and families.	Public Good Integrity Innovation Collaboration Excellence Respect Inclusion

Definition of Health

Health is a state of optimal physical, mental and social well-being.

Statement on Health Equity

Health equity is foundational to everything we do to help all people achieve optimal physical, mental and social well-being. Everyone at the Department of Health shares responsibility for achieving health equity and eliminating health disparities.

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LEARNING OBJECTIVES

Learners will demonstrate the ability to:

- Explain the background and perspectives on Resident Assault.
- Explain factors that may lead to Aggressive Behavior.
- Contribute to creating a Trauma-Informed Practice.
- Understand facility and staff responsibility to safeguard residents
- Identify strategies for preventing victimization
- Identify services available for Sexual Assault victims.

STATE REGULATIONS

Title 10 of New York Codes, Rules, and Regulations § 415.3(d)(1)(vii) – Resident's Rights

- (d) Protection of Legal Rights. (1) Each resident shall have the right to:(vii) be free from verbal, sexual, mental or physical abuse…

Title 10 of New York Codes, Rules, and Regulations § 415.4(b)(1)(i) - Resident behavior and facility practices

- (b) Staff treatment of residents. The nursing home shall develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of residents and misappropriation of resident property.(1) The facility shall: (i) not use, or permit verbal, mental, sexual or physical abuse, including corporal punishment, or involuntary seclusion of residents.

PUBLIC HEALTH LAW SECTION 2803-D

The operator and their employees and subcontractors; a nursing home administrator; physician; medical examiner; coroner; and other medical clinicians must report when they have a *"…reasonable cause to believe that a person receiving care or services in a residential health care facility has been abused, mistreated, neglected or subjected to the misappropriation of property by other than a person receiving care or services in the facility.."*

Any visitor or other person with who suspects abuse, mistreatment, neglect or misappropriation of a person receiving care or services in a residential health care facility, may report the same.

Reports must be made immediately by telephone and in writing within 48-hours to the Department.

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FEDERAL REGULATIONS

Title 42 Code of Federal Regulations § 483.12 Freedom from abuse, neglect, and exploitation.

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

Social Security Act Sections §§ 1819(c)(1)(A)(ii) and 1919(c)(1)(A)(ii)

Each resident has the right to be free from, among other things, physical or mental abuse and corporal punishment. The facility must provide a safe resident environment and protect residents from abuse

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GUIDANCE

The State Operations Manual, Appendix PP

Citation F600 – Free From Abuse and Neglect

Capacity and Consent

Sexual Abuse is defined at Title 42 of the Code of Federal Regulations § 483.5 as "non-consensual sexual contact of any type with a resident."

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FACILITY RESPONSIBILITIES

It is the facility's responsibility to ensure that all staff are trained and are knowledgeable in how to React and Respond appropriately to resident behavior.

Some facilities have identified that they are in compliance with regulation because that they could not foresee that abuse would occur and they have "done everything to prevent abuse."

However, this interpretation is inconsistent with the regulation, which states that "*the resident has the right to be free from verbal, sexual, physical, and mental abuse…*"

Therefore, if the survey team has investigated and collected evidence that abuse has occurred, it is appropriate for the survey team to cite non-compliance at F600-Free from Abuse and Neglect.

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CATEGORIES OF ABUSE CITATIONS

Abuse / Assault can be physical, verbal, mental, sexual or a combination

Abuse can result in Physical and / or Psychosocial Harm

- Resident-to-Resident Abuse
- Visitor-to-Resident Abuse
- Staff-to-Resident Abuse
- Resident-to-Staff Abuse

It is important to note that there are resources available to victims of sexual assault.

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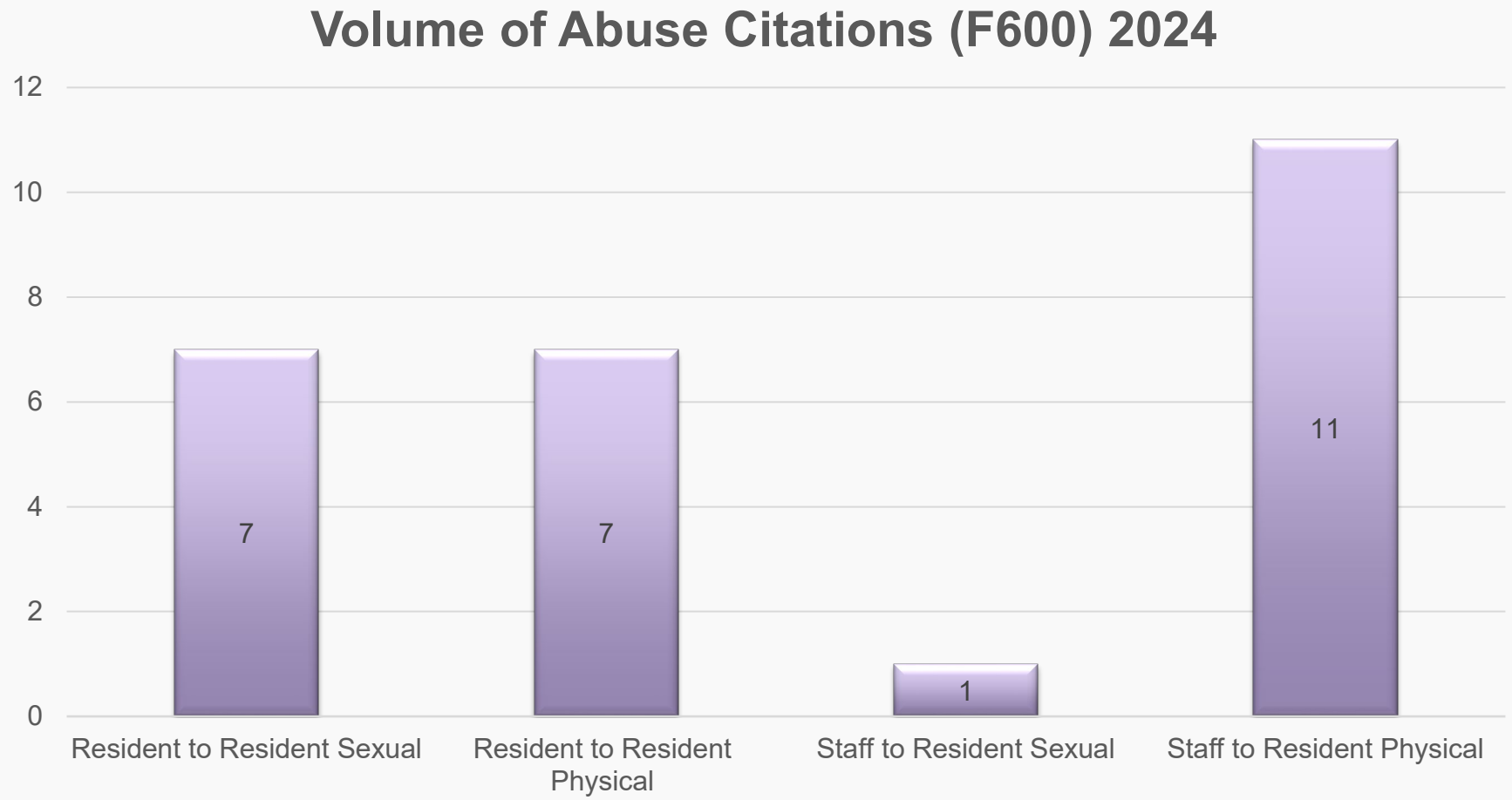
VOLUME OF ABUSE CITATIONS BY TYPE (F600) IN 2024



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SEXUAL ABUSE / ASSAULT

Sexual contact is nonconsensual if the resident either:

- Appears to want the contact to occur, but lacks the cognitive ability to consent; or
- Does not want the contact to occur.

A facility is required to conduct an investigation and protect a resident from non-consensual sexual relations anytime the facility has reason to suspect that the resident does not wish to engage in sexual activity or may not have the capacity to consent.

Any investigation of an allegation of resident sexual abuse must start with a determination of whether the sexual activity was consensual on the part of the resident

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SEXUAL ABUSE / ASSAULT

Facility Responsibilities

For any alleged violation of sexual abuse, the facility must:

- Immediately implement safeguards to prevent further potential abuse;
- Immediately report the allegation to appropriate authorities;
- Conduct a thorough investigation of the allegation; and
- Thoroughly document and report the result of the investigation of the allegation.

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VICTIMIZATION… AT RISK FOR

Vulnerabilities / Risk management - Comprehensive multi-disciplinary team approach (Medical / Nursing / Social Work / Activities/ Therapy / Dietary/ Environmental)

Resident Assessment

- Person Centered Care – Care Planning
- Behaviors / Communication / Cognitive Decline / Dementia

Facility Assessment

- Staffing
- Environment

Assessment is always ongoing… including assessment of the interventions

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RESOURCES FOR VICTIMS

- The New York State Office of Victim Services provides critical services and supports to crime victims and their families.

- The Office of Victim Services outlines victims' rights in a booklet available at https://ovs.ny.gov/help-crime-victims.

- Sexual assault and rape victims have a right to be notified about the nearest rape crisis center. The Domestic and Sexual Violence Hotline is **1-800-942-6906**.

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BEHAVIOR

Behavior is:

- The response of a person to the environment.
- An outward expression of an inward emotion or need.
- Actions based on complex factors which are often more than just the obvious.

Behaviors serve a purpose.

- Getting something wanted, or
- Avoiding something unwanted

Behavior is driven by needs.

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AGGRESSIVE BEHAVIOR: CONTRIBUTING FACTORS

BIOLOGICAL

PSYCHOSOCIAL

ENVIRONMENTAL

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BIOLOGICAL FACTOR

- Underlying medical conditions.
- Neurological impairments.
- The effects of chemical substances.
- Psychotic symptoms.
- Trauma response. changes

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PSYCHOSOCIAL FACTOR

- Lack of choices.
- Lack of autonomy and ability to get needs met.
- Isolation from support systems.
- Attitudes, behavior, and body language/voice tone.
- Power difference between staff and individuals.
- Major life stressors.
- Trauma history.
- Unwelcome news.
- Lack of cultural awareness.

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ENVIRONMENTAL FACTOR

- Availability of food and drink.
- Stress of shared housing.
- Restriction of freedoms.
- Lack of privacy.
- Conflicts among staff.
- Overcrowding.
- Over/under stimulation.
- Time of day, season, significant event.
- Sensory triggers.
- Temperature regulation.
- Changes in routine.
- Territoriality.
- Rules.

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REVIEW OF CORE CONCEPTS

- All behavior has meaning
- Factors affecting behavior
- Effects of response

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STAGES OF BEHAVIOR AND INTERVENTIONS

Day-to-Day
Spending our time building quality, therapeutic relationships.
Developing rapport.

Middle
Fewer effective options.
More skill and effort required.
More rapport is required.

Early
Many effective options.
Some skill and effort required.
Some rapport is required.

Late
Limited effective options.
Great skill and effort required.
Great rapport required.

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EXAMPLES OF EARLY-STAGE BEHAVIOR

- Raising one's voice
- Extreme quietness
- Excessive self-cleaning
- Lack of self-care
- Mumbling/staring
- Restlessness
- Disregard for previously enjoyed activities
- Teasing others
- Rocking
- Pacing
- Hypervigilance
- Appetite change
- Sleep changes

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EXAMPLES OF MIDDLE-STAGE BEHAVIOR

What you observe:

- Increase in body or extremity movement
- Disruptive, antagonizing other people
- Destructive, pounding on tables, tearing up cards
- Pleading or demanding
- Louder voice tone, shouting
- Uses profanity or idle threats

EXAMPLES OF LATE-STAGE BEHAVIOR

What you observe:

- Threatening bodily harm to self or others
- Threatening to use objects as weapons or to commit violence
- Behaviors matching the threat
- Increased pleading
- Dangerous property destruction
- Physical violence

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WHAT HELPS?

Arranging the environment:

- Offer space
- Limit stimuli
- Monitor the space temperature

Intervening with the Individual:

- Recognize the behavioral warning signs
- Focus on the individual, not the behavior
- Use a safe and supportive stance

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TRAUMA-INFORMED APPROACH

Safety

Trustworthiness and Transparency

Peer Support

Collaborations and Mutuality

Empowerment. Voice and Choice

Cultures, Historical and Gender Issues

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ESTABLISHING SAFETY

- Be conscious of the individual's sense of safety

TRUSTWORTHINESS AND TRANSPARENCY

Open and honest communication:

- From administration
- Between staff
- With individuals and their support systems

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PEER SUPPORT

- Establish a connection
- Build trust and hope
- Provide a unique perspective
- Peer Supporters could be adults, youth, or family members.

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EMPOWERMENT, VOICE, CHOICE

- Recognize a person's strengths
- Understand their skills
- Build upon the skills they already have

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COLLABORATION AND MUTUALITY

- Working together toward the same goal, regardless of position or title.
- Shared decision-making.
- Person-centered engagement.

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CULTURAL CONSIDERATIONS

When working with diverse populations:

- Have awareness of and sensitivity to historical traumas.
- Be aware of mental health disparities in marginalized groups.
- Value the connection to an individual's identity.

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BIOLOGICAL CONSEQUENCES OF TRAUMA

- Availability of food and drink
- Stress of shared housing.
- Restriction of freedoms.
- Disregard of boundaries.
- Conflicts among staff.
- Overcrowding.
- Over/under stimulation.
- Time of day, season, significant event.
- Sensory triggers.
- Temperature regulation.
- Changes in routine.
- Territorialism.
- Focus on rules.

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TRAUMA-INFORMED PRACTICE

Safety

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REFRAMING OUR THOUGHTS

Rather than asking, “What’s wrong with them?”

- What happened to them?
- What’s right with them?
- What can we do to help heal and grow?
- How can we support them?

The language we use to describe an individual can impact the care we provide.

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HEALTHY INTIMACY

- Intimacy is healthy in the elder population. All residents deserve the right to express intimacy in the way the choose to express it.
- Human beings naturally crave intimacy, which helps us feel valued on a physical and emotional level—and this and this need doesn’t diminish as we grow older.
- Positive intimate relationships are fulfilling and healthy. Research says they can lower blood pressure, reduce stress, and boost longevity.

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BACKGROUND AND PERSPECTIVES

- It is important to understand the background and perspectives of Resident Assault in Nursing Homes.

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PERSPECTIVES

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CASE STUDY 1- Mrs. Jenkins

- During morning routine, a Certified Nurse Aide Abby provided care to Mrs. Jenkins in her room. Later that day, Mark, another Certified Nurse Aide, reported that Mrs. Jenkins complained of pain in her right leg. Mrs. Jenkins was assessed by a nurse and sent to the Emergency Room where the radiology notes revealed right hip fracture.
- That afternoon, Danielle, a member of environmental services, reported having heard yelling from Mrs. Jenkins' room.
- Through interviews, Mark and Danielle both confirmed having heard yelling from Mrs. Jenkins' room that morning. Danielle added she had witnessed Abby forcing Mrs. Jenkins into her wheelchair another time a few days ago.
- What are the facility's next steps?

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Case Study 2- Mr. Daley

- Mr. Daley was admitted for short term rehabilitation. Mr. Daley's behavior frequently impacted the other residents, staff, and visitors who complained. Mr. Daley was determined ready for discharge but needs both a walker and wheelchair to be safe at home. Mr. Daley became upset when he learned both the walker and the wheelchair may not be covered by his insurance.
- The facility's case manager, Mrs. Thomas, and Mr. Daley called his insurance company to discuss coverage of the wheelchair. Mr. Daley interrupted the call several times, and repeated louder every time "Just give me a wheelchair!" After a few interruptions, Mrs. Thomas stated "I don't want to hear anything else from you except that you are leaving. You are crazy. That's not how it works."
- Having heard the interaction, Administrator Moore asked Mr. Daley what had happened. Mr. Daley replied, "She destroyed me."
- What are the next steps?

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Case Study 3- Jerry

- During morning rounds, the nurse noticed that Jerry had a bruise on their chin resembling a thumb print. Jerry's plan of care indicates that they are always to have 2 assistants due to aggression and fall risks.
- Through an interview, Certified Nurse Aide Edna reported holding Jerry's head while helping to clean their teeth. Edna held Jerry's head still by grabbing their chin instead of supporting their head as written on Plan of Care. Edna said that Jerry was resistant to care making it difficult to clean their teeth.
- What are the next steps?

Case Study 4- Rose and Dorothy

- Rose is 78 years old, and Dorothy is 82 years old, are roommates. Rose has a Brief Interview of Mental Status score of 9. Dorothy has a score of 7. Both were seen in Hallway B hitting each other. They were separated by 2 Certified Nurse Aides.

- Dorothy had a laceration over her eye and received medical attention. When asked what occurred, Dorothy could not provide detailed information. When Rose was asked about what occurred, she stated, “She really makes me mad! She keeps taking my shoes!”

- Rose was temporarily moved to a different room during the investigation.

- Both residents were sent for a medical evaluation. Rose was given a psychiatric consult and received a medication change.

- What should the facility do next?

Case Study 5- Employee

- An employee reported that he has seen two residents engaging in oral sex several times on the evening shifts and reported it to the nurse supervisor and is she is no doing anything about it.

- The employee states the residents both live on the dementia unit, and he thinks one of the residents is taking advantage of another for sexual favors. He filed a complaint because he does not know what else he can do.

- What is likely to happen next?

Case Study 6-Juanita

- Juanita is 67 years old and reported on 9:30 pm to evening nurse that she was touched inappropriately on the 7-3 shift by a male volunteer that brings magazines to the residents.

- The resident claimed that when he dropped off the magazine, he touched both of her breasts. The nursing supervisor was notified immediately, did an assessment and there were no concerns. The resident denied pain or injury. The nursing supervisor called the police, and they arrived and took resident's statement.

- The following week, the resident was seen by the Psychologist and the care plan was updated. The volunteer was questioned and denied the allegation. Five female residents were interviewed in the same ward and all denied having such experienced this or any type of abuse.

- The volunteer has been delivering magazines as a volunteer every Saturday night for the past 10 years. As a result of the investigation, the volunteer was not allowed to volunteer or enter the facility.

- What should the facility do next?

REFERENCES

National Council of Aging. (2025). *Why Is Intimacy Important in Older Adults?*

Benefits of Intimacy in Older Adults

Universal Safety Training (2024). Modules 1-10. Program Description

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