

GUIDANCE TO SURVEYORS - LONG TERM CARE FACILITIES

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
F224* F226** (Cont.)		<p>VI. Protection (483.13(c)(3): Have procedures to:</p> <ul style="list-style-type: none"> o Protect residents from harm during an investigation. <p>VII. Reporting/Response (483.13(c)(1)(iii), 483.13(c)(2) and 483.13(c)(4): Have procedures to:</p> <ul style="list-style-type: none"> o Report all alleged violations and all substantiated incidents to the state agency and to all other agencies as required, and take all necessary corrective actions depending on the results of the investigation; o Report to the State nurse aide registry or licensing authorities any knowledge it has of any actions by a court of law which would indicate an employee is unfit for service; and o Analyze the occurrences to determine what changes are needed, if any, to policies and procedures to prevent further occurrences.
Refer to F223	(1) The facility must-- (i) Not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion;	
F225	<p>(ii) Not employ individuals who have been--</p> <p>(A) Found guilty of abusing, neglecting, or mistreating residents by a court of law; or</p> <p>(B) Have had a finding entered into the State nurse aide registry concerning abuse, neglect, mistreatment of residents or misappropriation of their property; and</p> <p>(iii) Report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the State nurse aide registry or licensing authorities.</p>	<p><u>Intent: §483.13(c)(1)(ii) and (iii)</u> The facility must not hire a potential employee with a history of abuse, if that information is known to the facility. The facility must report knowledge of actions by a court of law against an employee that indicates the employee is unfit for duty. The facility must report alleged violations, conduct an investigation of all alleged violations, report the results to proper authorities, and take necessary corrective actions.</p> <p>Facilities must be thorough in their investigations of the past histories of individuals they are considering hiring. In addition to inquiry of the State nurse aide registry or licensing authorities, the facility should check information from previous and/or current employers and make reasonable efforts to uncover information about any past criminal prosecutions.</p> <p><u>Guidelines: §483.13(c)(1)(ii) and (iii)</u> “Found guilty. . .by a court of law” applies to situations where the defendant pleads guilty, is found guilty, or pleads nolo contendere.</p> <p>“Finding” is defined as a determination made by the State that validates allegations of abuse, neglect, mistreatment of residents, or misappropriation of their property.</p>

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F225 (Cont.)	<p>(2) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source and misappropriation of resident property are reported immediately to the administrator of the facility and to other officials in accordance with State law through established procedures (including to the State survey and certification agency).</p> <p>(3) The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.</p> <p>(4) The results of all investigations must be reported to the administrator or his designated representative and to other officials in accordance with State law (including to the State survey and certification agency) within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken</p>	<p>A certified nurse aide found guilty of neglect, abuse, or mistreating residents or misappropriation of property by a court of law, must have her/his name entered into the nurse aide registry.</p> <p>A licensed staff member found guilty of the above must be reported to their licensing board. Further, if a facility determines that actions by a court of law against an employee are such that they indicate that the individual is unsuited to work in a nursing home (e.g., felony conviction of child abuse, sexual assault, or assault with a deadly weapon), then the facility must report that individual to the nurse aide registry (if a nurse aide) or to the State licensing authorities (if a licensed staff member). Such a determination by the facility is not limited to mistreatment, neglect and abuse of residents and misappropriation of their property, but to any treatment of residents or others inside or outside the facility which the facility determines to be such that the individual should not work in a nursing home environment.</p> <p>A State must not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.</p> <p>The facility's reporting requirements under 483.13(c)(2) and (4) include reporting both alleged violations and the results of investigations to the State survey agency.</p>