

## Abuse Critical Element Pathway

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Use this pathway for investigating an alleged violation of abuse to a resident. This would include allegations where a resident was deprived of goods or services by an individual, necessary to attain or maintain physical, mental and psychosocial well-being. If photographic documentation is obtained during the survey, refer to S&C-06-33. In addition, for investigating other concerns:

- Refer to the Investigative Protocol found at F603 for concerns related to involuntary seclusion;
- Refer to the Neglect CE Pathway to investigate concerns about structures or processes leading to a resident(s) with an outcome, for example, unrelieved pain, avoidable pressure ulcers/injuries, poor grooming, avoidable dehydration, lack of continence care, or malnourishment; or
- Refer to the Investigative Protocols for F607/F609-Reporting Reasonable Suspicion of a Crime, if a covered individual did not report a reasonable suspicion of a crime or for an allegation of retaliation. If the surveyor discovers a reasonable suspicion of a crime committed against a resident of, or an individual receiving services from, the facility and it has not been reported by a covered individual, the surveyor reminds the facility of the covered individuals' obligation to report suspected crimes to the appropriate agencies within the required timeframes. "Covered individual" is anyone who is an owner, operator, employee, manager, agent or contractor of the facility. If a covered individual reports the suspected crime to local law enforcement, the surveyor must verify that the report was made (e.g., obtain time/date of report, name of person who received report, case number, etc.). If the covered individual refuses to report, or the surveyor cannot verify that a report was done, the surveyor must consult with his/her supervisor immediately, and the SA must report the potential criminal incident to law enforcement immediately.

NOTE: If you witness an act of abuse or receive an unreported allegation of abuse, you must immediately report it to the facility administrator, or his/her designated representative if the administrator is not present. The survey team would then determine whether the facility takes appropriate action in accordance with the requirements at F609 and F610, including implementing safeguards to prevent further potential abuse. If you witness an act of abuse, you must document who committed the abusive act, the nature of the abuse, where and when it occurred, and potential witnesses.

### Review the following in Advance to Guide Observations and Interviews:

Information related to an alleged violation of abuse, such as:

- Date, time, and location (e.g., unit, room, floor) where alleged abuse occurred;
- Name of alleged victim(s), alleged perpetrator(s) and witnesses, if any;
- Narrative/specifics of the alleged abuse(s) including frequency and pervasiveness of the allegation; and
- Whether the allegation was reported by the facility and/or to other agencies, such as Adult Protective Services or law enforcement.

Sources for this information may include:

- Resident, representative, or family interviews, observations or record review;
- Reports from the long-term care ombudsman or other State Agencies;
- Deficiencies related to abuse (CASPER 3 Report); and
- Complaints and facility-reported allegations of abuse, including any facility investigation reports, received since the last standard survey.

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- Facility's abuse prohibition policies and procedures provided during the Entrance Conference (review only those components necessary during the investigation to determine if staff are implementing the policies as written). Refer to F607.

**Observation across Various Shifts:** Request staff assistance to make observations, as needed. Only if you are a licensed nurse or practitioner can you observe the resident's private areas.

- Observe whether the alleged perpetrator (staff, other resident, or visitor) is present in the facility. What access does the alleged perpetrator have to the alleged victim and other residents?
- Describe the alleged victim's reaction, if any, when the alleged perpetrator, or a specific resident(s) or staff person(s) is present:
  - Avoids or withdraws from conversations or activities;
  - Displays fear of, or shies away from being touched; and/or
  - Exhibits behaviors such as angry outbursts, tearfulness, or stress (agitation, trembling, cowering)?
- Describe physical injuries, if any, related to the alleged abuse, such as:
  - Fractures, sprains or dislocations;
  - Burns, blisters, or scalds;
  - Bite marks, scratches, skin tears, and lacerations with or without bleeding, including those that would be unlikely to result from an accident;
  - Bruises, including those forming shapes (e.g., finger imprints) or found in unusual locations such as the head, neck, lateral locations on the arms, posterior torso and trunk, inner thigh, genital area and/or breasts; and/or
  - Facial injuries, including but not limited to, broken or missing teeth, facial fractures, black eye(s), bruising, bleeding or swelling of the mouth or cheeks.
- Observe and describe:
  - If the alleged perpetrator is a resident, whether he/she displays symptoms, such as
    - Verbally aggressive behavior, such as screaming, cursing, bossing around/demanding, insulting to race or ethnic group, intimidating;
    - Physically aggressive behavior, such as hitting, kicking, grabbing, scratching, pushing/shoving, biting, spitting, threatening gestures, throwing objects;
    - Sexually aggressive behavior such as saying sexual things, inappropriate touching/grabbing;
    - Taking, touching, or rummaging through other's property;
    - Wandering into other's rooms/space; or
    - Resistive to care and services.
  - If the alleged perpetrator is staff, whether he/she displays rough handling of residents, appears rushed, dismisses requests for assistance, expresses anxiety, or frustration regarding work and lack of staffing.
- Observe for possible environmental factors related to the alleged abuse, such as:
  - If in a resident's room, the room configuration, presence of privacy curtains, and the availability of a working call light/call bell;
  - Lighting levels; or
  - Location in relation to the nurse's station, staff lounges, or outside access such as windows, doors, or hallways.

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- For an allegation that a resident was deprived of goods or services by staff, observe for physical/psychosocial outcomes related to care deficits.

**Interviews:** Be impartial, use discretion, and non-judgmental language. Use an interpreter as needed to obtain as accurate information as possible. Attempt to interview the alleged victim and witnesses as soon as possible.

**Alleged Victim or Representative and Witness(es) Interview:** Conduct private interviews unless the alleged victim requests the presence of another person. Observe the alleged victim's emotions and tone, as well as any nonverbal expressions or gesturing to a particular body area, in response to the questions. Maintain the confidentiality of witnesses and the person who reported the allegation (e.g., change the order of the interviews, location or time), to the extent possible. During the interview with the witnesses, the surveyor may ask him/her to re-create or re-enact the alleged incident, to better understand the sequence of events.

- For the **alleged victim/resident representative/witness**, ask, as applicable:
  - What occurred prior to, during, and immediately following the alleged abuse?
  - When and where did the alleged abuse occur?
  - Could he/she identify the alleged perpetrator and any witnesses? Who?
  - What was said? What was the tone of the alleged perpetrator's voice or volume?
  - Did you report the alleged abuse? Who did you report it to? What was their response? If not reported, what prevented you from reporting the alleged abuse?
  - Did you report the alleged abuse to any external entities (e.g., police, physician, ombudsman, and other state agencies)? Who did you report it to? What was their response?
  - Do you think retaliation has occurred since you reported the alleged abuse? If so, what actions were taken?

- For the **alleged victim/resident representative**, document as applicable:
  - Did you suffer any injuries (e.g., bruises, cuts, fractures) from the alleged abuse? Please describe, including the alleged victim's response to the injuries (e.g., pain, new difficulty sitting or walking).

- For the **resident's representative**, ask, as applicable:
  - Have you observed any changes in the alleged victim's behavior, and if so, describe?
- For an **allegation that a resident was deprived of goods or services by staff, for the alleged victim/resident representative**, ask, as applicable:
  - How do staff respond to your requests for assistance? If staff do not respond, what happens?
  - Do you have any concerns about the manner in which care is provided to you? If so, describe. Did you report this to anyone? If so, to whom, when, and what was the response?
  - Do you feel that you have had any negative changes (e.g., weight loss, pressure ulcers) because of the failure to receive the care that you need?
  - Have you had any changes in medication (e.g., antipsychotics) that may be impacting the care you receive?

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- Did you go to the hospital or physician's clinic for evaluation and treatment? When and which facility?
- Do you feel safe?
- Have there been past encounters with the alleged perpetrator?
- Have there been past instances of abuse?

**Alleged Perpetrator Interview:** If the alleged perpetrator is a staff member, the staff member may have been suspended or re-assigned until the facility's investigation is completed and in some situations, the facility may have terminated the employment of the individual. In some cases the alleged perpetrator may not be in the facility or may refuse to be interviewed. If possible, interview the alleged perpetrator in person or by phone even if the alleged perpetrator is no longer working in the facility. In addition, the alleged perpetrator may be a resident or visitor. Interview the alleged perpetrator to determine the following, to the extent possible, and include information regarding inability, if any, to conduct the interview:

- What information can you provide regarding the alleged abuse?
- Were you present in the facility at the time of the alleged abuse? If so, where were you at?
- What is your relationship, if any, to the alleged victim?
- For an allegation that a resident was **deprived of goods or services**, ask the staff member:
  - How do you respond to the resident's requests for assistance;
  - Have you had any concerns when you have been assigned to this resident? If so, describe. Did you report this to anyone? If so, to whom, when, and what was the response?
  - Have you noticed any negative changes (e.g., weight loss, pressure ulcers) with this resident? If so, describe; and
  - Has the resident had any behavioral symptoms (e.g. combative behavior, frequent requests for assistance, calling out, grabbing) that may be impacting the care that they receive? If so, have you reported this? If reported, to whom, when, and what was the response?
- If the **alleged perpetrator is a staff member**:
  - What is your position?
  - Describe any contact that you have with the alleged victim.
  - Do you continue to have access to the alleged victim? If not, why?
  - How long have you worked in the facility?
  - What type of orientation, training, work assignments, and supervision did you receive?
  - What training have you received related to abuse prevention, reporting abuse, and the facility's abuse policy and procedures? NOTE: If the staff member has not received training, ask other staff members whether they have received training.
- Do you have any other information you wish to share in regard to the investigation?

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**Staff Interviews:** Interview the most appropriate direct care staff member. Review staff schedules from all departments to determine who was working at the time of the alleged abuse and who may have had contact with the alleged perpetrator or alleged victim. Interview the most appropriate direct care staff member:

- Did you have knowledge of the alleged abuse? If so, describe.
- What actions, if any, did you take in response to the allegation?
- If you're familiar with the alleged victim, have you noticed any changes in the alleged victim's behavior as a result of the alleged abuse? If so, describe.
- How did the alleged perpetrator and victim act towards one another prior to and after the incident?
- Did the alleged perpetrator and/or victim exhibit any behaviors that would provoke one another? If so, what actions were taken to address this?
- If the alleged perpetrator was staff, had the alleged perpetrator exhibited inappropriate behaviors to the alleged victim or other residents in the past, such as using derogatory language, rough handling, or ignoring residents while giving care?
- If the alleged perpetrator was a visitor, did the visitor exhibit any inappropriate behaviors in the past or have any indication of risk to the resident(s)?
- Did you report the alleged abuse to any supervisors/administration? Who did you report it to? What was their response?
  - If reported, do you think retaliation has occurred since you reported the alleged abuse? If so, describe. Do you fear retaliation?
  - If not reported, what prevented you from reporting the alleged abuse?
- Did you report the alleged abuse to any external entities (e.g., police, physician, ombudsman, and other state agencies)? Who did you report it to? What was their response?
- Have you received training on abuse identification, prevention, and reporting requirements? NOTE: If the staff member has not received training, ask other staff members whether they have received training.
- For an allegation that a resident was **deprived of goods or services** by staff, ask:
  - How do staff respond to the resident's requests for assistance? If staff do not respond, what do they say;
  - Do you have any concerns about the manner in which care is provided to the resident? If yes, describe. Did you report this to anyone? If so, to whom, when, and what was the response;
  - Has the resident had any negative changes (e.g., weight loss, pressure ulcers) because of the failure to receive the care that he/she needs;
  - Has the resident had any changes in medication (e.g., antipsychotics) that may be impacting the care that they receive? Note: Determine if the resident may have received unnecessary medications such as chemical restraints.

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**Other Healthcare Professionals (DON, Social Worker, Attending Practitioner) Interviews, as Appropriate** Ask the appropriate personnel:

- Do you have knowledge of the alleged abuse? If so, describe.
- When and by whom were you notified of the alleged abuse?
- Did you conduct an assessment of the alleged victim for potential injuries or a change in mental status? What interventions or treatment (e.g., counseling) were provided, if any?
- Was the alleged victim assessed and/or treated at a hospital after the alleged incident? NOTE: Attempt to interview the practitioner from the hospital who examined the alleged victim to determine physical findings and mental status at the time.
- Do you know if the alleged victim's representative and attending practitioner were notified of the alleged abuse? If so, when and what were the responses?
- If there are discrepancies in injuries based on the alleged victim's description, how was this investigated?
- Did the alleged perpetrator and/or victim exhibit any behaviors that would provoke one another? If so, what actions were taken to address this?
- Did you report the alleged abuse to administration? Who did you report it to? What was their response? If not reported, what prevented you from reporting the alleged abuse? Did you report the alleged abuse to anyone else (e.g., resident representative, attending practitioner)?
- Were any external entities (e.g., APS or law enforcement) contacted? If so, who made the report, to whom, and when?
- If the **alleged perpetrator was a resident**:
  - Did you conduct any interviews related to the alleged abuse and identify the circumstances of what occurred prior to, during and after the alleged abuse?
  - Does the care plan identify interventions to address any behaviors of the alleged perpetrator?
  - Was the care plan implemented?
- If the **alleged perpetrator is a visitor**:
  - Was there any indication of a prior history of abuse, aggression, or other inappropriate behaviors?
  - Was there any indication of a physical or psychosocial change in the alleged victim after a visit with the alleged perpetrator, whether onsite or outside of the facility?
  - Did you interview the alleged perpetrator and identify the circumstances of what occurred prior to, during and after the alleged abuse? If so, describe?
  - Were visits from the alleged perpetrator supervised? When and where did visits usually occur?
  - Is access to the alleged victim currently allowed? If so, under what circumstances?
  - What protections have been put in place (e.g., supervision of visits while the investigation is being conducted); and/or
  - Has access to other residents been limited? If so, how?
- For an allegation that a resident was **deprived of goods or services** by staff, ask:
  - Have you noticed any negative changes (e.g., weight loss, pressure ulcers) with this resident? If so, please describe.
  - How do staff respond to the resident's requests for assistance? If staff do not respond, what do they say;
  - Do you have any concerns about the manner in which care is provided to the resident? If yes, describe. Has staff report this concern to you? If so, when and what did you do;
  - Has the resident had any behavioral symptoms (e.g., combative behavior, frequent requests for assistance, calling out, grabbing) that may be impacting care they receive? If so, did staff report this to you? If reported, when and what was your response;
  - Has the resident had any changes in medication (e.g., antipsychotics) that may be impacting the care that they receive? Note: Determine if the resident may have received unnecessary medications such as chemical restraints; and/or

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- If the interventions were not effective in reducing the behaviors, were they revised and if so, what was changed?
- Did the revised interventions provide the needed protections?
- What protections have been put in place at this time?
- Has access to other residents at risk been limited? If so, how?
- If the **alleged perpetrator was staff**, ask:
  - Did the alleged perpetrator exhibited inappropriate behaviors to the alleged victim or other residents in the past (e.g., using derogatory language, rough handling, or ignoring residents while giving care)? If yes, describe.
  - Was there a history of resident/family grievances or problems identified with care delivery or services provided? If so, what was the result of the investigation of the concerns, and describe any disciplinary actions and/or training provided related to the complaints/concerns.
  - Did annual performance reviews identify issues with the provision of care, treatment, or other concerns? If so, what was provided to address the concerns.
  - How is monitoring and supervision provided regarding the delivery of care and services by the alleged perpetrator?
- Who is responsible for supervising and monitoring the delivery of care at the bedside?

**Facility Investigator Interview:** If the facility investigated the alleged abuse, interview the staff member responsible for the initial reporting and the overall investigation of the alleged abuse. For some facilities, the Administrator may be the Facility Investigator.

- When (date and time) were you notified of the alleged abuse and by whom?
- What information was reported to you related to the alleged abuse?
- When and what actions were taken to protect the alleged victim from further abuse while the investigation was in process?
- Describe medical interventions, if any, taken in relation to the alleged abuse, (e.g., hospitalization, transfer to ER, onsite visit by attending practitioner).
- What steps were taken to investigate the allegation? Can you provide me a timeline of events that occurred?
- Describe interviews conducted, such with the alleged victim/resident representative, witnesses, alleged perpetrator, and practitioner and what information was obtained.
- Describe record reviews conducted related to the alleged abuse and what information was obtained.
- Were there any photographs or videos obtained related to the alleged abuse? If yes, describe.
- When and who received results of the investigation?

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- Describe any mental assessments that were conducted pertaining the alleged abuse, and any interventions taken to assist the resident (e.g., counseling).
- If the allegation relates to sexual abuse, describe the immediate actions of the staff, including preserving evidence, providing medical intervention (e.g., transfer to hospital for sexual assault for rape kit), conducting a physical assessment, and reporting.
- Who did you notify and when (date/time) of the alleged abuse? Was an outside entity informed about the alleged abuse, and if so, when (date and time)? NOTE: If a suspected crime, note the date and time reported. Obtain copies of the outside entities investigations, if available.
- What actions were taken as a result of the investigation (e.g., for the alleged victim, the alleged perpetrator, other staff, training, policy revisions)?
- Is there any related information regarding the allegation that may not be included in the investigation report?

### Administrator Interview:

- When (date and time) were you notified of the allegation and by whom?
- When (date and time) was the initial report reported to required agencies and law enforcement, as applicable?
- Who was/is responsible for the investigation? Is the investigation completed or ongoing? If completed, what was the outcome? (if the administrator is the facility investigator, use the questions above to determine how the investigation was conducted.)
- When (date and time) were the results of the investigation reported to you and to the required agencies?
- When and what actions were taken to protect the alleged victim and residents at risk from further abuse while the investigation was in process?
- What happened as a result of the investigation?
- How do you monitor for potential or actual reported allegations of abuse?
- If the alleged perpetrator is an employee, were there previous warnings or incidents at the facility? If the alleged abuse was verified, describe actions that were taken.
- How do you assure retaliation does not occur when staff or a resident reports an allegation of abuse?
- For an allegation that a resident was **deprived of goods or services**, ask:
  - Have staff reported any concerns to you about the manner in which care is provided to the resident? If yes, when, what did they report, and what did you do; and
  - Who is responsible for supervising and monitoring the delivery of care at the bedside?

### QAA Responsible Person Interview:

- How do you monitor cases of verified abuse?
- When did the QAA Committee receive the results of the investigation for the verified case of abuse?
- Did the QAA Committee make any recommendations and/or take any corrective actions based on the results of the investigation, such as policy revisions or training to prevent abuse?

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### Review the Alleged Victim's Record:

- Was the alleged victim was assessed at risk for abuse (e.g., as indicated in the RAI, care plan, progress notes from nurses, social services, practitioners)? If so, how did the facility implement interventions to mitigate risks?
- When (date/time) did the allegation occur? When was it discovered and by whom?
- When was the resident's representative, practitioner and other required entities notified?
- Were physical injuries noted related to the alleged abuse?
- Are there changes in the alleged victim's mood or demeanor before and after the alleged abuse (e.g., distrust, fear, angry outburst, cowering, tearfulness, agitation, panic attacks, withdrawal, difficulty sleeping, and PTSD symptoms)?
- Are there potential indicators of sexual abuse (e.g., STD, vaginal or anal bleeding, pain or irritation in genital area, bruising/lacerations on breasts or inner thighs, or recent difficulty with sitting or walking)?
- Was the resident assessed and the care plan revised as needed? What interventions (e.g., first aid, hospitalization) occurred to address any physical injuries or changes in mental status? (Note: If the resident required medical treatment, you may need to contact the hospital and/or practitioner to obtain related medical records for review.)
- For an allegation that a resident was **deprived of goods or service**:
  - Does the record reflect any negative changes (e.g., weight loss, pressure ulcers);
  - Has the alleged victim had any behavioral symptoms (e.g., combative behavior, frequent requests for assistance, calling out, grabbing) that may be impacting the care that they receive? If so, describe; and/or
  - Determine if the alleged victim may have received unnecessary medications such as chemical restraints and if this impacted the care received.

### Review the Alleged Perpetrator's Record, if a Resident:

- What circumstances are documented (date/time) before, during and after the alleged abuse?
- Is there a previous history of exhibiting any behaviors that would provoke others? If so: Does the care plan address behaviors, if any, of the alleged perpetrator, and include interventions (e.g., monitoring, staff supervision, redirection)?
  - Were care plan interventions implemented?
  - If the interventions were not effective in reducing the behaviors, were they revised and if so, what was changed?
- After the alleged abuse, did staff separate the alleged victim and other residents at risk?
- What are the plans to monitor and supervise the resident?
- If interventions were unsuccessful, was the physician notified? Were new interventions implemented?

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- Did the revised interventions provide the needed protections?
- What protections are currently in place?
- Does the alleged perpetrator have limited access to other residents at risk? If so, how?

### Review the Alleged Perpetrator's Personnel File, if Staff:

- Is there any information related to the alleged abuse? If so, describe.
  - Is there a history of other allegations?
  - Were adverse personnel actions taken? If so, describe.
  - Is there information related to any finding of abuse/neglect/exploitation/misappropriation of property/mistreatment?
- If a nurse aide:
    - Was training and orientation provided related to dementia management, abuse and neglect prevention?
    - Were annual performance reviews conducted? Was there a history of competency concerns? If so, what disciplinary actions and/or training was provided related to performance deficits?

### Investigative Report from Other Investigatory Agencies (APS, Professional Licensing Boards, Law Enforcement):

- Review a copy of the report if another investigatory agency (e.g., APS, Professional Licensing Board, and Law Enforcement) conducted an investigation.
- What did the other investigatory agency find? Note: deficient practice is not determined based on another agency's investigation.

### Critical Element Decisions:

- 1) Did the facility protect a resident's right to be free from any type of abuse that results in, or has the likelihood to result in physical harm, pain, or mental anguish?  
If No, cite F600
- 2) Did the facility hire or engage staff who have:
  - Not been found guilty of abuse, neglect, exploitation, misappropriation of property, or mistreatment by a court of law?
  - Not had a finding entered into the State nurse aide registry concerning abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property?
  - Not had a disciplinary action taken by a state professional licensure body as a result of a finding of abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property?
  - Not had a successful appeal of their disqualification from employment?

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AND/OR

Did the facility report to the State nurse aide registry or licensing authorities any knowledge of actions taken by a court of law that would indicate unfitness as a staff member of a nursing home?

If No, cite F606

NA, the alleged perpetrator was not staff

- 3) Did the facility develop and implement written policies and procedures that prohibit and prevent abuse, establish policies and procedures to investigate any such allegations, include training as required at paragraph §483.95, establish coordination with the QAPI program required under §483.75, and post signage of employee rights related to retaliation against the employee for reporting a suspected crime?  
If No, cite F607
- 4) Did the facility develop, implement, and maintain 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?  
If No, cite F943
- 5) Does the facility's in-service training for nurse aides include resident abuse prevention?  
If No, cite F947
- 6) For alleged violations of abuse, did the facility:
  - Develop policies and procedures related to ensuring the reporting of suspected crimes, within mandated timeframes (i.e., immediately but not later than two hours if the suspected crime resulted in serious bodily injury, within 24 hours for all other cases) and notifying covered individuals annually of their reporting obligations;
  - Identify the situation as an alleged violation involving abuse, including injuries of unknown source?
  - Immediately report the allegation to the administrator and to other officials, including to the State survey and certification agency, and APS in accordance with State law?
  - Report the results of all investigations within five working days to the administrator or his/her designated representative and to other officials in accordance with State law (including to the State survey and certification agency)?If No to any of the above, cite F609
- 7) For alleged violations of abuse, did the facility:
  - Prevent further potential abuse while the investigation is in progress?
  - Initiate and complete a thorough investigation of the alleged violation?
  - Maintain documentation that the alleged violation was thoroughly investigated?
  - Take corrective action following the investigation, if the allegation is verified?

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If No to any of the above, cite F610

**Other Tags, Care Areas (CA), and Tasks (Task) to Consider:** Dignity (CA), Visitors F563/F564, Notice of Rights and Rules F572, Privacy (CA), Grievances F585, Accidents (CA), Social Services F745, Behavioral-Emotional Status (CA), Sufficient and Competent Staffing (Task), QAPI/QAA (Task).

Advanced Copy