

§482.13(c)(3) - The patient has the right to be free from all forms of abuse or harassment.**Interpretive Guidelines §482.13(c)(3)**

The intent of this requirement is to prohibit all forms of abuse, neglect (as a form of abuse) and harassment whether from staff, other patients or visitors. The hospital must ensure that patients are free from all forms of abuse, neglect, or harassment. The hospital must have mechanisms/methods in place that ensure patients are free of all forms of abuse, neglect, or harassment.

Abuse is defined as the willful infliction of injury, unreasonable confinement, intimidation, or punishment, with resulting physical harm, pain, or mental anguish. This includes staff neglect or indifference to infliction of injury or intimidation of one patient by another. Neglect, for the purpose of this requirement, is considered a form of abuse and is defined as the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

The following components are suggested as necessary for effective abuse protection:

- **Prevent.** A critical part of this system is that there are adequate staff on duty, especially during the evening, nighttime, weekends and holiday shifts, to take care of the individual needs of all patients. (See information regarding meaning of adequate at those requirements that require the hospital to have adequate staff. Adequate staff would include that the hospital ensures that there are the number and types of qualified, trained, and experienced staff at the hospital and available to meet the care needs of every patient.)
- **Screen.** Persons with a record of abuse or neglect should not be hired or retained as employees.
- **Identify.** The hospital creates and maintains a proactive approach to identify events and occurrences that may constitute or contribute to abuse and neglect.
- **Train.** The hospital, during its orientation program, and through an ongoing training program, provides all employees with information regarding abuse and neglect, and related reporting requirements, including prevention, intervention, and detection.
- **Protect.** The hospital must protect patients from abuse during investigation of any allegations of abuse or neglect or harassment.
- **Investigate.** The hospital ensures, in a timely and thorough manner, objective investigation of all allegations of abuse, neglect or mistreatment.

- **Report/Respond.** The hospital must assure that any incidents of abuse, neglect or harassment are reported and analyzed, and the appropriate corrective, remedial or disciplinary action occurs, in accordance with applicable local, State, or Federal law.

As a result of the implementation of this system, changes to the hospital's policies and procedures should be made accordingly.

Survey Procedures §482.13(c)(3)

- Examine the extent to which the hospital has a system in place to protect patients from abuse, neglect and harassment of all forms, whether from staff, other patients, visitors or other persons. In particular, determine the extent to which the hospital addresses the following issues.
 - Are staffing levels across all shifts sufficient to care for individual patient's needs?
 - Does the hospital have a written procedure for investigating allegations of abuse and neglect including methods to protect patients from abuse during investigations of allegations?
 - How does the hospital substantiate allegations of abuse and neglect?
 - Do incidents of substantiated abuse and neglect result in appropriate action?
 - Has the hospital implemented an abuse protection program? Does it comply with Federal, State and local laws and regulations? Is it effective?
 - Are appropriate agencies notified in accordance with State and Federal laws regarding incidents of substantiated abuse and neglect?
 - Can staff identify various forms of abuse or neglect?
 - Do staff members know what to do if they witness abuse and neglect?
 - What evidence is there that allegations of abuse and neglect are thoroughly investigated?
 - Does the hospital conduct criminal background checks as allowed by State law for all potential new hires?
 - Is there evidence the hospital employs people with a history of abuse, neglect or harassment?