

42 CFR 483.13

This section is current through the March 20, 2014 issue of the Federal Register

Code of Federal Regulations > TITLE 42-- PUBLIC HEALTH > CHAPTER IV-- CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES > SUBCHAPTER G-- STANDARDS AND CERTIFICATION > PART 483-- REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES > SUBPART B-- REQUIREMENTS FOR LONG TERM CARE FACILITIES

§ 483.13 Resident behavior and facility practices.

- (a) Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.
- (b) Abuse. The resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.
- (c) Staff treatment of residents. The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.
 - (1) The facility must--
 - (i) Not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion;
 - (ii) Not employ individuals who have been--
 - (A) Found guilty of abusing, neglecting, or mistreating residents by a court of law; or
 - (B) Have had a finding entered into the State nurse aide registry concerning abuse, neglect, mistreatment of residents or misappropriation of their property; and
 - (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.
 - (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).
 - (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.
 - (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.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

Secs. 1102, 1128I and 1871 of the Social Security Act ([42 U.S.C. 1302](#), 1320a-7j, and 1395hh).

History

[56 FR 48870, Sept. 26, 1991, as amended at 57 FR 43924, Sept. 23, 1992]

Annotations

Case Notes

NOTES TO DECISIONS: COURT AND ADMINISTRATIVE DECISIONS SIGNIFICANTLY DISCUSSING SECTION --

[Miller v DeBuono \(1998, 2d Dept\) 248 App Div 2d 620, 669 NYS2d 926](#)

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Family Law : Family Protection & Welfare : Elderly Persons : Abuse, Endangerment & Neglect

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Healthcare Law : Actions Against Facilities : Facility Liability : Nursing Facilities

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Public Health & Welfare Law : Social Security : Medicare : Providers : Types : Nursing Facilities

Case Notes Applicable to Entire Part[Part Note](#)**Administrative Law : Separation of Powers : Jurisdiction**

[Talbot v. Lucy Corr, 1996 U.S. Dist. LEXIS 8886](#) (ED Va Mar. 19, 1996).

Overview: *A patient could not pursue a claim under 42 U.S.C.S. § 1983 against a nursing home for alleged failure to comply with 42 U.S.C.S. 1395i(3)(c) because she first was required to exhaust the administrative remedies established by Virginia, pursuant to 42 C.F.R. § 488 et seq.*

- The Secretary of the Department of Health and Human Services has promulgated rules and regulations implementing the Nursing Home Reform Law. These regulations address, among other things: residents rights ([42 C.F.R § 483.10](#)); admission, transfer, and discharge rights ([42 C.F.R § 483.12](#)); resident behavior and facility practices ([42 C.F.R. § 483.13](#));

quality of life ([42 C.F.R. § 483.15](#)); and quality of care ([42 C.F.R. § 483.25](#)). To aid in implementing these requirements and procedures, the administrative scheme includes a state appeals process for transfers and discharges of patients. [42 C.F.R. § 431.205](#). The regulations provide that the state agency responsible for maintaining an appeals system must provide information regarding hearing procedures, notice to the beneficiary of the action that the skilled nursing facility intends to take, the reasons for the intended action, and the specific regulations that require that action. Moreover, a hearing is required for any resident who believes that a skilled nursing facility has transferred or discharged her in error. [42 C.F.R. § 431.220](#). *Go To Headnote*

Civil Procedure : Jurisdiction : Subject Matter Jurisdiction : Federal Questions : General Overview

[Schneller v. Crozer Chester Med. Ctr., 2010 U.S. App. LEXIS 14966](#) (3rd Cir July 20, 2010), writ of certiorari denied by [131 S. Ct. 1684, 179 L. Ed. 2d 617, 2011 U.S. LEXIS 2222, 79 U.S.L.W. 3538 \(U.S. 2011\)](#).

Overview: A district court's dismissal of an individual's case was affirmed since the district court lacked diversity jurisdiction and federal question jurisdiction; *inter alia*, the individual's § 1983 claim failed, he did not have a private right of action under the Assisted Suicide Funding Restriction Act of 1997 or the federal controlled substances laws.

- [42 C.F.R. §§ 483.10, 483.13, 483.15](#), and [483.25](#) do not provide a basis for jurisdiction pursuant to [28 U.S.C.S. § 1331](#) because they merely set forth the requirements that a facility must meet in order to qualify to participate in Medicare and Medicaid; they do not confer a private cause of action. *Go To Headnote*

Family Law : Family Protection & Welfare : Elderly Persons : Abuse, Endangerment & Neglect

[Klein v. Mo. Dep't of Health & Senior Servs., 226 S.W.3d 162, 2007 Mo. LEXIS 109](#) (Mo June 26, 2007).

Overview: Decision of appellant Missouri Department of Health and Senior Services, placing respondent nursing home employee on the employee disqualification list under Mo. Rev. Stat. § 198.070 (2000), was affirmed because the employee's conduct in striking a resident rose to the level of "abuse."

- Federal regulations require Missouri to ensure that each resident of a nursing home has the right to be free of abuse, corporal punishment, and involuntary seclusion. [42 C.F.R. 483.13\(b\)](#). As one means of protecting against such abuse, federal regulations also require Missouri to create and maintain an employee disqualification list. [42 C.F.R. 483.156](#). To comply with this requirement, the legislature enacted Mo. Rev. Stat. § 198.070.12 (2000). *Go To Headnote*

Governments : Legislation : Statutory Remedies & Rights

[Schneller v. Crozer Chester Med. Ctr., 2010 U.S. App. LEXIS 14966](#) (3rd Cir July 20, 2010), writ of certiorari denied by [131 S. Ct. 1684, 179 L. Ed. 2d 617, 2011 U.S. LEXIS 2222, 79 U.S.L.W. 3538 \(U.S. 2011\)](#).

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Healthcare Law : Actions Against Facilities : Facility Liability : Nursing Facilities

[Grace Healthcare v. United States HHS, 589 F.3d 926, 2009 U.S. App. LEXIS 28176](#) (8th Cir Dec. 21, 2009), reprinted as modified at [603 F.3d 412, 2009 U.S. App. LEXIS 29558 \(8th Cir. 2009\)](#), modified by [603 F.3d 412, 2010 U.S. App. LEXIS 12712 \(8th Cir. 2010\)](#).

Overview: Substantial evidence did not support imposition of a civil monetary penalty against a skilled nursing facility for an immediate jeopardy violation of [42 C.F.R. § 483.13\(c\)](#); the record did not show that a resident suffered extreme bruising prior to the morning on which she was hospitalized or that the facility failed to properly investigate.

- [42 C.F.R. § 483.13\(c\)](#) understandably defines allegations of abuse to include injuries of unknown source, § 483.13(c)(2). But the extent of the required investigation is necessarily fact specific. *Go To Headnote*

[Park v. Leavitt, 2005 U.S. App. LEXIS 26943](#) (6th Cir Dec. 8, 2005) (Unpublished).

Overview: Substantial evidence supported finding that skilled nursing facility that participated in Medicare and Medicaid violated [42 C.F.R. § 483.13\(c\)](#) by failing to treat residents' allegations of sexual abuse with required seriousness; imposition of civil monetary penalty under [42 U.S.C.S. §§ 1320a-7a, 1395i-3\(h\)\(2\)\(B\)\(ii\)](#) was not abuse of discretion.

- The Department of Health and Human Services is authorized to impose a civil monetary penalty on a skilled nursing facility that violates [42 C.F.R. § 483.13](#). [42 U.S.C.S. § 1395i-3\(h\)\(2\)\(B\)\(ii\)](#). *Go To Headnote*

[Salmon v. Dep't of Pub. Health & Addiction Servs., 788 A.2d 1199, 2002 Conn. LEXIS 45](#) (Conn Feb. 5, 2002).

Overview: Although nurse's aide's purported vulgar remarks to nursing home resident were abusive as matter of law, material evidence indicating she was falsely accused required remand to public health agency.

- According to regulations promulgated by the federal Health Care Financing Administration, a guilty finding regarding a charge of resident abuse entered in the state nurse aide registry bars an individual from further employment in a nursing home. [42 C.F.R. § 483.13\(c\)\(1\)\(ii\)\(B\)](#). *Go To Headnote*

Healthcare Law : Actions Against Facilities : Standards of Care : General Overview

[Salmon v. Dep't of Pub. Health & Addiction Servs., 788 A.2d 1199, 2002 Conn. LEXIS 45](#) (Conn Feb. 5, 2002).

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a guilty finding regarding a charge of resident abuse entered in the state nurse aide registry bars an individual from further employment in a nursing home. [42 C.F.R. § 483.13\(c\)\(1\)\(ii\)\(B\)](#). [Go To Headnote](#)

Healthcare Law : Actions Against Facilities : Standards of Care : Nursing Facilities

[Lakeridge Villa Health Care Ctr. v. Leavitt, 2006 U.S. App. LEXIS 27338](#) (6th Cir Nov. 3, 2006) (Unpublished).

Overview: *A civil monetary penalty against a nursing care facility for violations of requirements as described in the Social Security Act, [42 U.S.C.S. § 1395i-3\(a\)-\(d\)](#), was upheld per [42 U.S.C.S. § 1320a-7a](#) as supported by substantial evidence as, inter alia, the facility did not prevent accidents and improperly used restraints, and the fine was reasonable.*

- Regulations guarantee nursing facility residents the right to be free from any physical or chemical restraints that are imposed for discipline or convenience purposes, and that are not required to treat the resident's medical symptoms. [42 C.F.R. § 483.13\(a\)](#). Even if the use of restraints is warranted for a medical purpose, that use may not exceed the bounds that are established by § 483.13(a). As the Departmental Appeals Board of the U.S. Department of Health and Human Service has noted, because § 483.13(a) is directed toward nursing facilities, the regulation imposes on a long-term care facility an independent obligation to ensure that the use of restraints, even with a doctor's order, meets the regulation's criteria. Further, it imposes an independent obligation to continue to assess the impact of the use of a restraint and to consult with the doctor if the facility finds that use of the restraint no longer meets the criteria of the regulation. Finally, review of compliance requires careful consideration to make sure that the facility is implementing the doctor's restraint order pursuant to its terms. Therefore, a facility cannot rely solely on a doctor's order to prove compliance with § 483.13(a), and it must be able to show, with other evidence as appropriate, that the specific restraints applied were not imposed for discipline or convenience and were medically necessary. [Go To Headnote](#)

[Park v. Leavitt, 2005 U.S. App. LEXIS 26943](#) (6th Cir Dec. 8, 2005) (Unpublished).

Overview: *Substantial evidence supported finding that skilled nursing facility that participated in Medicare and Medicaid violated [42 C.F.R. § 483.13\(c\)](#) by failing to treat residents' allegations of sexual abuse with required seriousness; imposition of civil monetary penalty under [42 U.S.C.S. §§ 1320a-7a, 1395i-3\(h\)\(2\)\(B\)\(ii\)](#) was not abuse of discretion.*

- [42 C.F.R. § 483.13\(c\)](#) requires skilled nursing facilities to develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents. [Go To Headnote](#)
- The Department of Health and Human Services is authorized to impose a civil monetary penalty on a skilled nursing facility that violates [42 C.F.R. § 483.13](#). [42 U.S.C.S. § 1395i-3\(h\)\(2\)\(B\)\(ii\)](#). [Go To Headnote](#)

Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :

[Talbot v. Lucy Corr, 1996 U.S. Dist. LEXIS 8886](#) (ED Va Mar. 19, 1996).

Overview: *A patient could not pursue a claim under [42 U.S.C.S. § 1983](#) against a nursing home for alleged failure to comply with [42 U.S.C.S. 1395i\(3\)\(c\)](#) because she first was required to*

exhaust the administrative remedies established by Virginia, pursuant to 42 C.F.R. § 488 et seq.

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Public Health & Welfare Law : Healthcare : Services for Disabled & Elderly Persons : Care Facilities :

[Somerset Nursing & Rehab. Facility v. United States HHS, 2012 U.S. App. LEXIS 21795](#) (6th Cir Oct. 18, 2012) (Unpublished).

Overview: *Substantial evidence supported a finding that a nursing facility violated Medicare regulations, [42 C.F.R. § 483.13](#), by failing to implement methods to protect female residents from unsolicited sexual advances by a male resident. A civil monetary penalty ran from the time when it became apparent that the facility's methods were ineffective.*

- Under [42 C.F.R. § 483.13\(b\)](#), a skilled nursing facility resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion. The regulations require a facility to take reasonable steps to prevent abusive acts. *Go To Headnote*

[Universal Healthcare/king v. United States HHS, 2010 U.S. App. LEXIS 2043](#) (4th Cir Jan. 29, 2010).

Overview: *Findings of the DHHS that a skilled nursing facility was not in compliance with 42 C.F.R. §§ 483, § 483.13(c), 483.60(a), and 483.25, relating to residents' well-being and safety, were supported by substantial evidence, a finding of immediate jeopardy was not clearly erroneous, and the civil monetary penalties that were imposed were reasonable.*

- [42 C.F.R. § 483.13\(c\)](#) requires that a skilled nursing facility develop and implement written policies and procedures that prohibit mistreatment and neglect. *Go To Headnote*

[Grace Healthcare v. United States HHS, 589 F.3d 926, 2009 U.S. App. LEXIS 28176](#) (8th Cir Dec. 21, 2009), reprinted as modified at [603 F.3d 412, 2009 U.S. App. LEXIS 29558 \(8th Cir. 2009\)](#), modified by [603 F.3d 412, 2010 U.S. App. LEXIS 12712 \(8th Cir. 2010\)](#).

Overview: *Substantial evidence did not support imposition of a civil monetary penalty against a skilled nursing facility for an immediate jeopardy violation of [42 C.F.R. § 483.13\(c\)](#); the record did not show that a resident suffered extreme bruising prior to the morning on which she was hospitalized or that the facility failed to properly investigate.*

- [42 C.F.R. § 483.13\(c\)](#) requires nursing homes to thoroughly investigate all allegations of resident neglect or abuse, including injuries of unknown sources. *Go To Headnote*

- [42 C.F.R. § 483.13\(c\)\(2\)](#)-(4) provides that a skilled nursing facility must ensure that all allegations of abuse or neglect are reported to the facility's administrator and to other officials in accordance with state law; preserve evidence that all allegations of abuse are thoroughly investigated; and promptly report the results of investigations to the facility's administrator and to other officials in accordance with state law within 5 working days of the incident. *Go To Headnote*

[Klein v. Mo. Dep't of Health & Senior Servs.](#), 226 S.W.3d 162, 2007 Mo. LEXIS 109 (Mo June 26, 2007).

Overview: *Decision of appellant Missouri Department of Health and Senior Services, placing respondent nursing home employee on the employee disqualification list under Mo. Rev. Stat. § 198.070 (2000), was affirmed because the employee's conduct in striking a resident rose to the level of "abuse."*

- Federal regulations require Missouri to ensure that each resident of a nursing home has the right to be free of abuse, corporal punishment, and involuntary seclusion. [42 C.F.R. 483.13\(b\)](#). As one means of protecting against such abuse, federal regulations also require Missouri to create and maintain an employee disqualification list. [42 C.F.R. 483.156](#). To comply with this requirement, the legislature enacted Mo. Rev. Stat. § 198.070.12 (2000). *Go To Headnote*

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Overview: *Substantial evidence supported finding that skilled nursing facility that participated in Medicare and Medicaid violated [42 C.F.R. § 483.13\(c\)](#) by failing to treat residents' allegations of sexual abuse with required seriousness; imposition of civil monetary penalty under [42 U.S.C.S. §§ 1320a-7a, 1395i-3\(h\)\(2\)\(B\)\(ii\)](#) was not abuse of discretion.*

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[Somerset Nursing & Rehab. Facility v. United States HHS](#), 2012 U.S. App. LEXIS 21795 (6th Cir Oct. 18, 2012) (Unpublished).

Overview: *Substantial evidence supported a finding that a nursing facility violated Medicare*

regulations, [42 C.F.R. § 483.13](#), by failing to implement methods to protect female residents from unsolicited sexual advances by a male resident. A civil monetary penalty ran from the time when it became apparent that the facility's methods were ineffective.

- Under [42 C.F.R. § 483.13\(b\)](#), a skilled nursing facility resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion. The regulations require a facility to take reasonable steps to prevent abusive acts. [Go To Headnote](#)

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- [42 C.F.R. § 483.13\(c\)\(2\)-\(4\)](#) provides that a skilled nursing facility must ensure that all allegations of abuse or neglect are reported to the facility's administrator and to other officials in accordance with state law; preserve evidence that all allegations of abuse are thoroughly investigated; and promptly report the results of investigations to the facility's administrator and to other officials in accordance with state law within 5 working days of the incident. [Go To Headnote](#)
- [42 C.F.R. § 483.13\(c\)](#) understandably defines allegations of abuse to include injuries of unknown source, § 483.13(c)(2). But the extent of the required investigation is necessarily fact specific. [Go To Headnote](#)

[Cox Ret. Props. v. Johnson, 2009 U.S. App. LEXIS 8195](#) (10th Cir Apr. 17, 2009).

Overview: Civil money penalty (CMP) of \$ 3,300 for day of immediate jeopardy due to skilled-nursing facility's noncompliance with Medicare regulations was proper because mandatory minimum CMP for immediate jeopardy situations was \$ 3050, under [42 C.F.R. § 488.438\(a\)\(1\)\(i\)](#), and widespread potential for more than minimal harm was sufficient to support finding.

- [42 C.F.R. § 483.13\(c\)](#) addresses staff treatment of residents and requires that written policies and procedures must be implemented to prohibit neglect and abuse of patients. [Go To Headnote](#)
- [42 C.F.R. § 483.13\(c\)](#) addresses adopting effective anti-neglect and abuse policies, not targeting isolated events. Sufficient examples of neglect can demonstrate lack of implementation of an anti-neglect policy. [Go To Headnote](#)
- Simply maintaining documents in a file to demonstrate to demonstrate compliance with [42 C.F.R. § 483.13\(c\)](#), without also implementing the policies contained therein and regulating staff actions to assure compliance, does not satisfy the regulation. [Go To Headnote](#)

[Appeal of Merrimack County \(n.H. Pub. Empl. Labor Rel. Bd.\), 156 N.H. 35, 930 A.2d 1202, 2007 N.H. LEXIS 144](#) (NH Aug. 23, 2007).

Overview: County was properly ordered to implement an arbitrator's award mandating

reinstatement of a union employee, who had been terminated from her employment at a county nursing home, because the issue was not whether the employee's conduct violated a public policy in favor of competent nursing care, [42 C.F.R. § 483.13](#), but whether the reinstatement did.

- [42 C.F.R. § 483.13](#) provides that a resident of a long-term care facility, like a nursing home, has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion. [42 C.F.R. § 483.13\(b\)](#). It also provides that a long-term care facility, like a nursing home, must not employ individuals who have been found guilty of abusing, neglecting, or mistreating residents by a court of law or have had a finding entered into the State nurse aide registry concerning abuse, neglect, mistreatment of residents, or misappropriation of their property. [42 C.F.R. § 483.13\(c\)\(ii\)](#). *Go To Headnote*

Public Health & Welfare Law : Social Security : Medicaid : General Overview

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Overview: A district court's dismissal of an individual's case was affirmed since the district court lacked diversity jurisdiction and federal question jurisdiction; *inter alia*, the individual's § 1983 claim failed, he did not have a private right of action under the Assisted Suicide Funding Restriction Act of 1997 or the federal controlled substances laws.

- [42 C.F.R. §§ 483.10, 483.13, 483.15](#), and [483.25](#) do not provide a basis for jurisdiction pursuant to [28 U.S.C.S. § 1331](#) because they merely set forth the requirements that a facility must meet in order to qualify to participate in Medicare and Medicaid; they do not confer a private cause of action. *Go To Headnote*

Public Health & Welfare Law : Social Security : Medicaid : Providers : Types : Nursing Facilities

[Beverly Healthcare Lumberton v. Leavitt](#), 2009 U.S. App. LEXIS 16293 (4th Cir July 22, 2009).

Overview: Under [42 U.S.C.S. § 1395i-3](#), civil money penalties were properly imposed against skilled nursing facility because nursing assistant abused resident when he grabbed resident's wrist, facility failed to promptly investigate and report allegation of abuse, and violations resulted in immediate jeopardy between incident and time assistant was suspended.

- [42 C.F.R. § 483.13\(b\)](#) prohibits abuse of residents. Facilities participating in Medicare and Medicaid programs are forbidden from using verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion. [42 C.F.R. § 483.13\(c\)\(1\)\(i\)](#). The U.S. Department of Health and Human Services defines abuse as the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. [42 C.F.R. § 488.301](#). *Go To Headnote*
- [42 C.F.R. § 483.13\(c\)\(2\)](#) requires facilities participating in Medicare and Medicaid programs to ensure that all alleged violations involving mistreatment, neglect, or abuse are reported immediately to the administrator of the facility and to other officials in accordance with state law. Further, facilities must promptly investigate all allegations of abuse and the results of all investigations must be reported to the administrator or his designated representative and to other officials in accordance with state law within 5 working days of the incident. [42 C.F.R. § 483.13\(c\)\(4\)](#). Under North Carolina law, facilities are required to file an initial 24-hour report within twenty four hours of an alleged incident of abuse and

also a five day report following a fuller investigation. 10A N.C. Admin. Code. 13D.2210(b), (d).
[Go To Headnote](#)

- [42 C.F.R. § 483.13\(c\)](#) states that facilities must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents. [Go To Headnote](#)
- Federal law requires a skilled nursing facility's procedures to require investigation of all allegations of abuse, not just those that facility employees believe are legitimate. [42 C.F.R. § 483.13\(c\)\(2\)](#). [Go To Headnote](#)

Public Health & Welfare Law : Social Security : Medicare : General Overview

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- [42 C.F.R. § 483.13\(c\)](#) addresses staff treatment of residents and requires that written policies and procedures must be implemented to prohibit neglect and abuse of patients. [Go To Headnote](#)
- [42 C.F.R. § 483.13\(c\)](#) addresses adopting effective anti-neglect and abuse policies, not targeting isolated events. Sufficient examples of neglect can demonstrate lack of implementation of an anti-neglect policy. [Go To Headnote](#)
- Simply maintaining documents in a file to demonstrate to demonstrate compliance with [42 C.F.R. § 483.13\(c\)](#), without also implementing the policies contained therein and regulating staff actions to assure compliance, does not satisfy the regulation. [Go To Headnote](#)

Public Health & Welfare Law : Social Security : Medicare : Providers : Types : Nursing Facilities

[Miss. Care Ctr. of Greenville v. United States HHS, 2013 U.S. App. LEXIS 2668](#) (5th Cir Feb. 7, 2013).

Overview: *Civil monetary penalties were properly imposed on nursing home because substantial evidence supported (1) determination that the home violated [42 C.F.R. §§ 483.13\(c\)](#) and*

[483.25\(h\)](#), and (2) designation of immediate jeopardy because the home's failure to prevent or address resident's elopements had potential to result in serious harm to the resident.

- [42 C.F.R. § 483.13\(c\)](#) requires a facility to develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property. *Go To Headnote*
- Pursuant to [42 C.F.R. § 483.13\(c\)](#), skilled nursing facilities (SNFs) must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property. The regulation requires that SNFs both develop policies and procedures to prevent neglect and implement those procedures. Thus, a SNF's failure to either develop or implement the required procedures is sufficient to preclude substantial compliance. *Go To Headnote*

[Beverly Healthcare Lumberton v. Leavitt, 2009 U.S. App. LEXIS 16293](#) (4th Cir July 22, 2009).

Overview: Under [42 U.S.C.S. § 1395i-3](#), civil money penalties were properly imposed against skilled nursing facility because nursing assistant abused resident when he grabbed resident's wrist, facility failed to promptly investigate and report allegation of abuse, and violations resulted in immediate jeopardy between incident and time assistant was suspended.

- [42 C.F.R. § 483.13\(b\)](#) prohibits abuse of residents. Facilities participating in Medicare and Medicaid programs are forbidden from using verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion. [42 C.F.R. § 483.13\(c\)\(1\)\(i\)](#). The U.S. Department of Health and Human Services defines abuse as the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. [42 C.F.R. § 488.301](#). *Go To Headnote*
- [42 C.F.R. § 483.13\(c\)\(2\)](#) requires facilities participating in Medicare and Medicaid programs to ensure that all alleged violations involving mistreatment, neglect, or abuse are reported immediately to the administrator of the facility and to other officials in accordance with state law. Further, facilities must promptly investigate all allegations of abuse and the results of all investigations must be reported to the administrator or his designated representative and to other officials in accordance with state law within 5 working days of the incident. [42 C.F.R. § 483.13\(c\)\(4\)](#). Under North Carolina law, facilities are required to file an initial 24-hour report within twenty four hours of an alleged incident of abuse and also a five day report following a fuller investigation. 10A N.C. Admin. Code. 13D.2210(b), (d). *Go To Headnote*
- [42 C.F.R. § 483.13\(c\)](#) states that facilities must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents. *Go To Headnote*
- Federal law requires a skilled nursing facility's procedures to require investigation of all allegations of abuse, not just those that facility employees believe are legitimate. [42 C.F.R. § 483.13\(c\)\(2\)](#). *Go To Headnote*

[Park v. Leavitt, 2005 U.S. App. LEXIS 26943](#) (6th Cir Dec. 8, 2005) (Unpublished).

Overview: Substantial evidence supported finding that skilled nursing facility that participated in Medicare and Medicaid violated [42 C.F.R. § 483.13\(c\)](#) by failing to treat residents' allegations of sexual abuse with required seriousness; imposition of civil monetary penalty under [42 U.S.C.S. §§ 1320a-7a, 1395i-3\(h\)\(2\)\(B\)\(ii\)](#) was not abuse of discretion.

- [42 C.F.R. § 483.13\(c\)](#) requires skilled nursing facilities to develop and implement written

policies and procedures that prohibit mistreatment, neglect, and abuse of residents. *Go To Headnote*

- The Department of Health and Human Services is authorized to impose a civil monetary penalty on a skilled nursing facility that violates [42 C.F.R. § 483.13](#). [42 U.S.C.S. § 1395i-3\(h\)\(2\)\(B\)\(ii\)](#). *Go To Headnote*

Research References & Practice Aids
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NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: Nomenclature changes affecting Chapter IV appear at *45 FR 53806*, Aug. 13, 1980; *50 FR 12741*, Mar. 29, 1985; [50 FR 33034](#), Aug. 16, 1985; *51 FR 41338*, Nov. 14, 1986; *53 FR 6634*, Mar. 2, 1988; *53 FR 47201*, Nov. 22, 1988; *56 FR 8852*, Mar. 1, 1991; [66 FR 39450, 39452](#), July 31, 2001; [67 FR 36539, 36540](#), May 24, 2002; [77 FR 29002, 29028](#), May 16, 2012.]

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