

3701-64-01

Definitions.

As used in this chapter:

(A) "Abuse" means ~~knowingly causing physical harm or recklessly causing serious physical harm to a resident by physical contact with the resident or by use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in amounts that preclude habilitation and treatment.~~ any of the following:

(1) Physical abuse;

(2) Psychological abuse; or

(3) Sexual abuse.

(B) "Accused" means the person that provides a service to a resident from which the resident or facility benefits who is named in an allegation or implicated in an investigation of abuse or neglect of a resident of a long-term care facility or misappropriation of property of such a resident.

(C) "Chemical restraint" means any medication bearing the "American Hospital Formulary Service" therapeutic class 4.00, 28:16:08, 28:24:08, or 28:24:92 (as they exist ~~January 1, 2016~~ November 24, 2017) that alters the functioning of the central nervous system in a manner that limits physical and cognitive functioning to the degree that the resident cannot attain his highest practicable physical, mental, and psychosocial well-being.

(D) "Day" means one calendar day.

(E) "Director" means the director of health or any person to whom the director of health delegates his or her authority.

(F) "Exploitation" means taking advantage of a resident, regardless of whether the action was for personal gain, whether the resident knew of the action, or whether the resident was harmed.

~~(F)~~(G) "Licensed health professional" means all of the following:

(1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

- (3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or ~~podiatry~~podiatric medicine and surgery;
- (4) A physician's assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;
- (5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;
- (6) A social worker or licensed independent social worker licensed, or a social work assistant certified, under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;
- (7) A speech pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
- (8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;
- (9) An optometrist licensed under Chapter 4725. of the Revised Code;
- (10) A pharmacist licensed under Chapter 4729. of the Revised Code;
- (11) A psychologist licensed under Chapter 4732. of the Revised Code;
- (12) A chiropractor licensed under Chapter 4734. of the Revised Code;
- (13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;
- (14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.

~~(G)~~(H) "Long-term care facility" means either of the following:

- (1) A nursing home as defined in section 3721.01 of the Revised Code, other than a nursing home or part of a nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended (1981); or
- (2) A facility or part of a facility that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended (1981);

~~(H)~~(I) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of a resident by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.

~~(H)~~(J) "Neglect" means recklessly failing to provide a resident with any treatment, care, goods, or service necessary to maintain the health or safety of the resident when the failure results in serious physical harm to the resident.

~~(H)~~(K) "Nurse aide" means an individual who provides nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation. "Nurse aide" does not include either of the following:

- (1) A licensed health professional practicing within the scope of the professional's license; or
- (2) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution.

(L) "Physical abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a resident through either of the following:

- (1) Physical contact with the resident; or
- (2) The use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in amounts that preclude habilitation and treatment.

~~(K)~~(M) "Physical contact" includes, but is not limited to, hitting, slapping, pinching, kicking. Physical contact also includes sexual contact.

~~(H)~~(N) "Physical restraint" means, but is not limited to, any article, device, or garment that interferes with the free movement of the resident and that the resident is unable to remove easily, a geriatric chair, or a locked room door.

(O) "Psychological abuse" means knowingly or recklessly causing psychological harm to a resident, whether verbally or by action.

~~(H)~~(P) "Resident" includes a resident, patient, former resident or patient, or deceased resident or patient of a long-term care facility or residential care facility.

~~(N)~~(Q) "Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

~~(O)~~(R) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended (2011).

(S) "Sexual abuse" means sexual conduct or sexual contact with a resident, as those terms are defined in section 2907.01 of the Revised Code.

(T) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

~~(P)~~(U) "Sexual contact" includes, but is not limited to, sexual coercion, sexual assault, or any crime listed in Chapter 2907. of the Revised Code means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

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