

WAC 388-111-0001 Definitions. "**Abandonment**" means action or inaction by an individual or entity with a duty of care for a vulnerable adult that leaves the vulnerable individual without the means or ability to obtain necessary food, clothing, shelter, or health care.

"**Abuse**" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment of a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult, which have the following meanings:

(1) "**Mental abuse**" means ~~((any)) a willful ((action or inaction of mental or))~~ verbal ((abuse)) or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines or punishes a vulnerable adult. Mental abuse ~~((includes, but is not limited to, coercion, harassment, inappropriately isolating a resident from family, friends, or regular activity, and verbal assault that includes))~~ may also include ridiculing, ~~((intimidating,))~~ yelling, or swearing.

(2) "**Physical abuse**" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical or physical restraints unless the restraint is consistent with certification requirements.

(3) "**Sexual abuse**" means any form of nonconsensual sexual ~~((contact))~~ conduct, including, but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual contact may include interactions that do not involve touching, including but not limited to sending a resident sexually explicit messages, or cuing or encouraging a resident to perform sexual acts. Sexual abuse also includes any sexual ~~((contact))~~ conduct between a staff person and a resident, whether or not it is consensual.

(4) "**Personal exploitation**" means an act of forcing, compelling, or exerting undue influence over a resident causing the resident to act in a way that is inconsistent with relevant past behavior, or causing the resident to perform services for the benefit of another.

(5) "Improper use of restraint" means inappropriate use of chemical, physical or mechanical restraints for the convenience or discipline or in a manner that:

(a) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under Chapter 71A.12 RCW;

(b) Is not medically authorized; or

(c) Otherwise constitutes abuse under this section.

(6) "Chemical restraint" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

"Administrative hearing" is a formal hearing proceeding before a state administrative law judge that gives an individual an opportunity to appeal a finding of abandonment, abuse, neglect or financial exploitation of a resident.

"Administrative law judge (ALJ)" means an impartial decision maker who presides over an administrative hearing. (~~ALJs are employed by the office of administrative hearings (OAH), which is a separate state agency.~~) ALJs are not ((DSHS)) department employees or ((DSHS)) department representatives.

"Department" means the department of social and health services ((DSHS)).

"Facility":

(1) Except as defined in subsection (2) of this definition, the term "facility" means an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(2) When used in the definition of "mandated reporter," the term "facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, assisted living facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' and veterans' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed by the department.

"Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any individual or entity for any individual's or entity's profit or advantage other than the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34.020(6).

"Individual" means anyone used by the facility to provide services to residents, who is alleged to have abandoned, abused, neglected, misappropriated property of, or financially exploited a resident. "Individual" includes, but is not limited to, employees, contractors and volunteers. "Individual" also includes a person used by the certified nursing facility portion of a residential habilitation center operated under chapter 71A.20 RCW.

"Intermediate care facility for individuals with intellectual disabilities (ICF/IID)" means an institution certified under chapter 42 C.F.R., Part 483, Subpart I, unless the facility is licensed as a nursing home under chapter 18.51 RCW or as an assisted living facility under chapter 18.20 RCW.

"Mandated reporter" ((is)) means an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

"Mechanical Restraints" means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials or equipment that are:

(1) Medically authorized, as required; and

(2) Used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

"Neglect" means that an individual or entity with a duty to care for residents has:

(1) By an act or omission, demonstrated a serious disregard of consequences of such magnitude as to constitute a clear and present danger to ((the)) a resident's health, welfare or safety; or

(2) Through conduct or inaction, or a pattern of conduct or inaction, failed to provide a resident with the goods and services that maintain physical or mental health of a vulnerable adult, or that failed to avoid or prevent physical harm, pain, mental anguish, or mental illness.

"Physical Restraints" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include:

(1) Briefly holding without undue force a vulnerable adult in order to calm or comfort him or her; or

(2) Holding a vulnerable adult's hand to safely escort him or her from one area to another.

"Resident" means an individual residing in a facility or in the certified nursing facility portion of a residential habilitation center operated under chapter 71A.20 RCW.

"Willful" means the deliberate, or nonaccidental, action or inaction by an individual that he or she knew or reasonably should have known could cause a negative outcome, including harm, injury, pain or anguish.