

MANDATED REPORTERS LAW

All contractors of the Area Agency on Aging are considered mandated reporters.

California Law, under the Welfare & Institutions Code for Elder Abuse, provides for mandatory reporting of physical abuse (including sexual abuse), neglect (including self-neglect), financial abuse, abandonment, abduction or other treatment, or withholding of treatment, that may cause physical harm or mental suffering, of an elder or dependent adult when:

- An older/dependent adult tells you abuse has occurred or has knowledge of abuse, or
- You observe or have knowledge of an incident, or
- You reasonable suspect that abuse has occurred.

The law requires mandated reporters to make a verbal report immediately or as soon as practical, followed by a written report (on form SOC 341) within two (2) working days. Reports of abuse in long-term care facilities should be made to the Ombudsman office at 499-7446. All other reports are made to Adult Protective Services at 507-2774.

Failure of a Mandated Reporter to report suspected abuse and/or neglect is a misdemeanor and subject to imprisonment and/or fine.

Confidentiality:

- The identity of all persons who report shall be confidential. Violation of statutory confidentiality is a misdemeanor. APS may reveal the names of reporting parties only to other investigative agencies as specified by law.
- No person required to report elder abuse will bear criminal liability for reporting suspected abuse.
- No supervisor or administrator may impede or prohibit reporting.
- A victim of abuse may refuse or withdraw consent to any investigation or provision of services, which are initiated as a result of the report, unless a violation of the Penal Code has been alleged.

To make a report of abuse and/or neglect, or discuss your concerns,

Call Adult Protective Services at: (415) 507-2774

CONFIDENTIAL REPORT - NOT SUBJECT TO PUBLIC DISCLOSURE

REPORT OF SUSPECTED DEPENDENT ADULT/ELDER ABUSE

TO BE COMPLETED BY REPORTING PARTY. PLEASE PRINT OR TYPE. SEE GENERAL INSTRUCTIONS.

COUNTY APS/OMBUDSMAN CASE NUMBER

RECEIVING AGENCY USE ONLY

LAW ENFORCEMENT CASE/FILE NUMBER

A. VICTIM [As applicable under Welfare and Institutions Code (WIC) 15636 (a)]

Form for victim information including name, age, date of birth, sex, ethnicity, language, address, and present location.

Form for reporting party information including name, signature, occupation, agency, and relation to victim.

Form for incident information including date/time of incident and place of incident.

D. REPORTED TYPES OF ABUSE (CHECK ALL THAT APPLY)

Form for reported types of abuse including physical, self-neglect, and other categories.

Form for abuse results including physical injury, medical care, hospitalization, and death.

REPORTER'S OBSERVATIONS, BELIEFS, AND STATEMENTS BY VICTIM IF AVAILABLE. LIST ANY POTENTIAL DANGER FOR INVESTIGATOR (E.G., ANIMALS, WEAPONS, COMMUNICABLE DISEASES, ETC.).

F. FAMILY MEMBER OR OTHER PERSON RESPONSIBLE FOR VICTIM'S CARE.

Form for family member or other person responsible for victim's care including name, address, and relationship.

G. OTHER PERSON BELIEVED TO HAVE KNOWLEDGE OF ABUSE.

Form for other person believed to have knowledge of abuse including name, address, and relationship.

H. SUSPECTED ABUSER (Check if Self-Neglect)

Form for suspected abuser information including name, address, and relationship.

I. TELEPHONE REPORT MADE TO:

Form for telephone report made to including name of official contacted and telephone number.

J. WRITTEN REPORT (DO NOT FAX REPORT TO CDSS) FAX to agency to which telephone report was made.

Form for written report including agency name, address, and date mailed or faxed.

K. RECEIVING AGENCY USE ONLY

Form for receiving agency use only including report received by, approved by, and cross-reported to.

REPORT OF SUSPECTED DEPENDENT ADULT/ELDER ABUSE GENERAL INSTRUCTIONS

PURPOSE OF FORM

This form, as adopted by the California Department of Social Services, is required under Welfare and Institutions Code (WIC) Sections 15630 and 15658(a)(1). This form documents the information given by the reporting party on the suspected incident of abuse of an elder or dependent adult. "Elder," as defined in WIC Section 15610.27 means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. Dependent adult includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code (H & S).

REPORTING RESPONSIBILITIES

Mandated reporters* (see definition on p. 2 under "Reporting Party Definitions") shall complete this form for each report of a known or suspected instance of abuse (physical abuse, sexual abuse, financial abuse, abduction, neglect (including self-neglect), isolation, and abandonment (see definitions in WIC 15610) involving an elder or a dependent adult. **The original of this report shall be submitted within two (2) working days of making the telephone report to the responsible agency as identified below:**

- The county Adult Protective Services (APS) agency or the local law enforcement agency (if abuse occurred in a private residence, apartment, hotel or motel, or homeless shelter).
- Long-term care ombudsman (LTCO) program or the local law enforcement agency (if abuse occurred in a nursing home, adult residential facilities, adult day programs, residential care facility for the elderly, or adult day health care center).
- The California Department of Mental Health or the local law enforcement agency (if abuse occurred in Metropolitan State Hospital, Atascadero State Hospital, Napa State Hospital, or Patton State Hospital).
- The California Department of Developmental Services or the local law enforcement agency (if abuse occurred in Sonoma State Hospital, Lanterman State Hospital, Porterville State Hospital, Fairview State Hospital, or Agnews State Hospital).

WHAT TO REPORT

Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment has observed, suspects, or has knowledge of an incident that reasonably appears to be physical abuse (including sexual abuse), abandonment, isolation, financial abuse, abduction, or neglect (including self-neglect), or is told by an elder or a dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation, financial abuse, abduction, or neglect, shall report the known or suspected instance of abuse by telephone immediately or as soon as practicably possible, and by written report (SOC 341) sent within two working days to the appropriate agency.

MULTIPLE REPORTERS

When two or more persons who are required to report are present and jointly have knowledge of a suspected instance of abuse of an elder or a dependent adult and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single written report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.

FAILURE TO REPORT

Failure to report physical abuse (including sexual abuse), abandonment, isolation, financial abuse, abduction, or neglect (including self-neglect) of an elder or a dependent adult is a misdemeanor, punishable by not more than six months in the county jail, or by a fine of not more than \$1,000, or by both imprisonment and fine. Any mandated reporter* who willfully fails to report abuse of an elder or a dependent adult, where the abuse results in death or great bodily injury, may be punished by up to one year in the county jail, or by a fine of up to \$5,000, or by both imprisonment and fine.

WRITTEN REPORT/TELEPHONE REPORT

1. This form may be used by the receiving agency to record information through a telephone report of suspected dependent adult/elder abuse. Complete asterisk (*) sections on the form when a telephone report of suspected abuse is received as required by statute and the California Department of Social Services (CDSS).
2. If any item of information is unknown, write "unknown" beside the item.
3. Part B. REPORTING PARTY - Please check if reporting party waives confidentiality.
4. Part B. REPORTING PARTY - Mandated reporters* are required to give their names and non-mandated reporters may report anonymously.
5. Part C. INCIDENT INFORMATION - Please provide best known time frame (e.g., 2 days, 1 week, or ongoing).
6. Part D. Please check all types of suspected abuse that apply.
7. Part E. Reporter may attach medical diagrams, photographs of injuries or environment, etc.
8. Part I. TELEPHONE REPORT MADE TO - The mandated reporter* completes this section after making the telephone report.
9. Part K. AGENCY USE ONLY - This section may be used by the agency receiving the written report.

DISTRIBUTION OF SOC 341 FORMS/COPIES

Mandated reporter- After making the telephone report send the original and 1 copy to the receiving agency, keep 1 copy for your file.
DO NOT SEND A COPY TO THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES.

Receiving Agency - Place the original in the case file. The copy may be sent to a cross-reporting agency or it may be discarded.

GENERAL INSTRUCTIONS (continued)

IDENTITY OF THE REPORTER

The identity of all persons who report under WIC Chapter 11 shall be confidential and disclosed only between APS agencies, local law enforcement agencies, LTCO coordinators, Bureau of Medi-Cal Fraud and Elder Abuse of the Office of the Attorney-General, licensing agencies or their counsel, Investigators of the Department of Consumer Affairs who investigate elder and dependent adult abuse, the office of the District Attorney, the Probate Court, the Public Guardian, or upon waiver of confidentiality by the reporter, or by court order.

REPORTING PARTY DEFINITIONS

*Mandated Reporters (WIC) *15630 (a) Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not that person receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter."

Care Custodian (WIC) *15610.17 'Care custodian' means an administrator or an employee of any of the following public or private facilities or agencies, or persons providing care or services for elders or dependent adults, including members of the support staff and maintenance staff: (a) Twenty-four-hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code. (b) Clinics. (c) Home health agencies. (d) Agencies providing publicly funded in-home supportive services, nutrition services, or other home and community-based support services. (e) Adult day health care centers and adult day care. (f) Secondary schools that serve 18- to 22-year-old dependent adults and postsecondary educational institutions that serve dependent adults or elders. (g) Independent living centers. (h) Camps. (i) Alzheimer's Disease day care resource centers. (j) Community care facilities, as defined in Section 1502 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code. (k) Respite care facilities. (l) Foster homes. (m) Vocational rehabilitation facilities and work activity centers. (n) Designated area agencies on aging. (o) Regional centers for persons with developmental disabilities. (p) State Department of Social Services and State Department of Health Services licensing divisions. (q) County welfare departments. (r) Offices of patients' rights advocates and clients' rights advocates, including attorneys. (s) The office of the long-term care ombudsman. (t) Offices of public conservators, public guardians, and court investigators. (u) Any protection or advocacy agency or entity that is designated by the Governor to fulfill the requirements and assurances of the following: (1) The federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, for protection and advocacy of the rights of persons with developmental disabilities. (2) The Protection and Advocacy for the Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with mental illness. (v) Humane societies and animal control agencies. (w) Fire departments. (x) Offices of environmental health and building code enforcement. (y) Any other protective, public, sectarian, mental health, or private assistance or advocacy agency or person providing health services or social services to elders or dependent adults."

Health Practitioner (WIC) *15610.37 'Health practitioner' means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker or associate clinical social worker, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family, and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service employee who treats an elder or a dependent adult for any condition, or a coroner."

EXCEPTIONS TO REPORTING (WIC 15630 (b) (3) (A))

A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report a suspected incident of abuse where all of the following conditions exist:

- (i) The mandated reporter* has been told by an elder or a dependent adult that he or she has experienced behavior constituting physical abuse (including sexual abuse), abandonment, isolation, financial abuse, abduction, or neglect (including self-neglect).
- (ii) The mandated reporter* is not aware of any independent evidence that corroborates the statement that the abuse has occurred.
- (iii) The elder or the dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.
- (iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

In a long-term care facility, a mandated reporter* who the California Department of Health Services determines, upon approval by the Bureau of Medi-Cal Fraud and the state office of the Long-term Care Ombudsman (LTCO), has access to plans of care and has the training and experience to determine whether all the conditions specified below have been met, shall not be required to report the suspected incident of abuse (WIC 15630 (b) (4) (A)):

- (i) The mandated reporter* is aware that there is a proper plan of care.
- (ii) The mandated reporter* is aware that the plan of care was properly provided and executed.
- (iii) A physical, mental, or medical injury occurred as a result of care pursuant to clause (i) or (ii).
- (iv) The mandated reporter* reasonably believes that the injury was not the result of abuse.