

	Date Approved: <u>7.25.2013</u> By: <u>Aaron Chapman</u> Aaron Chapman, MD, Interim Mental Health Director
POLICY: ELDER/DEPENDANT ADULT ABUSE REPORTING	Date Revised: <u>May 22, 2013</u> Originally Approved: <u>October 15, 1997</u>

Policy Statement

Alameda County Behavioral Health Care Services acknowledges the reporting laws concerning "Abuse of Elderly and Dependent Adults" (Welfare and Institutions Code 15600 to 15650) as one necessary element of public intervention to protect the physical and mental health of elders and dependent adults. This policy is intended to assist Behavioral Health Care Services Employees in implementing this law. This policy applies to all programs: Adult, Senior, and Children's; Inpatient and Outpatient; Direct Service and CE&I. It includes County-operated and contracted services, except those contractors may submit alternative policies designed to accomplish the same purpose for approval of the ACBHCS Director of Quality Assurance.

Procedure

1. Who Reports?

- A. The ACBHCS interprets the law to include as legally mandated reporters any staff member who provides any direct contact evaluation or treatment service to elders or dependent adults themselves, or to other adults and children who are in contact with elders and dependent adults. The supervisors of those staff members and program administrators of clinical operations are also included.
- B. Any staff member who is not a legally mandated reporter and who becomes aware of any form of elder or dependent adult abuse as listed in the items below will so inform a legally mandated reporter on staff.

2. Reportable Behaviors

State Law requires legally mandated reporters to report:

- A. Physical Abuse, which includes all of the following:
 - i. Assault (PC 240)
 - ii. Battery (PC 242)
 - iii. Assault with a Deadly Weapon, or force likely to produce great injury (PC 245).
 - iv. Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

- v. Sexual Assault which means any of the following:
 - 1. Sexual Battery (PC 243.4)
 - 2. Rape (PC 261)
 - 3. Rape in Concert (PC 264.1)
 - 4. Incest (PC 285)
 - 5. Sodomy (PC 286)
 - 6. Oral Copulation (PC 288A)
 - 7. Penetration of genital or anal opening by a foreign object (PC 288A)
- vi. Use of a physical or chemical restraint medication, or isolation without authorization, or for a purpose other than for which it was ordered, included, but not limited to, for staff convenience, for punishment, or for a period beyond that for which it was ordered.
- vii. Neglect (Welfare and Institutions Code Section 15610) C. Abandonment (Welfare and Institutions Code 15610)
- viii. Fiduciary Abuse (Welfare and Institutions Code 15610) " . . .when any of the above are inflicted upon either an "elder" (i.e., a person aged 65 or older) or a "dependent adult" (i.e., a person 18 to 64 years old who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights. . ."

3. Reasonable Suspicion

- A. Elder or dependent abuse must be reported when there is "reasonable suspicion" (Welfare and Institutions Code Section 15631) of reportable behaviors. Reasonable suspicion means that it is "objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate upon his or her training and experience, to suspect reportable behaviors."
- B. All legally mandated reporters in need of information on signs and symptoms of elder and dependent abuse in order to comply with the reporting law should so inform their immediate supervisor, who will provide or arrange for the needed consultation.
- C. If a legally mandated reporter is uncertain as to whether his or her suspicion of elder or dependent abuse is reasonable and is, a reportable offense, the immediate supervisor should be consulted.

4. Reporting Channels

- A. A legally mandated reporter will inform their immediate supervisor as soon as it is reasonably possible after forming a reasonable suspicion of elder or dependent abuse.
- B. The law states that the legally mandated reporter will be responsible for making a report to at least one of the following:
 - i. Alameda County Adult Protective Services (510) 557-3500 (if related to an acute care hospital or a health clinic or other circumstances not covered below).
 - ii. The CA DHCS Ombudsman at (916) 650-6610 or Toll-Free (800) 896-4042 (if related to a board and care facility or a skilled nursing facility).
 - iii. Local law enforcement (if physical or criminal conduct).
- C. Whenever possible, the abused or neglected person should be encouraged to make the report. The legally mandated reporter remains responsible for verifying that the report was made, and that it was made in the time frame described in Item number six (6) below.

5. Timeliness of Reports

- A. Any mandated reporter that has observed or has knowledge of an incident that *reasonably appears to be abuse* (as described above), shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent within two working days.
- B. If the suspected abuse *results in serious bodily harm*, a telephone report shall be made to the local law enforcement agency immediately, and no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, *and* the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
- C. If the suspected or alleged abuse is *abuse other than physical abuse*, and the abuse *occurred in a long-term care facility*, except a state mental health hospital or a state developmental center, a telephone report and a written report shall be made to the local ombudsman or the local law enforcement agency.

6. Documentation

- A. The staff member identifying the reasonable suspicion of elder or dependent adult abuse shall make a note to that effect in the relevant clinical record(s), Progress Note Section.
- B. The mandated reporter will also make a note in the relevant clinical records as to the dates and content (brief summary) of the reports (both the telephone report and the written report).
- C. A copy of the written report to APS or Ombudsman will be entered into relevant clinical records.
- D. The Center Director or designee will maintain a log of all elder and dependent adult abuse reports originating at the center or facility and specify:
 - i. Name of elder or dependent adult.
 - ii. Name of open case and clinical record member
 - iii. Date of telephone report
 - iv. Date of written report
 - v. Type of abuse report (See Section 3 of this policy).

7. Confidentiality

The Elder and Dependent Adult Abuse law supersedes other laws regarding privileged communication and confidentiality (Welfare and Institutions Code Section 15632). However, legally mandated reporters are only required to reveal that the information needed by the report receiving agency to determine that elder/dependent adult abuse has occurred and the nature of that abuse (e.g., duration, severity, type, etc.). Other information not directly pertinent to these issues remains confidential and privileged. Supervisors and APS staff should be consulted if there is doubt about this distinction in a specific case.

8. Immunity

- A. Legally mandated reporters have absolute immunity from criminal or civil liability for reporting as required or authorized (Welfare and Institutions Code Section 15634).
- B. The ultimate responsibility under the law lies with the legally mandated reporter as an individual, therefore, no supervisor nor administrator may impede or inhibit such reporting, and no person shall be subject to sanctions for making a report in good faith and in conformity with this policy (Welfare and Institutions Code Section 15634).

9. Feedback to Reporter

If the agency receiving the report provides the reporter with feedback regarding the results of the investigation and action taken in the case reported, such feedback should be noted in the clinical record(s).

10. Confirmation

If the mandated reporter becomes aware of elder/dependent adult abuse and is told by the family or any other agency or person that a report has already been made, it is the mandated reporter's responsibility to confirm this with APS or Ombudsman.

11. Statute of Limitations

There is no statute of limitations regarding reporting, but prosecution usually does carry statutes of limitations. APS or Ombudsman may choose to intervene even when the Criminal Justice System does not.

12. Employee Acknowledgement and Responsibility

- A. By State law, each legally mandated reporter is directly responsible for familiarity with the reporting law.
- B. Each supervisor is responsible for assuring each supervisee's familiarity with this policy.
- C. By State law, each legally mandated reporter hired after January 1, 1986 must sign a statement that they know the law and will comply with this provision.

For this purpose, a document will be signed, dated, signed by the supervisor, and entered into the employee record with at least the following statement (please see the following page):

"I am an employee hired by the ACBHCS after January 1, 1985, and I understand that I am legally mandated to report any reasonable suspicion of child abuse. I have clarified any information in the relevant statutes that I did not understand. I am aware of my reporting responsibilities, and I am willing to comply. I have also requested an explanation of reporting policies within this agency, and I understand them as well."

A form will be made available by Behavioral Health Care Services Administration for this purpose

ELDER and DEPENDENT ADULT
ABUSE REPORTING LAW

Employee Confirmation

By State law, each legally mandated reporter hired after January 1, 1986, must sign a statement that they know about and will comply with provisions of the reporting law (Welfare and Institutions Code Section 15630). This form is to be used in compliance with that law.

I am an employee hired by Alameda County Behavioral Health Care Services after January 1, 1986, and I understand that I am legally mandated to report any reasonable suspicion of Elder and Dependent Adult Abuse. I have clarified the information in the relevant statutes that I did not understand, I am aware of my reporting responsibilities, and I am willing to comply. I have also requested an explanation of policies within this agency, and I understand them as well.

Signature

Date

Supervisor's Signature

Date

(Enter this form into the Employee Personnel Record)