

BHS Policies and Procedures

 <p>City and County of San Francisco Department of Public Health San Francisco Health Network BEHAVIORAL HEALTH SERVICES</p>	<p>1380 Howard Street, 5th Floor San Francisco, CA 94103 415.255-3400 FAX 415.255-3567</p>
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POLICY/PROCEDURE REGARDING: Special Situations Governing Release of Information: Elder and Dependent Adult Abuse Reporting Requirement

<p>Issued By: Maximilian Rocha, LCSW Director of Systems of Care</p> <p>DocuSigned by:  EB51A346C32641B...</p> <p>Effective Date: 08/14/2023 8:58 AM PDT</p>	<p>Manual Number: 3.06-13</p> <p>References: Elder Abuse and Dependent Adult Civil Protection Act, California Welfare & Institutions Code, Division 9, Part 3, Chapter 11, §§ 15600-15675; California Government Code §§995-996.6; Code of Federal Regulations, Title 42, Part 2 and Title 45, Part 164; and Penal Code §§368-368.7.</p>
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Substantive Revision. Replaces Policy 3.06-13 dated September 24, 2018.

Equity Statement:

The San Francisco Department of Public Health, Behavioral Health Services (BHS) is committed to leading with race and prioritizing intersectionality, including sex, gender identity, sexual orientation, age, class, nationality, language, and ability. BHS strives to move forward on the continuum of becoming an anti-racist institution through dismantling racism, building solidarity among racial groups, and working towards becoming a Trauma-Informed/Trauma Healing Organization in partnership with staff, clients, communities, and our contractors. We are committed to ensuring that every policy or procedure, developed and implemented, lead with an equity and anti-racist lens. Our policies will provide the highest quality of care for our diverse clients. We are dedicated to ensuring that our providers are equipped to provide services that are responsive to our clients’ needs and lived experiences.

Purpose:

To protect elders and dependent adults from abuse by delineating the requirements of the Elder Abuse and Dependent Adult Civil Protection Act and to ensure that providers within San Francisco Behavioral Health Services (BHS) understand their role as mandated reporters and meet the statutory reporting requirements.

Scope:

This policy applies to all BHS providers who are mandated reporters as defined by the California Welfare & Institutions Code. Any mandated reporter who, in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that causes reasonable suspicion of abuse of an elder or dependent adult, must report the known or suspected abuse as described below.

Definition of Terms

“Abuse” of an elder or dependent adult means any of the following: (1) physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; (2) the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering; and (3) financial abuse, as defined in Welfare & Institutions Code Section 15610.30 (WIC §15610.07).

“Dependent adult” means any California resident, regardless of whether the person lives independently, between the ages of 18 and 64 years who has physical or mental limitations that restrict one’s ability to carry out normal activities or to protect one’s rights, including, but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age (WIC §15610.23). Dependent adult also includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility as defined by Health & Safety Code, Sections 1250, 1250.2 and 1250.3.

“Elder” means any California resident, 65 years of age or older (WIC §15610.27). *(Please note that for purposes of eligibility to receive services under the APS program, an elder is defined as anyone residing in this state 60 years of age or older. (WIC Section 15750(b)(2). As of January 1, 2022, APS agencies can receive referrals and investigate allegations of abuse and provide intervention and case management to any elder 60 years of age or older, and to dependent adults between the ages of 18-59 (WIC Section 15750(b)(1)(A)). Statutes governing mandated reporting have not been affected; accordingly, mandatory reporting still only applies to elders aged 65 years and older.)*

“Long-term care facility” means any of the following:

- Any long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.
- Any community care facility, as defined in paragraphs (1) and (2) of subdivision (a) of Section 1502 of the Health and Safety Code, whether licensed or unlicensed.
- Any swing bed in an acute care facility, or any extended care facility.
- Any adult day health care facility as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.
- Any residential care facility for the elderly as defined in Section 1569.2 of the Health and Safety Code.

“Mandated reporters” as defined by the California Welfare & Institutions Code (WIC §§ 15610.17, 15610.19, 15610.37) are required by law to report known or suspected elder and dependent adult

abuse. Mandated reporters are defined as “any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not one 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 (WIC §15630).” Mandated reporters within BHS include, but are not limited to, licensed staff, residents, registered psychological assistants, registered interns, trainees, and substance use disorder counselors. If you have any questions about whether or not you are a mandated reporter, review WIC §§15610.17 and 15610.37, or consult with your supervisor or with Adult Protective Services.

“Reasonable suspicion” means an objectively reasonable suspicion that a person would entertain, based upon facts that could cause a reasonable person in a like position, drawing when appropriate upon their training and experience, to suspect abuse (WIC §15610.65).

“Serious bodily injury” means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation (WIC §15610.67).

Policy:

BHS mandated reporters are expected to understand and follow State and Federal laws regarding the mandatory reporting of known or suspected abuse of elders and dependent adults.

- BHS mandated reporters must sign a specific statement (see Attachment 2 - Form SOC 341A) to the effect that they have knowledge of and will comply with the elder and dependent adult abuse provisions (WIC §15659). This form can be downloaded from <http://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC341A.pdf>
- Each program must ensure that a signed copy of the *Statement Acknowledging Requirement to Report Suspected Abuse of Dependent Adults and Elders* is in the mandated reporter’s personnel file and that the mandated reporter receives a copy of WIC §15630 (see Attachment 3 – Welfare and Institutions Code, Division 9, Part 3, Chapter 11, Article 3, §15630).
- The duties of mandated reporters are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report [WIC §15630(f)].
- Failure to report or impeding a report of abuse of an elder or dependent adult is a misdemeanor punishable by not more than six months in the county jail or by a fine of not more than one thousand dollars, or both. Any mandated reporter who willfully fails to report or impedes a report of abuse, which results in death or great bodily harm, shall be punished by not more than one year in the county jail or by a fine of not more than five thousand dollars, or both [WIC §15630 (h)].
- No mandated reporter shall incur any civil or criminal liability as a result of making a required report [WIC §15634(a), Government Code §§995-996.6].

- Mandated reporters may have additional reporting requirements (e.g., licensing and other regulatory agencies). This policy does not supersede these requirements nor do meeting these additional requirements substitute for compliance with this policy statement.

Reporting Procedures: BHS mandated reporters are required to report known or suspected abuse of elders or dependent adults according to the reporting protocols and timeframes delineated in the general instructions for the reporting form (see Attachment 1 - Form SOC 341). The general instructions also address exceptions to reporting. BHS mandated reporters are advised to reference these general instructions as the reporting protocols and timeframes vary depending upon the location and type of abuse. The following reporting protocols and timeframes represent a *subset* of situations that BHS mandated reporters are *most likely* to encounter:

- If the abuse occurred ***in a long-term care facility*** (as defined in WIC §15610.47) and results in serious bodily injury, a telephone report must be made immediately or within two hours to the local law enforcement, and a written report (Form SOC 341) submitted within two hours to the local law enforcement, local ombudsman, and corresponding licensing agency. Contact information for the local ombudsman is: (PHONE) 415-751-9788; (FAX) 415-751-9789.
- If the abuse occurred ***in a long-term care facility***, was physical abuse, but does not result in serious bodily injury, a telephone report must be made within 24 hours to local law enforcement, and a written report (Form SOC 341) submitted within 24 hours to local law enforcement, local ombudsman, and corresponding licensing agency. Contact information for the local ombudsman is: (PHONE) 415-751-9788; (FAX) 415-751-9789.
- If the abuse occurred ***in a long-term care facility***, was abuse other than physical abuse, a telephone report must be made immediately or as soon as practically possible to the local ombudsman or local law enforcement, and a written report (Form SOC 341) submitted to the local ombudsman or local law enforcement within two working days. Contact information for the local ombudsman is: (PHONE) 415-751-9788; (FAX) 415-751-9789.
- If the abuse occurred ***anywhere other than a long-term care facility, a state mental hospital or a state developmental center***, a telephone report must be made immediately or as soon as practically possible to the local Adult Protective Services (APS) or local law enforcement and a written report (Form SOC 341) submitted to APS or local law enforcement within two working days. Contact information for SF APS is: (PHONE) 800-814-0009 OR 415-355-6700; (FAX) 415-355-2343.

The following link provides APS county contact information for California:

[https://www.cdss.ca.gov/Portals/9/APS/County APD Contacts.pdf](https://www.cdss.ca.gov/Portals/9/APS/County_APD_Contacts.pdf)

The required form (*Report of Suspected Dependent Adult/Elder Abuse - SOC 341*) and the general instructions for reporting can be obtained in English and other languages on the public website for the California Department of Social Services at:

<https://www.cdss.ca.gov/inforesources/cdss-programs/adult-protective-services/program-forms>

All applicable items of Form SOC 341 should be completed by the mandated reporter according to its instructions. If any item of information is unknown, enter “unknown.” Please note that mandated reporters are required to disclose their names.

Mandated reporters should inform clients who are the victims of abuse or neglect that a report was made unless there is an exception. Exceptions include: 1) informing the individual would place the individual at risk of serious harm; or 2) informing a personal representative who is reasonably believed to be responsible for the abuse of the individual and that informing such a person would not be in the best interests of the individual [(CFR Title 45, §164.512 (c)).

Involvement of two or more mandated reporters – When two or more mandated reporters are present and jointly have knowledge of or reasonably suspect abuse of an elder or dependent adult and 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 members of the reporting teams. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make the report [WIC §15630(d)].

It is always advisable to consult with a supervisor regarding a potential mandated reporting incident, and to inform the supervisor about any actual report made. Consultation with Adult Protective Services or the local ombudsman is encouraged if there are questions about the reporting process.

Quality of Care Report – Per BHS policy 1.04-4, the QOC report must be completed and submitted when a mandated report is made. The QOC report should include the name of the staff member issuing the mandated report, the names of any other persons involved in the decision, law enforcement and APS/ombudsman notification information, and any relevant circumstances surrounding the suspected abuse of the elder or dependent adult. In lieu of submitting the QOC Report, the *Report of Suspected Dependent Adult/Elder Abuse* may be substituted for the BHS QOC Report. A fillable pdf version of the QOC Report can be accessed on the DPH public website at:

https://www.sfdph.org/dph/files/CBHSdocs/fillable_pdf_QoC_Reporting_Form_4-20.pdf

The QOC Report or a copy of the *Report of Suspected Dependent Adult/Elder Abuse* should be submitted by secure email to BHSQualityofCareReport@sfdph.org or by fax to 415-252-3001 or by mail to BHS Quality Management, 1380 Howard Street, 2nd Floor, San Francisco, CA 94103.

Confidentiality: Any disclosure of protected health information (PHI) should be limited to the minimum necessary to accomplish the intended purpose and to meet the statutory reporting requirements.

The mandatory reports required by law are themselves confidential and may be disclosed only to specifically authorized persons or agencies as required or permitted by law. The identity of all persons who report known or suspected elder or dependent adult abuse shall be confidential and disclosed only among agencies or persons as required or permitted by law (WIC §§15633-15637). Any violation of confidentiality required by this chapter is a misdemeanor punishable by not more than six months in the county jail, by a fine of five hundred dollars (\$500), or by both [WIC §15633(a)].

Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to the specific information required to be reported pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (WIC §15637).

WIC §15610.37 was amended to include a “substance use disorder counselor” as a mandated reporter within the definition of a “health practitioner.” Under this section, a “substance use disorder counselor” is a person providing counseling services in an alcoholism or drug abuse recovery and treatment program licensed, certified, or funded under Part 2 (commencing with §11760) of the Health and Safety Code. To protect the confidentiality of substance use disorder PHI during the reporting process, the name of the agency should be generically identified if it is otherwise publicly known as a place that provides only substance use disorder services nor should information be reported that would indicate that the elder or dependent adult has a substance use disorder (CFR Title 42, PART 2).

Copies of the *Report of Suspected Dependent Adult/Elder Abuse* are to be confidentially retained by the program separate from the client’s medical record in order to avoid inadvertent disclosure. Mandated reporters will document in the official medical record/EHR that a report of elder or dependent adult abuse was made. This documentation should be a separate standalone note and should not include any details regarding the abuse being reported. If the client is the victim of the abuse or neglect, a statement on whether the client was informed of the report may be included unless there is an exception.

Attachments: Attachment 1 - Form SOC 341
Attachment 2 - Form SOC 341A
Attachment 3 - WIC §15630

Contact Person:
Risk Manager, Behavioral Health Services, 415-255-3523

Distribution:
BHS Policies and Procedures are distributed by the Behavioral Health Services’ Quality Management and Regulatory Affairs

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BHS Programs
SOC Program Managers
BOCC Program Managers
CDTA Program Managers

Attachment 1 – Form SOC 341 (8/22)
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REPORT OF SUSPECTED DEPENDENT ADULT/ELDER ABUSE

Date Completed

CONFIDENTIAL REPORT - NOT SUBJECT TO PUBLIC DISCLOSURE

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

A. VICTIM Check box if victim consents to disclosure of information
(Ombudsman use only - WIC 15636(a))

Name (Last Name, First Name)		Age	Date of Birth	SSN
Gender Identity <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Transgender <input type="checkbox"/> Other/Nonbinary <input type="checkbox"/> Unknown/Not Provided		Sexual Orientation <input type="checkbox"/> Straight <input type="checkbox"/> Gay/Lesbian <input type="checkbox"/> Bisexual <input type="checkbox"/> Questioning <input type="checkbox"/> Unknown/Not Provided		Ethnicity _____ Language (Check one) <input type="checkbox"/> Non-Verbal <input type="checkbox"/> English <input type="checkbox"/> Other (Specify) _____
Address (If facility, include name and notify ombudsman)		City	Zip Code	Telephone
Present Location (If different from above)		City	Zip Code	Telephone
<input type="checkbox"/> Elderly (60+) <input type="checkbox"/> Developmentally Disabled <input type="checkbox"/> Mentally Ill/Disabled <input type="checkbox"/> Physically Disabled <input type="checkbox"/> Unknown/Other			<input type="checkbox"/> Lives Alone <input type="checkbox"/> Lives with Others	

B. SUSPECTED ABUSER Check if Self-Neglect

Name of Suspected Abuser				
Address		City	Zip Code	Telephone
<input type="checkbox"/> Care Custodian (Type) _____		<input type="checkbox"/> Parent <input type="checkbox"/> Son/Daughter <input type="checkbox"/> Other _____		
<input type="checkbox"/> Health Practitioner (Type) _____		<input type="checkbox"/> Spouse <input type="checkbox"/> Other Relation _____		
Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	Ethnicity	Age	D.O.B	
Height	Weight	Eyes	Hair	

C. REPORTER'S OBSERVATIONS, BELIEFS, AND STATEMENTS BY VICTIM IF AVAILABLE. DOES ALLEGED PERPETRATOR STILL HAVE ACCESS TO THE VICTIM? DOES THE ALLEGATION INVOLVE A SERIOUS BODILY INJURY (see definition in section "Reporting Responsibilities and Time Frames" within the General Instructions)? PROVIDE ANY KNOWN TIME FRAME (2 days, 1 week, ongoing, etc.). LIST ANY POTENTIAL DANGER FOR INVESTIGATOR (animals, weapons, communicable diseases, etc.) or concerns about the client's mental health.

CHECK IF MEDICAL, FINANCIAL (ACCOUNT INFORMATION, ETC.), PHOTOGRAPHS, OR OTHER SUPPLEMENTAL INFORMATION IS ATTACHED.



D. REPORTING PARTY Check appropriate box if reporting party waives confidentiality to

- All All but victim All but perpetrator

Name	Signature	Occupation	Agency/Name of Business
Relation to Victim/How Abuse is Known	Street	City	Zip Code
Telephone	E-mail Address		

E. INCIDENT INFORMATION - Address where incident occurred

Date/Time of Incident(s)

Place of Incident (Check One)

- Own Home Community Care Facility Hospital/Acute Care Hospital
 Home of Another Nursing Facility/Swing Bed Other (Specify) _____

F. REPORTED TYPES OF ABUSE (Check All that Apply)

1. Perpetrated by Others (WIC 15610.07 & 15610.63)
- | | |
|---|--|
| a. <input type="checkbox"/> Physical (e.g. assault/battery, constraint or deprivation, chemical restraint, over/under medication) | e. <input type="checkbox"/> Abandonment |
| b. <input type="checkbox"/> Sexual | f. <input type="checkbox"/> Isolation |
| c. <input type="checkbox"/> Financial | g. <input type="checkbox"/> Abduction |
| d. <input type="checkbox"/> Neglect (including Deprivation of Goods and Services by a Care Custodian) | h. <input type="checkbox"/> Psychological/Mental |
| | i. <input type="checkbox"/> Other _____ |
2. Self-Neglect (WIC 15610.57 (b)(5))
- | | |
|--|---|
| a. <input type="checkbox"/> Neglect of Physical Care (e.g. personal hygiene, food, clothing, malnutrition/dehydration) | c. <input type="checkbox"/> Financial Self-Neglect (e.g. inability to manage one's own personal finances) |
| b. <input type="checkbox"/> Self-Neglect of Residence (unsafe environment) | |

Abuse Resulted In (Check All that Apply)

- No Physical Injury Minor Medical Care Hospitalization Care Provider Required
 Death Mental Suffering Serious Bodily Injury* Other (Specify) _____
 Unknown Health & Safety Endangered

G. OTHER PERSON BELIEVED TO HAVE KNOWLEDGE OF ABUSE

(Family, significant others, neighbors, medical providers, agencies involved, etc.)

Name	Relationship
Address	Telephone
Name	Relationship
Address	Telephone

State of California – Health and Human Services Agency

California Department of Social Services

H. FAMILY MEMBER OR OTHER PERSON RESPONSIBLE FOR VICTIM'S CARE*(If known, list contact person)* If Contact person check

Name		Relationship	
Address		City	Zip Code
			Telephone

I. TELEPHONE REPORT MADE TO APS Law Enforcement Local Ombudsman
 Calif. Dept. of State Hospitals Calif. Dept. of Developmental Services

Name of Official Contacted by Phone	Telephone	Date/Time

J. WRITTEN REPORT Enter information about the agencies receiving this report. If the abuse occurred in a LTC facility and resulted in Serious Bodily Injury*, please refer to "Reporting Responsibilities and Time Frames" in the General Instructions. Do not submit report to California Department of Social Services Adult Programs Division.

Agency Name	Address or Fax	<input type="checkbox"/> Date Mailed	<input type="checkbox"/> Date Faxed
Agency Name	Address or Fax	<input type="checkbox"/> Date Mailed	<input type="checkbox"/> Date Faxed
Agency Name	Address or Fax	<input type="checkbox"/> Date Mailed	<input type="checkbox"/> Date Faxed

K. RECEIVING AGENCY USE ONLY Telephone Report Written Report

1. Report Received By	Date/Time

2. Assigned Immediate Response Ten-Day Response No Initial Response (NIR)
 Not APS Not Ombudsman No Ten-Day (NTD)

Approved By	Assigned To (optional)

3. Cross-Reported to CDPH-Licensing & Cert.; CDSS-CCL; Local Ombudsman;
 Bureau of Medi-Cal Fraud & Elder Abuse;
 Calif. Dept. of State Hospitals; Law Enforcement;
 Professional Licensing Board; Calif. Dept. of Developmental Services;
 APS; Other (Specify) _____
Date of Cross-Report _____

4. APS/Ombudsman/Law Enforcement Case File Number

**REPORT OF SUSPECTED DEPENDENT ADULT/ELDER ABUSE
GENERAL INSTRUCTIONS**

PURPOSE OF FORM

This form, as adopted by the California Department of Social Services (CDSS), 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 or neglect of an elder or dependent adult. **Abuse** means any treatment with resulting physical harm, pain, or mental suffering or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. **Neglect** means the negligent failure of an elder or dependent adult or of any person having the care or custody of an elder or a dependent adult to exercise that degree of self-care or care that a reasonable person in a like position would exercise. For purposes of mandatory reporting, **elder** means any person residing in this state who is 65 years of age or older (WIC Section 15610.27). **Dependent Adult** 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 (WIC Section 15610.23). Dependent adult includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility (defined in the Health and Safety Code Sections 1250, 1250.2, and 1250.3). Adults age 60+, however, are eligible for Adult Protective Services (APS). APS can investigate allegations of abuse against them, and if confirmed, offer appropriate services.

COMPLETION OF THE FORM

1. This form may be used by the receiving agency to record information through a telephone report of suspected dependent adult/elder abuse.
2. If any item of information is unknown, enter "unknown."
3. Item A: Check box to indicate if the victim waives confidentiality.
4. Item D: Check box if the reporting party waives confidentiality. Please note that mandated reporters are required to disclose their names, however, non-mandated reporters may report anonymously.

REPORTING RESPONSIBILITIES AND TIME FRAMES:

Any mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be abuse or neglect, or is told by an elder or dependent adult that he or she has experienced behavior constituting abuse or neglect, or reasonably suspects that abuse or neglect has occurred, shall complete this form for each report of known or suspected instance of abuse (physical abuse, sexual abuse, financial abuse, abduction, neglect (self-neglect), isolation, and abandonment) involving an elder or dependent adult.

***Serious bodily injury** means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation (WIC Section 15610.67).

Reporting shall be completed as follows:

- If the abuse occurred in a Long-Term Care (LTC) facility (as defined in WIC Section 15610.47) and resulted in serious bodily injury, report by telephone to the local law enforcement agency immediately and no later than two (2) hours after observing, obtaining knowledge of, or suspecting physical abuse. Send the written report to the local law enforcement agency, the local Long-Term Care Ombudsman Program (LTCOP), and the appropriate licensing agency (for long-term health care facilities, the California Department of Public Health; for community care facilities, the California Department of Social Services) within two (2) hours of observing, obtaining knowledge of, or suspecting physical abuse.
- If the abuse occurred in a LTC facility, was physical abuse, but did not result in serious bodily injury, report by telephone to the local law enforcement agency within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse. Send the written report to the local law enforcement agency, the local LTCOP, and the appropriate licensing agency (for long-term health care facilities, the California Department of Public Health; for community care facilities, the California Department of Social Services) within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse.
- If the abuse occurred in a LTC facility, was physical abuse, did not result in serious bodily injury, and was perpetrated by a resident with a physician's diagnosis of dementia, report by telephone to the local law enforcement agency or the local LTCOP, immediately or as soon as practicably possible. Follow by sending the written report to the LTCOP or the local law enforcement agency within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse.
- If the abuse occurred in a LTC facility, was abuse other than physical abuse, report by telephone to the LTCOP or the law enforcement agency immediately or as soon as practicably possible. Follow by sending the written report to the local law enforcement agency or the LTCOP within two working days.
- If the abuse occurred in a state mental hospital or a state developmental center, mandated reporters shall report by telephone or through a confidential Internet reporting tool (established in WIC Section 15658) immediately or as soon as practicably possible and submit the report within two (2) working days of making the telephone report to the responsible agency as identified below:
 - If the abuse occurred in a State Mental Hospital, report to the local law enforcement agency or the California Department of State Hospitals.
 - If the abuse occurred in a State Developmental Center, report to the local law enforcement agency or to the California Department of Developmental Services.
- For all other abuse, mandated reporters shall report by telephone or through a confidential Internet reporting tool to the adult protective services agency or the local law enforcement agency immediately or as soon as practicably possible. If reported by telephone, a written or an Internet report shall be sent to adult protective services or law enforcement within two working days.

REPORTING PARTY DEFINITIONS

Mandated Reporter (WIC Section 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 Section 15610.17) 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 State 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; or (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; or (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 Section 15610.37) 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.

Any officer and/or employee of a financial institution is a mandated reporter of suspected financial abuse and shall report suspected financial abuse of an elder or dependent adult on form SOC 342, "Report of Suspected Dependent Adult/Elder Financial Abuse".

MULTIPLE REPORTERS

When two or more mandated reporters are jointly knowledgeable of a suspected instance of abuse of a dependent adult or elder, and when there is agreement among them, the telephone report may be made by one member of the group. Also, a single written report may be completed by that member of the group. Any person of that group, who believes the report was not submitted, shall submit the report.

IDENTITY OF THE REPORTER

The identity of all persons who report under WIC Chapter 11 shall be confidential and disclosed only among APS agencies, local law enforcement agencies, LTCOPs, California State Attorney General Bureau of Medi-Cal Fraud and Elder Abuse, licensing agencies or their counsel, Department of Consumer Affairs Investigators (who investigate elder and dependent adult abuse), the county District Attorney, the Probate Court, and the Public Guardian. Confidentiality may be waived by the reporter or by court order.

FAILURE TO REPORT

Failure to report by mandated reporters (as defined under "Reporting Party Definitions") any suspected incidents of physical abuse (including sexual abuse), abandonment, isolation, financial abuse, abduction, or neglect (including self-neglect) of an elder (age 65 or older) 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 (age 65 or older) 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 (WIC Section 15630(h)).

No one, including a supervisor, employer, or lawyer, can excuse a mandated reporter from his or her personal legal duty to report known or suspected abuse. Anyone who attempts to impede or inhibit a mandated reporter from reporting may be prosecuted for a misdemeanor punishable by a fine, imprisonment, or both. Mandated reporters are therefore expected to report any such efforts to law enforcement, as well as any other responsible agency (see Welfare and Institutions Code Section 15630(f) and (h)).

Officers or employees of financial institutions are mandated reporters of financial abuse (effective January 1, 2007). These mandated reporters who fail to report financial abuse of an elder or dependent adult are subject to a civil penalty not exceeding \$1,000. Individuals who willfully fail to report financial abuse of an elder or dependent adult are subject to a civil penalty not exceeding \$5,000. These civil penalties shall be paid by the financial institution, which is the employer of the mandated reporter, to the party bringing the action.

ADULT PROTECTIVE SERVICES ELIGIBILITY

For purposes of eligibility to receive services under the APS program, an elder is defined as anyone residing in this state 60 years of age or older. (WIC Section 15750(b)(2)). As of January 1, 2022, APS agencies can receive referrals and investigate allegations of abuse and provide intervention

and case management to any elder 60 years of age or older, and to dependent adults between the ages of 18-59(WIC Section 15750(b)(1)(A)). Statutes governing mandated reporting have not been affected; accordingly, mandatory reporting still only applies to elders age 65 years and older.

DISTRIBUTION OF SOC 341 COPIES

Mandated reporter: After making the telephone report to the appropriate agency or agencies, the reporter shall send the written report to the designated agencies (as defined under "Reporting Responsibilities and Time Frames"); and keep one copy for the reporter's file.

Receiving agency: Place the original copy in the case file. Send a copy to a cross-reporting agency, if applicable.

DO NOT SEND A COPY TO THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES ADULT PROGRAMS DIVISION.

Attachment 2 – SOC 341A (3/15)
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STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**STATEMENT ACKNOWLEDGING REQUIREMENT TO REPORT SUSPECTED
ABUSE OF DEPENDENT ADULTS AND ELDERS**

NOTE: RETAIN IN EMPLOYEE/ VOLUNTEER FILE

NAME	
POSITION	FACILITY

California law REQUIRES certain persons to report known or suspected abuse of dependent adults or elders. As an employee or volunteer at a licensed facility, you are one of those persons - a "mandated reporter."

PERSONS WHO ARE REQUIRED TO REPORT ABUSE

Mandated reporters include care custodians and any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not paid for that responsibility (Welfare and Institutions Code (WIC) Section 15630(a)). **Care custodian** means an administrator or an employee of most 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 (WIC Section 15610.17).

PERSONS WHO ARE THE SUBJECT OF THE REPORT

Elder means any person residing in this state who is 65 years of age or older (WIC Section 15610.27). **Dependent Adult** 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 and those admitted as inpatients in 24-hour health facilities (WIC Section 15610.23).

REPORTING RESPONSIBILITIES AND TIME FRAMES

Any mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be abuse or neglect, or is told by an elder or dependent adult that he or she has experienced behavior constituting abuse or neglect, or reasonably suspects that abuse or neglect occurred, shall complete form SOC 341, "Report of Suspected Dependent Adult/Elder Abuse" for each report of known or suspected instance of abuse (physical abuse, sexual abuse, financial abuse, abduction, neglect (self-neglect), isolation, and abandonment) involving an elder or dependent adult.

Reporting shall be completed as follows:

- If the abuse occurred in a Long-Term Care (LTC) facility (as defined in WIC Section 15610.47) and resulted in serious bodily injury (as defined in WIC Section 15610.67), report by telephone to the local law enforcement agency immediately and no later than two (2) hours after observing, obtaining knowledge of, or suspecting physical abuse. Send the written report to the local law enforcement agency, the local Long-Term Care Ombudsman Program (LTCOP), and the appropriate licensing agency (for long-term health care facilities, the California Department of Public Health; for community care facilities, the California

Department of Social Services) within two (2) hours of observing, obtaining knowledge of, or suspecting physical abuse.

- If the abuse occurred in a LTC facility, was physical abuse, but did not result in serious bodily injury, report by telephone to the local law enforcement agency within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse. Send the written report to the local law enforcement agency, the local LTCOP, and the appropriate licensing agency (for long-term health care facilities, the California Department of Public Health; for community care facilities, the California Department of Social Services) within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse.
- If the abuse occurred in a LTC facility, was physical abuse, did not result in serious bodily injury, and was perpetrated by a resident with a physician's diagnosis of dementia, report by telephone to the local law enforcement agency or the local LTCOP, immediately or as soon as practicably possible. Follow by sending the written report to the LTCOP or the local law enforcement agency within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse.
- If the abuse occurred in a LTC facility, and was abuse other than physical abuse, report by telephone to the LTCOP or the law enforcement agency immediately or as soon as practicably possible. Follow by sending the written report to the local law enforcement agency or the LTCOP within two working days.
- If the abuse occurred in a state mental hospital or a state developmental center, mandated reporters shall report by telephone or through a confidential internet reporting tool (established in WIC Section 15658) immediately or as soon as practicably possible and submit the report within two (2) working days of making the telephone report to the responsible agency as identified below:
 - If the abuse occurred in a State Mental Hospital, report to the local law enforcement agency or the California Department of State Hospitals.
 - If the abuse occurred in a State Developmental Center, report to the local law enforcement agency or to the California Department of Developmental Services.
- For all other abuse, mandated reporters shall report by telephone or through a confidential internet reporting tool to the adult protective services agency or the local law enforcement agency immediately or as soon as practicably possible. If reported by telephone, a written or an Internet report shall be sent to adult protective services or law enforcement within two working days.

PENALTY FOR FAILURE TO REPORT ABUSE

Failure to report abuse of an elder or dependent adult is a MISDEMEANOR CRIME, punishable by jail time, fine or both (WIC Section 15630(h)). The reporting duties are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report (WIC Section 15630(f)).

CONFIDENTIALITY OF REPORTER AND OF ABUSE REPORTS

The identity of all persons who report under WIC Chapter 11 shall be confidential and disclosed only

among APS agencies, local law enforcement agencies, LTCOPs, California State Attorney General Bureau of Medi-Cal Fraud and Elder Abuse, licensing agencies or their counsel, Department of Consumer Affairs Investigators (who investigate elder and dependent adult abuse), the county District Attorney, the Probate Court, and the Public Guardian. Confidentiality may be waived by the reporter or by court order. Any violation of confidentiality is a misdemeanor punishable by jail time, fine, or both (WIC Section 15633(a)).

DEFINITIONS OF ABUSE

Physical abuse means any of the following: (a) Assault, as defined in Section 240 of the Penal Code; (b) Battery, as defined in Section 242 of the Penal Code; (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code; (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water; (e) Sexual assault, that means any of the following: (1) Sexual battery, as defined in Section 243.4 of the Penal Code; (2) Rape, as defined in Section 261 of the Penal Code; (3) Rape in concert, as described in Section 264.1 of the Penal Code; (4) Spousal rape, as defined in Section 262 of the Penal Code; (5) Incest, as defined in Section 285 of the Penal Code; (6) Sodomy, as defined in Section 286 of the Penal Code; (7) Oral copulation, as defined in Section 288a of the Penal Code; (8) Sexual penetration, as defined in Section 289 of the Penal Code; or (9) Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code; or (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions: (1) For punishment; (2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given; or (3) For any purpose not authorized by the physician and surgeon (WIC Section 15610.63).

Serious bodily injury means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation (WIC Section 15610.67).

Neglect (a) means either of the following: (1) The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise; or (2) The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise. (b) Neglect includes, but is not limited to, all of the following: (1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter; (2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment; (3) Failure to protect from health and safety hazards; (4) Failure to prevent malnutrition or dehydration; or (5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health (WIC Section 15610.57).

Financial abuse of an elder or dependent adult occurs when a person or entity does any of the following: (1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both; (2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both; or (3) Takes, secretes, appropriates, obtains, or

retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70 (WIC Section 15610.30(a)).

Abandonment means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody (WIC Section 15610.05).

Isolation means any of the following: (1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls; (2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons; (3) False imprisonment, as defined in Section 236 of the Penal Code; or (4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors (WIC Section 15610.43).

Abduction means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court (WIC Section 15610.06).

AS AN EMPLOYEE OR VOLUNTEER OF THIS FACILITY, YOU MUST COMPLY WITH THE DEPENDENT ADULT AND ELDER ABUSE REQUIREMENTS, AS STATED ABOVE. IF YOU DO NOT COMPLY, YOU MAY BE SUBJECT TO CRIMINAL PENALTY. IF YOU ARE A LONG-TERM CARE OMBUDSMAN, YOU MUST COMPLY WITH FEDERAL AND STATE LAWS, WHICH PROHIBIT YOU FROM DISCLOSING THE IDENTITIES OF LONG-TERM RESIDENTS AND COMPLAINANTS TO ANYONE UNLESS CONSENT TO DISCLOSE IS PROVIDED BY THE RESIDENT OR COMPLAINANT OR DISCLOSURE IS REQUIRED BY COURT ORDER (Title 42 United States Code Section 3058g(d)(2); WIC Section 9725).

I, _____, have read and understand my responsibility to report known or suspected abuse of dependent adults or elders. I will comply with the reporting requirements.

SIGNATURE	DATE
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Attachment 3 – Welfare and Institutions Code, Division 9, Part 3, Chapter 11, Article 3, §15630
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WELFARE AND INSTITUTIONS CODE, Division 9, Part 3, Chapter 11, Article 3, §15630

- (a) A person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she 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.
- (b) (1) A mandated reporter who, in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, 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, or an internet report shall be made through the confidential internet reporting tool established in Section 15658, within two working days.
- (A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:
- (i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, but also 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.
- (ii) If the suspected abuse does not result in serious bodily injury, a telephone report shall be made to the local law enforcement agency within 24 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 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
- (iii) When the suspected abuse is allegedly caused by a resident with a physician's diagnosis of dementia, and there is no serious bodily injury, as reasonably determined by the mandated reporter, drawing upon their training or experience, the reporter shall report to the local ombudsman or law enforcement agency by telephone, immediately or as soon as practicably possible, and by written report, within 24 hours.
- (iv) When applicable, reports made pursuant to clauses (i) and (ii) shall be deemed to satisfy the reporting requirements of the federal Elder Justice Act of 2009, as set out in Subtitle H of the federal Patient Protection and Affordable Care Act (Public Law 111-148), Section 1418.91 of the Health and Safety Code, and Section 72541 of Title 22 of California Code of Regulations. When a local law enforcement agency receives an initial report of suspected abuse in a long-term care facility pursuant to this subparagraph, the local law enforcement agency may coordinate efforts with the local ombudsman to provide the most immediate and appropriate response warranted to investigate the mandated report. The local ombudsman and local law enforcement agencies may collaborate to develop protocols to implement this subparagraph.
- (B) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other law, the department may implement subparagraph (A), in whole or in part, by means of all-county letters, provider bulletins, or other similar instructions without taking regulatory action.

(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.

(D) With regard to abuse reported pursuant to subparagraph (C), the local ombudsman and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency or pursuant to a report required to be made pursuant to clause (v), in which case these actions shall be taken immediately, do all of the following:

(i) Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day program, as defined in paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code.

(iii) Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(v) Report all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.

(E) (i) If the suspected or alleged abuse or neglect occurred in a state mental hospital or a state developmental center, and the suspected or alleged abuse or neglect resulted in any of the following incidents, a report shall be made immediately, but no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting abuse, to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, and also to the local law enforcement agency:

(I) A death.

(II) A sexual assault, as defined in Section 15610.63.

(III) An assault with a deadly weapon, as described in Section 245 of the Penal Code, by a nonresident of the state mental hospital or state developmental center.

(IV) An assault with force likely to produce great bodily injury, as described in Section 245 of the Penal Code.

(V) An injury to the genitals when the cause of the injury is undetermined.

(VI) A broken bone when the cause of the break is undetermined.

(ii) All other reports of suspected or alleged abuse or neglect that occurred in a state mental hospital or a state developmental center shall be made immediately, but no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting abuse, to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local law enforcement agency.

(iii) When a local law enforcement agency receives an initial report of suspected or alleged abuse or neglect in a state mental hospital or a state developmental center pursuant to clause (i), the local law enforcement agency shall coordinate efforts with the designated investigators of the State Department of State Hospitals or the State Department of Developmental Services to provide the most immediate and appropriate response warranted to investigate the mandated report. The designated investigators of the State Department of State Hospitals or the State Department of Developmental Services and local law enforcement agencies may collaborate to develop protocols to implement this clause.

(iv) Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(v) Notwithstanding any other law, a mandated reporter who is required to report pursuant to Section 4427.5 shall not be required to report under clause (i).

(F) If the abuse has occurred in any place other than a long-term care facility, a state mental hospital, or a state developmental center, the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of their church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of their church, denomination, or organization, has a duty to keep those communications secret.

(B) This subdivision shall not be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse if they are acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(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, pursuant to paragraph (1), an incident if all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that they have experienced behavior constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is unaware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or 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.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident if all of the following conditions exist:

(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 or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Public Health determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsman, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that their emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department

of Public Health and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of State Hospitals or the State Department of Developmental Services or to a local law enforcement agency. Except in an emergency, the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) If two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and there is agreement among them, the telephone report or internet report, as authorized by Section 15658, may be made by a member of the team selected by mutual agreement, and a single 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.

(e) A telephone report or internet report, as authorized by Section 15658, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other state or federal law.

(h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, if that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals their failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 discovers the offense.

(i) For purposes of this section, “dependent adult” shall have the same meaning as in Section 15610.23.
(Amended by Stats. 2013, Ch. 673, Sec. 3. (AB 602) Effective January 1, 2014.)