



Abuse Reporting Changes Under AB 40

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Welcome

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The Problem:

- Elder and dependent adult abuse **occurring** in LTC facilities is reported to:
 - The local LTCOP *or*
 - The local law enforcement agency
- Confidentiality requirements prohibit ombudsman cross-reporting crimes to law enforcement without consent or court order.

The Problem (continued)

- LTCOP data shows in FY 2009-10, almost $\frac{3}{4}$ of victims did not consent to disclose their identities.
- Therefore law enforcement may not be able to investigate some criminal abuse in LTC.

AB 40 Changes

- Becomes effective on January 1, 2013.
- Requires initial reporting of some types of physical abuse directly to local law enforcement.
- Attempts to align reporting requirements with requirements for SNFs under the Elder Justice Act provisions of the Patient Protection and Affordable Care Act.

AB 40 Changes (continued)

- Is it abuse occurring in a “long term care facility” in which Ombudsman have jurisdiction to investigate abuse?
- Is it physical abuse?
- Then AB 40 changes the reporting requirements for mandated reporters.

AB 40 Changes: Adds Welfare & Institutions Code section 15610.67

- Added to the definitions section of the Elder Abuse and Dependent Adult Civil Protection Act (W&I §15600 et seq.)
- Effective January 1, 2013

Welfare & Institutions Code section 15610.67 (continued)

- Language taken from the Elder Justice Act
- “ ‘*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”

Physical Abuse Resulting in Serious Bodily Injury

- Report by telephone to local law enforcement immediately, but no later than within two hours of obtaining knowledge
- Report in writing (SOC 341) to local law enforcement, LTCOP & licensing within two hours of obtaining knowledge

Physical Abuse *Not* Resulting in Serious Bodily Injury

- Report by telephone to local law enforcement within 24 hours of obtaining knowledge
- Report in writing (SOC 341) to local law enforcement, LTCOP, and licensing within 24 hours of obtaining knowledge
- BUT . . .

Physical Abuse *Not* Resulting in Serious Bodily Injury

- *If* alleged perpetrator is a resident (participant), *and*
- has a physician's diagnosis of dementia,
- report by telephone to local law enforcement *or* LTCOP immediately or as soon as practicably possible.
- Report in writing (SOC 341) within 24 hours.



Mandated Reporter

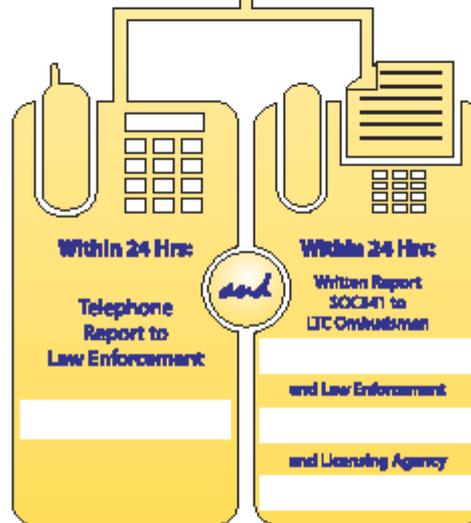
Observes, has knowledge of, or reasonably suspects Physical Abuse in a Long-Term Care Facility



Serious Bodily Injury
(See reverse for definition)



No Serious Bodily Injury
(See reverse for definition)



Caused by Resident Diagnosed with Dementia by Physician
No Serious Bodily Injury



Other (*not physical*) Abuse Occurring in LTC Facilities

- No changes
- Report by telephone to local law enforcement *or* LTCOP immediately or as soon as practicably possible
- Report in writing (SOC 341) within two working days

Abuse Not Occurring in a Facility

- Report abuse to local law enforcement or Adult Protective Services.

SOC 341 To Be Revised

- Estimated completion date is unknown.
- Available on Department of Social Services website or through links on LTCOP site.
- <http://www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC341.pdf>

SOC 341 To Be Revised

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**CONFIDENTIAL REPORT -
NOT SUBJECT TO PUBLIC DISCLOSURE**

REPORT OF SUSPECTED DEPENDENT ADULT/ELDER ABUSE DATE COMPLETED: _____

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) _____ AGE _____ DATE OF BIRTH _____ SSN _____ GENDER M F ETHNICITY _____ LANGUAGE (✓ CHECK ONE)
 NON-VERBAL ENGLISH
 OTHER (SPECIFY) _____

ADDRESS (IF FACILITY, INCLUDE NAME AND NOTIFY OMBUDSMAN) _____ CITY _____ STATE _____ ZIP CODE _____ TELEPHONE _____
 ()

PRESIDENT LOCATION (IF DIFFERENT FROM ABOVE) _____ CITY _____ STATE _____ ZIP CODE _____ TELEPHONE _____
 ()

ELDERLY (65+) DEVELOPMENTALLY DISABLED MENTALLY ILL/DISABLED PHYSICALLY DISABLED UNKNOWN/OTHER _____ LIVES ALONE LIVES WITH OTHERS _____

B. SUSPECTED ABUSER ✓ Check #1: **Self-Neglect**

NAME OF SUSPECTED ABUSER _____ CARE CUSTODIAN (yes) _____ PARENT SON/DAUGHTER OTHER _____
 HEALTH PRACTITIONER (yes) _____ SPOUSE OTHER RELATION _____

ADDRESS _____ CITY _____ STATE _____ ZIP CODE _____ TELEPHONE _____ GENDER M F ETHNICITY _____ AGE _____ DOB _____ HEIGHT _____ WEIGHT _____ EYES _____ HAIR _____
 ()

C. REPORTING PARTY: Check appropriate box if reporting party wishes confidentially to: ✓ All ✓ All but victim ✓ All but perpetrator

NAME (PRINT) _____ SIGNATURE _____ OCCUPATION _____ AGENCY/NAME OF BUSINESS _____

RELATION TO VICTIM/HOW KNOWS OF ABUSE (STREET) _____ (CITY) _____ (ZIP CODE) _____ (E-MAIL ADDRESS) _____ TELEPHONE _____
 ()

D. 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/RESIDENT BED OTHER (Specify) _____

E. REPORTED TYPES OF ABUSE ✓ CHECK ALL THAT APPLY.

1. PERPETRATED BY OTHERS (WIC 15610.07 & 15610.83)

a. PHYSICAL
 ASSAULT/BATTERY **b.** NEGLIGENCE **1.** ABDUCTION
 CONSTRAINT OR DEPRIVATION **c.** FINANCIAL **9.** OTHER (Non-Mandated, e.g.,
 sexual assault, deprivation of goods and services, psychological/abuse)
 CHEMICAL RESTRAINT **d.** ABANDONMENT
 OVER OR UNDER MEDICATION **e.** ISOLATION

2. SELF-NEGLECT (WIC 15610.57(b)(5))

a. PHYSICAL CARE (e.g., personal hygiene, food, clothing, shelter)
b. MEDICAL CARE (e.g., physical and mental health needs)
c. HEALTH AND SAFETY HAZARDS
d. MALNUTRITION/DEHYDRATION
e. OTHER (Non-Mandated, e.g., financial)

ABUSE RESULTED IN (✓ CHECK ALL THAT APPLY) NO PHYSICAL INJURY MINOR MEDICAL CARE HOSPITALIZATION CARE PROVIDER REQUIRED
 DEATH MENTAL SUFFERING OTHER (SPECIFY) _____ UNKNOWN

F. REPORTER'S OBSERVATIONS, BELIEFS, AND STATEMENTS BY VICTIM IF AVAILABLE. DOES ALLEGED PERPETRATOR STILL HAVE ACCESS TO THE VICTIM? PROVIDE ANY KNOWN TIME FRAME (2 days, 1 week, ongoing, etc.). LIST ANY POTENTIAL DANGER FOR INVESTIGATOR (animals, weapons, communicable diseases, etc.). ✓ CHECK IF MEDICAL, FINANCIAL, PHOTOGRAPHS OR OTHER SUPPLEMENTAL INFORMATION IS ATTACHED.

G. TARGETED ACCOUNT

ACCOUNT NUMBER (LAST 4 DIGITS) _____ TYPE OF ACCOUNT: DEPOSIT CREDIT OTHER _____ TRUST ACCOUNT: YES NO

POWER OF ATTORNEY: YES NO DIRECT DEPOSIT: YES NO OTHER ACCOUNTS: YES NO

H. OTHER PERSON BELIEVED TO HAVE KNOWLEDGE OF ABUSE. (family significant others, neighbors, medical providers and agencies involved, etc.)

NAME _____ ADDRESS _____ TELEPHONE NO. _____ RELATIONSHIP _____
 ()

I. FAMILY MEMBER OR OTHER PERSON RESPONSIBLE FOR VICTIM'S CARE. (if unknown, list contact person)

NAME _____ IF CONTACT PERSON ONLY ✓ CHECK RELATIONSHIP _____
 ADDRESS _____ CITY _____ STATE _____ ZIP CODE _____ TELEPHONE _____
 ()

J. TELEPHONE REPORT MADE TO: Local APS Local Law Enforcement Local Ombudsman Calif. Dept. of Mental Health Calif. Dept. of Developmental Services

NAME OF OFFICIAL CONTACTED BY PHONE _____ TELEPHONE _____ DATE/TIME _____
 ()

K. WRITTEN REPORT Enter information about the agency receiving this report. Do not submit report to California Department of Social Services Adult Programs Bureau.

AGENCY NAME _____ ADDRESS OR FAX # _____ Data Mailed Data Faxed

L. RECEIVING AGENCY USE ONLY Telephone Report Written Report

1. Report Received by: _____ Date/Time: _____
 Assigned Immediate Response Ten-day Response No Initial Face-To-Face Required Not APS Not Ombudsman

Approved by: _____ Assigned to (optional): _____

3. Cross-Reported to: CDHS, Licensing & Cert.; CDSS-OCL; CDA Ombudsman; Bureau of Medi-Cal Fraud & Elder Abuse; Mental Health; Law Enforcement; Professional Board; Developmental Services; APS; Other (Specify) _____ Date of Cross-Report: _____

4. APS/Ombudsman/Law Enforcement Case File Number: _____

SOC 341 (1/2006)

Cross-Reporting

- LTCOP and local law enforcement must cross-report “as soon as practicable,” unless an emergency, and then immediately to:
 - Licensing –
 - CDSS for RCFEs and adult day programs
 - CDPH for long-term health care facilities (SNFs and ICFs)
 - CDPH and CDA for adult day health care (CBAS)
 - BMFEA - known or suspected criminal activity
 - DA - known or suspected physical and financial abuse

Ombudsman Role

- [W&I §15630(b)(1)(A)(iv)]
- Work with local law enforcement agencies to create protocols for responding to abuse reports *received by both agencies*
- Can use MOU template
- “Provide the most immediate and appropriate response”

Ombudsman Role (continued)

- W&I §15650(f)
- *“The intent of this section is to acknowledge that the ombudsman responsibility in abuse cases is to receive reports, determine the validity of the reports, refer verified abuse cases to appropriate agencies for further action as necessary, and follow up to complete the required report information. Other ombudsman services shall be provided to the resident, as appropriate.”*

Ombudsman Role (continued)

- W&I §15636(a)
- *“Any victim or elder or dependent adult abuse may refuse or withdraw consent at any time to an investigation or the provision of protective services by an adult protective services agency or long-term care ombudsman program.”*

Ombudsman Confidentiality

- W&I §15636(a) (continued)
- *“A local long-term care ombudsman shall act only with the consent of the victim and shall disclose confidential information only after consent to disclose is given by the victim or pursuant to court order.”*
- Consistent with federal Older Americans Act requirements



Questions?