



**Health Care Agency
Behavioral Health Services
Policies and Procedures**

Section Name: Care and Treatment
 Sub Section: Mandated Reporting
 Section Number: 01.06.02
 Policy Status: New Revised

	SIGNATURE	DATE APPROVED
Director of Operations Behavioral Health Services	<u>Signature on File</u>	<u>11/3/17</u>

SUBJECT: Mandated Dependent Adult/Elder Abuse Reporting

PURPOSE:

To establish policy for Behavioral Health Services (BHS) regarding the mandated reporting of known dependent adult or elder abuse.

POLICY:

It is the policy of BHS that staff shall comply with all mandated reporting requirements for known or suspected elder or dependent adult abuse. It is the employee’s responsibility to comply with all reporting requirements relating to reporting of elder and dependent adult abuse. Employees and trainees who fail to comply with these reporting requirements may be subject to discipline, including suspension, or discharge in addition to criminal charges. It is the policy of BHS that while meeting mandated reporting requirements, employees will use the minimum necessary standard in disclosing information.

SCOPE:

This policy applies to all BHS employees, care custodians and health practitioners who meet the definition of a Mandated Reporter under Welfare and Institutions Code 15630.

REFERENCES:

California Assembly Bill 40 (AB 40)

California Penal Code Section 368-368.5; Section 11160-11163.2

Welfare and Institutions Code (WIC) Section 15610.17; Section 15610.23; Section 15610.27; Section 15610.63; Section 15610.67; Sections 15630 - 15631 (Amended); Section 15633.5; Section 15658

Business and Professions Code Division 2 (commencing with Section 500)

Business and Professions Code Section 2913

Business and Professions Code Subdivision (c) of Section 4980.03

Business and Professions Code Section 4980.44

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BHS P&P 05.05.02 Tracking Disclosures of Protected Health Information

Code of Federal Regulations, 42, Part 2

Title 17, California Code of Regulations, Chapter 3 Community Services

CAL. HSC. CODE § 1418 California Code – Section 1418

[SOC 341 Form – Report of Suspected Dependent Adult/Elder Abuse](#)

DEFINITIONS:

Mandated Reporters are defined as:

- A person who has assumed full or intermittent responsibility of or custody of a dependent adult or elder, 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 elderly or dependent adults. This also includes elder or dependent adult care custodians and health practitioners (WIC 15630) and substance use disorder counselors.

Dependent Adults are defined as:

- Individuals ages 18-64 who reside in the State of California and who have physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights. A dependent adult includes, but is not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. 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 Sections 1250, 1250.2 and 1250.3 of the Health and Safety Code (Welfare and Institutions code, Section 15610).

Elder Adults are defined as:

- Individuals ages 65 and older residing in the State of California (WIC Section 15610.27).

Dependent Adult/Elder Abuse is defined as:

- Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, other treatment with resulting physical harm or 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.

Long-Term Care Facility is defined as:

- Any of the following licensed facilities: Skilled nursing facility; Intermediate care facility; Intermediate care facility/developmentally disabled; Intermediate care facility/developmentally disabled rehabilitative; Intermediate care facility/developmentally disabled – nursing; Congregate living health facility and Nursing

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facility. Assisted Living and Board and Care facilities are also considered long-term care facilities.

PROCEDURE:

- I. When filing appropriate reports, both verbal and written, employees shall identify their clinic as “Health Care Agency.” Employees shall not provide any further identification, for example, but not limited to, BHS, Adult, Older Adult Behavioral Health, Children, Youth and Prevention Behavioral Health, Westminster Mental Health etc.
- II. The mandated reporter shall file the appropriate report(s) when, in his or her professional capacity, or within the scope of his or her employment, the mandated reporter has observed, has knowledge of, suspects or has been told by a dependent adult or elder that he/she has experienced behavior, including an act of omission that constitutes:
 - A. an incident that reasonably appears to be physical abuse, as defined in WIC Section of 15610.63,
 - B. abandonment,
 - C. abduction,
 - D. isolation,
 - E. financial abuse, or
 - F. neglect
- III. Reporting shall be done by telephone (WIC Section 15658)
 - A. Call the county Social Services Agency Adult Protective Services (APS) immediately or as soon as practicably possible at 800-451-5155.
 - B. Verbal report must be followed up within two working days with a written report faxed to 714-704-6161. APS form link:
<http://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC341.pdf>
- IV. If the suspected abuse occurs in a long-term care facility
 - A. If the abuse results in serious bodily injury a mandated reporter must:
 1. Make a telephone report of suspected or alleged physical abuse to the local law enforcement agency, immediately, and no later than within 2 hours of the reporter observing, obtaining knowledge of or suspecting physical abuse; and
 2. Make a written report to the local ombudsman; and

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3. Make a corresponding report to the licensing agency; and
 4. A written report must be sent to the local law enforcement agency.
- B. If the suspected abuse does not result in serious bodily injury, a mandated reporter must:
1. Make a report by telephone to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse; and
 2. Make a written report to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency.
- V. The Mandated Reporter must document in the patient's record/chart/folder the date, time, name and department of the person to whom the telephone report was made. The mandated reporter should also document in the client's record/chart/folder the circumstances leading to the reported incident, comments by the injured person regarding past abusive incidents, and name of person(s) suspected of inflicting the wound/physical injury, or assaultive or abusive conduct. The mandated reporter must also document any injuries and bruises of the victim at the time of the health care examination, specifically identifying the location and the extent of the injuries and/or bruises to the victim.
- VI. Mandated reporters shall notify their supervisor of the filing of the report.
- VII. Supervisors and administrators shall not interfere, impede or inhibit the filing of a Dependent Adult or Elder Adult Abuse Report.
- VIII. A copy of the Dependent Adult or Elder Adult Abuse Report shall be filed in a confidential file maintained by the Service Chief. The abuse report and the name of the individual person reporting the abuse must remain confidential (WIC Section 15633.5).
- IX. Failure to report by mandated reporters any suspected incidents of physical abuse, (including sexual abuse), abandonment, abduction, isolation, financial abuse, or neglect 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 (\$1000), or by both imprisonment and fine. Any mandated reporter who willfully fails to report abuse of an elder or dependent adult, where the abuse results in death or great bodily injury, may be punished by up to one year in a county jail, or by a fine up to five thousand dollars (\$5000), or by both imprisonment and a fine.
- X. The disclosure and the agency or agencies notified must be entered by the clinician on the Tracking of Disclosures Log in the Consumer's chart or Electronic Health Record (BHS P&P 05.05.02).