

2023

# Your Legal Duty... Reporting Elder and Dependent Adult Abuse

## Trainer Materials



DEPARTMENT OF JUSTICE  
DIVISION OF MEDI-CAL FRAUD AND ELDER ABUSE

REVISED 2/2023

## **INTRODUCTION: Trainer Orientation**

This training curriculum is designed to be used with the video “Your Legal Duty... Reporting Elder and Dependent Adult Abuse.” This training program, which includes a pre-test and post-test (see Appendix 1 and 2), must be administered to all facility employees.

California law requires that this training be given as soon as possible after receipt of the training materials. Additionally, this training is to be completed within six (6) months of the date of the beginning of the operation of the facility.

Newly hired employees are to be trained within sixty (60) days of their first day of employment.

As part of this training program, all facility staff members are to receive the following hand-outs:

- Copy of the Mandated Reporting Requirements, as specified in California Welfare and Institutions Code Section 15630 (See Appendix 3)
- Copy of the Employee Confidentiality Rights, as specified in California Welfare and Institutions Code Section 15633 (See Appendix 4)

Each long-term health care facility is subject to review by either the State Department of Health Care Services or the State Department of Social Services for compliance with the training duties as outlined above.

### **Introduction to Trainer:**

It is recommended that the trainer become familiar with the following information before beginning the training program:

- State and federal laws governing elder and dependent adult abuse in a long-term health care setting.
- Your facility’s staff profile (average age, education, cultural and religious background). This will help you identify issues which may affect your staff’s attitudes toward caregiving.
- Any past cases of abuse, neglect and/or mistreatment which may have occurred at your facility. Become familiar with the circumstances of the case(s).

This could be a helpful tool in identifying how new reporting laws will affect the way in which staff would respond if the situation were to occur.

**POSSIBLE ITEMS FOR DISCUSSION:**

- What were the allegations?
- Who reported the incident and how was the incident reported?
- Was the Long-Term Care Ombudsman notified and by whom?
- How could the incident have been prevented?
- What was the final outcome of the investigation?
- Did it result in any policy changes within your facility?
- Are there current reporting mechanisms in place?
- What are your facility's current policies and procedures for reporting abuse?
- Does the facility encourage staff to report abusive and potentially abusive practices?
- How does management respond?
- Does the facility conduct ongoing training in prevention measures?
- Does management encourage good communication between staff and management?

## APPENDIX 1: Pre-test

Administer to ALL Participants Prior to Training (Approximate time: 10 minutes)

1. The largest growing segment of California's population is:
  - a. People over 65 years of age
  - b. People over 70 years of age
  - c. People over 85 years of age
  
2. Which of the following individuals are mandated reporters?
  - a. Facility maintenance staff
  - b. Certified nursing assistant
  - c. Dietary staff
  - d. Activities director
  - e. Physical therapist
  - f. Licensed vocational nurse
  - g. All of the above
  
3. "Neglect" is:
  - a. Physical contact that harms or is likely to harm a person
  - b. Use of medications, isolation or physical restraints which harm a resident
  - c. Failure to provide that degree of care that a reasonable person would provide, for example, failure to assist in personal hygiene, or in the provision of food, clothing or shelter.
  
4. You witness a nursing assistant slap a resident across the face after the resident begins to yell and throw food on the floor. Under California law, this is abuse and must be reported.
  - a. True
  - b. False
  
5. Mandated reporters must report known or suspected instances of physical abuse, abandonment, isolation, financial abuse, or neglect by telephone to the Long-Term Care Ombudsman or law enforcement:
  - a. Within 24 hours
  - b. Within two working days
  - c. Immediately, or as soon as possible
  - d. Never, they must simply advise their supervisor
  
6. According to California law, mandated reporters are required to report all instances of abuse in a long-term care facility to:
  - a. The Long-Term Care Ombudsman or local law enforcement agency
  - b. The facility administrator

7. You report an incident of suspected abuse to your supervisor and they tell you, “Don’t worry about it, I will take care of reporting it.” Does this relieve you of your legal responsibility to make a report?
  - a. Yes, informing your supervisor is enough
  - b. No, under California law, no matter what your supervisor says, you must make a report
  
8. Mandated reporters are provided immunity from civil and criminal liability as a result of making a required report of known or suspected elder or dependent adult abuse.
  - a. True
  - b. False
  
9. A supervisor or administrator who interferes with the reporting duties of a facility employee and/or punishes the employee for making the report can be punished for up to six months in the county jail, a fine of not more than \$500, or both.
  - a. True
  - b. False
  
10. A person who fails to report abuse, abandonment, isolation, financial abuse, or neglect, is guilty of a misdemeanor. This misdemeanor is punishable by:
  - a. Not more than six months in the county jail
  - b. A fine of not more than one thousand dollars (\$1,000),
  - c. Both a fine of not more than one thousand dollars (\$1,000) and imprisonment

## APPENDIX 2: Post-test

### Answers Indicated in Purple

1. The largest growing segment of California's population is:
  - a. People over 65 years of age
  - b. People over 70 years of age
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2. Which of the following individuals are mandated reporters?
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  - a. Not more than six months in the county jail
  - b. A fine of not more than one thousand dollars (\$1,000)
  - c. Both a fine of not more than one thousand dollars (\$1,000) and imprisonment.

## **APPENDIX 3: Mandated Reporting Requirements**

### **Handout**

“Abuse of an elder or dependent adult” means either of the following: Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or 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.”

California state law requires 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 physical abuse, abandonment, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation, financial abuse, or neglect, or reasonably suspects abuse shall report the known or suspected instance of abuse:

- By telephone immediately or as soon as practically possible to the local ombudsman or the local law enforcement agency; and
- By written report, SOC Form 341, sent within two (2) working days, as follows:

**If the abuse has occurred in a long-term care facility, except a state mental hospital or a state developmental center, the report shall be made to the local ombudsman or the local law enforcement agency.**

If the abuse has occurred any place other than one described above, the report shall be made to the adult protective services agency.

*As an employee of this facility your employment position falls within the definition of a mandated reporter. Therefore, you must comply with the elder and dependent adult abuse reporting requirements as stated above.*



## **APPENDIX 4: Employee Confidentiality Rights**

### **Handout**

Reports of elder or dependent adult abuse shall be confidential and may be disclosed only as provided below. Any violation of the confidentiality required by law 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 that fine and imprisonment.

Information relevant to the incident of elder or dependent adult abuse may be given to an investigator from an adult protective services agency, a local law enforcement agency, or the Bureau of Medi-Cal Fraud and Elder Abuse or investigators of the Department of Consumer Affairs, Division of Investigation who are investigating the known or suspected case of elder or dependent adult abuse.

The identity of all persons who report under these provisions shall be confidential and disclosed only among adult protective agencies, local law enforcement agencies, the Bureau of Medi-Cal Fraud and Elder Abuse, and the Division of Investigation to counsel representing an adult protective services agency, Long-Term Care Ombudsman Program, licensing agency or a local law enforcement agency, by the Bureau to the District Attorney in a criminal prosecution, when persons reporting waive confidentiality, or by the court order.

Additionally, no person reporting a known or suspected instance of elder or dependent adult abuse shall incur civil or criminal liability as a result of any report, unless it can be proven that a false report was made and the person knew the report was false.

*As an employee of this facility your employment position falls within the definition of a mandated reporter and you are protected by the confidentiality rights as stated above.*