

ACTION REQUIRED

AB 40 (Yamada), Chapter 659, Statutes of 2012 and SB 1051 (Liu), Chapter 660, Statutes of 2012

Affects: Adult Day Programs (ADPs), Adult Residential Facilities (ARFs), Adult Residential Facilities for Persons with Special Health Care Needs (ARFPSHNs), Residential Care Facilities for the Elderly (RCFEs), Social Rehabilitation Facilities (SRFs)

Note: These bills do not change the reporting requirements regarding dependent adults being served by Residential Care Facilities for the Chronically Ill. Mandated reporters for clients of this facility type would adhere only to the reporting scheme in “3” below.

Subject: Elder and Dependent Adult Abuse – Reporting Requirements

Summary: Assembly Bill (AB) 40 and Senate Bill (SB) 1051 made changes to the elder and dependent abuse reporting statute, which are effective January 1, 2013. These are double jointed bills with SB 1051 as the ruling bill. Accordingly, both bills amended sections 15630 and 15631 of the Welfare and Institutions Code, relating to elder and dependent adult abuse. In addition, AB 40 added section 15610.67 to the Welfare and Institutions Code.

Though these bills do not change the fact that a mandated reporter is responsible to report known or suspected incidents of dependent adult or elder abuse, these bills do create four separate reporting standards (depending on the facts), which mandated abuse reporters are required to follow regarding clients in long-term care facilities.

AB 40 defines the term “serious bodily injury” as 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.

The bills divide incidents of suspected elder and dependent adult abuse into four different reporting standards based upon the mandated reporter’s analysis of the facts. In some cases, the bills shorten the previous mandatory reporting timeframes and increase the entities that receive these reports.

For any mandated reporter who, in his or her professional capacity, or within the scope of his or her professional employment, has observed or has knowledge of an incident that reasonably appears to be abuse, or reasonably suspects abuse, the following reporting requirements shall be followed:

- 1) If the suspected or alleged abuse is physical abuse and the abuse occurred in a long-term care facility the following shall occur:
 - a) If the suspected physical abuse results in serious bodily injury:

- i) A telephone report shall be made immediately and no later than within two hours to the local law enforcement agency of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
 - ii) A written report shall be made to the local ombudsman, the corresponding licensing agency (ex. California Department of Social Services Community Care Licensing), and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
 - b) If the suspected physical abuse does not result in serious bodily injury:
 - i) 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.
 - ii) A written report shall be made to the local long-term care ombudsman, the corresponding licensing agency (ex. California Department of Social Services Community Care Licensing), and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
 - c) When the suspected physical 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 his or her training or experience:
 - i) A telephone report shall be made to the local long-term care ombudsman or law enforcement agency, immediately or as soon as practicably possible.
 - ii) A written report shall be made to the local long-term care ombudsman or law enforcement agency within 24 hours.
- 2) If the suspected or alleged abuse is abuse other than physical abuse:
- a) A telephone report shall be made to local ombudsman or the local law enforcement agency immediately or as soon as practicably possible.
 - b) A written report shall be made to local ombudsman or the local law enforcement agency within two working days.
- 3) These bills did not amend the requirements for mandated reporters to report suspected abuse regarding a dependent adult or elderly client of a Residential Care Facility for the Chronically III. In accordance with Welfare and Institutions Code section 15630(b)(1)(F), for any mandated reporter who, in his or her professional capacity, or within the scope of his or her professional employment, has observed or has knowledge of an incident that reasonably appears to be abuse, or reasonably suspects abuse:
- a) A telephone report or a report through a confidential Internet reporting tool shall be made to adult protective services or law enforcement agency immediately or as soon as practicably possible.

- b) 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 Welfare and Institutions Code Section 15658, shall be made to adult protective services or law enforcement agency within two working days.

As a reminder, Licensing Program Analysts are mandated reporters of suspected dependent adult and elder abuse in accordance with Welfare and Institutions Code Section 15630 and Penal Code Section 11166(a). Also, the licensee and his/her staff are mandated reporters. When a Licensing Program Analyst observes or has knowledge of abuse against an elder or a dependent adult in a long-term care facility, he/she is to complete a State of California (SOC) 341 "Report of Suspected Elder/Dependent Abuse" report if unable to immediately verify and document that an SOC 341 was already submitted for the same suspected abuse by another mandated reporter.

Regional Office staff must refer all allegations of serious abuse or suspicious deaths to the Investigations Branch, as outlined in Evaluator Manual section 1-0620, Investigative Priorities.

Resources

- Suspected elder and dependent adult abuse shall be reported utilizing the SOC 341 Report of Suspected Dependent Adult/Elder Abuse form, which can be found at: <http://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC341.pdf>

Implementation Plan: These reporting requirements are effective January 1, 2013, and the Community Care Licensing Division (CCLD) shall implement as follows:

**Reporting Procedures for Suspected Dependent Adult and Elder Abuse
Occurring In A Long-term Care Facility**

(Adult Residential Facility, Adult Day Program, Adult Residential Facility for Persons with Special Health Care Needs, Social Rehabilitation Facility or Residential Care Facility for the Elderly)

Note: See separate procedures for Residential Care Facilities for the Chronically Ill below.

<p>If suspected physical abuse and it results in serious bodily injury*</p> <p><i>Reference: Welfare and Institutions Code, Sec. 15630 (b)(1)(A)(i)</i></p>	<p><u>Two hours:</u> A telephone report shall be made to the local law enforcement agency immediately, and no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting physical abuse.</p> <p><u>Two hours:</u> A written report shall be made to the local ombudsman, the corresponding licensing agency (e.g. CDSS), <i>and</i> the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting physical abuse.</p>
<p>If suspected physical abuse and it does not result in serious bodily injury*</p> <p><i>Reference: Welfare and Institutions Code, Sec. 15630 (b)(1)(A)(ii)</i></p>	<p><u>24 hours:</u> A telephone report shall be made to the local law enforcement within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting physical abuse.</p> <p><u>24 hours:</u> A written report shall be made to the local ombudsman, the corresponding licensing agency (e.g. CDSS), <i>and</i> the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting physical abuse.</p>
<p>If suspected physical abuse and it 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 his or her training or experience</p> <p><i>Reference: Welfare and Institutions Code, Sec. 15630 (b)(1)(A)(iii)</i></p>	<p><u>Immediately or as soon as practically possible:</u> A telephone report shall be made to the local ombudsman <i>or</i> law enforcement agency immediately or as soon as practicably possibly.</p> <p><u>24 hours:</u> A written report shall be made to the local ombudsman <i>or</i> the local law enforcement agency within 24 hours.</p>
<p>If the suspected or alleged abuse is abuse other than physical abuse</p> <p><i>Reference: Welfare and Institutions Code, Sec. 15630 (b)(1)(C)</i></p>	<p><u>Immediately or as soon as practically possible:</u> A telephone report shall be made to the local ombudsman <i>or</i> law enforcement agency immediately or as soon as practicably possible.</p> <p><u>Two working days:</u> If the above was reported by telephone, a written report shall be sent to the local ombudsman <i>or</i> law enforcement agency within two working days.</p>
<p>If the suspected or alleged abuse occurred any place other than a long-term care facility**:</p> <p><i>Reference: Welfare and Institution Code, Sec. 15630 (b)(1)(F)</i></p>	<p><u>Immediately or as soon as practically possible:</u> A telephone report or a report through a confidential Internet reporting tool shall be made to adult protective services or law enforcement agency immediately or as soon as practicably possible</p> <p><u>Two working days:</u> 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 Welfare and Institutions Code Section 15658, shall be made to adult protective services or law enforcement agency within two working days.</p>

* SEC 15610.67. "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.

A **Residential Care Facility for the Chronically Ill must adhere to this separate provision as this facility type is not a long-term care facility (Welfare and Institution Code, Sec. 15610.47).