



Monterey County Behavioral Health Policies and Procedures

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| Policy Number | 300 B |
| Policy Title | Reporting Of Elder And Dependent Adult Abuse |
| References | California Penal Code Section 11160 – 11163 California Welfare and Institution Codes 15600 –15659 California Welfare and Institution Code 5328.5 Elder And Dependent Abuse Report: Employee Statement – Elder And Adult Abuse Reporting |
| Form | SOC 341 – Report of Suspected Dependent Adult/Elder Abuse |
| Effective | March 1, 1991 Revised: April 6, 2006 Revised: December 1 st , 2023 |

Policy

All Behavioral Health employees and its contracted providers shall comply with the provisions of Elder and Dependent Adult Abuse Reporting Law as defined in the California Welfare and Institutions Code, Sections 156000 through 15659 and the California Penal Code Sections 11160 through 11163. The intention of this policy is to protect the elderly and dependent adults.

1. A report must be made if a person in the above-named reporting group either observed an incident that reasonably appears to be abuse, has observed a physical injury where the nature of the injury clearly indicates that physical abuse has occurred, or is told by an elder or dependent adult that he/she has experienced behavior constituting dependent abuse, including sexual assault, 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. [Welfare and Institutions Code Section 15630(b)]
2. If known, suspected, or alleged abuse occurred in a long term care facility, an employee shall report the known or suspected instance of abuse to the local law enforcement agency immediately or as soon as practically possible, but no longer than 2 hours, by phone; the employee shall then follow up with a written report within 24 hours to the long-term care ombudsman, local law enforcement agency, and corresponding state licensing agency. If the known, suspected, or

alleged abuse occurred in a long term care facility, was perpetrated by another resident with a diagnosis of dementia, and no serious bodily injury took place, the employee shall complete a written report and provide it to **both** the long term care ombudsman **and** local law enforcement agency within 24 hours. When the abuse occurred anywhere else, the employee shall make a verbal report to either the county adult protective services agency or to a local law enforcement agency **immediately** or **as soon as practically possible** by telephone and shall prepare and send a written report thereof within **two working days** [Welfare and Institutions Code Section 15632 (c) (6)].

3. Mandated reporters are defined under Welfare and Institutions Code Section 15610 (h), and (i). All Behavioral Health employees and its contracted providers who have direct contact with a person in care are mandated to report suspected or known elder or dependent abuse. Any other division employee is encouraged to report the same.
4. Pursuant to Welfare and Institutions Code Section 15632, any person who begins employment on or after 27 January 1, 1986, as a care custodian, health practitioner or with an adult protective services agency, prior to commencing his or her employment and as a prerequisite to that employment shall sign a statement on a form which shall be provided by the prospective employer to the effect that he/she has knowledge of the provisions of Section 15630 and will comply with its provisions (see Attachment 2). Neither the physician-patient nor the psychotherapist-patient confidentiality privileges are applicable, nor do these privileges exempt therapists from any reporting required by this law. [Welfare and Institutions Code Section 15637]
5. A mandated reporter may be charged with a misdemeanor if he/she should have known or did know of an instance of elder or dependent adult abuse and failed to report it. [Welfare and Institutions Code Section 15634]
6. The law provides absolute immunity from civil or criminal liability for a mandated reporter and provides similar immunity for a non-mandated reporter unless the report was false, and the non-mandated reporter knew the report was false. [Welfare and Institutions Code Section 15634 (a)]. The law further provides that the identity of all persons reporting suspected elder or dependent adult abuse must remain confidential and may be disclosed only between adult protective services agencies, long-term care ombudsman coordinators, licensing agencies, local law enforcement agencies, or the Bureau of Medi-Cal Fraud or their legal counsel, or the district attorney in a criminal prosecution, or when persons waive confidentiality or by court order. [Welfare and Institutions Code Section 15633 (a)]
7. Reporting responsibilities are individual responsibilities even though an organization may adopt internal procedures to facilitate reporting. A mandated reporter's supervisor or administrator cannot make the report for the mandated reporter or in any way prohibit the individual from reporting. [Welfare and Institutions Code Section 15630 (d)]

Procedure

1. Employee Statement

- a. Elder and Dependent Adult Abuse Reporting: Any person who begins employment with Monterey County Behavioral Health on or after January 1, 1986, in any of the capacities listed above shall be required to acknowledge his/her understanding and agreement with the Elder and Dependent Adult Abuse Reporting Law by signing an “Employee Statement – Elder and Dependent Adult Abuse Reporting.” It will be the responsibility of the Personnel Analyst to see that each new employee for any of the above-mentioned disciplines sign said agreement. The statement shall be filed in the employee’s Departmental personnel file. A copy of the statement will be given to the employee.

2. Report of Suspected or Observed Elder or Dependent Adult Abuse

- a. Any employee of Monterey County Behavioral Health and/or its contracted provider programs, who is mandated by the California Welfare and Institutions Code to report suspected elder and dependent adult abuse, who suspects or observes evidence of such abuse in a long-term care facility as defined in Welfare and Institutions Code Section 15610 (c) shall report the known or suspected instance of abuse to the local law enforcement agency ***immediately or as soon as practically possible, but no longer than 2 hours***, by telephone; the employee shall then follow up with a written report within ***24 hours*** to the long-term care ombudsman, local law enforcement agency, and corresponding state licensing agency. If the known, suspected, or alleged abuse occurred in a long-term care facility, was perpetrated by another resident with a diagnosis of dementia, and no serious bodily injury took place, the employee shall complete a written report and provide it to ***both*** the long-term care ombudsman and local law enforcement agency within ***24 hours***. When the abuse occurred anywhere else, the employee shall make a verbal report to either the county adult protective services agency or to a local law enforcement agency ***immediately or as soon as practically possible*** by telephone, and shall prepare and send a written report thereof within ***two working days*** [Welfare and Institutions Code Section 15632 (c) (6)]. *A copy of the report should be scanned into the Electronic Health Record (EHR)*

3. Reporting Instructions

Adult Protective Services (831) 755-4466

Long-Term Care Ombudsman (831) 788-4011

- a. An initial report is to be made immediately, or as soon as practically possible by telephone. A written report shall be submitted *within two working days* of receiving the information.

- b. If the abuse took place in a long-term care facility, a verbal report is to be made immediately or as soon as practically possible, but no longer than 2 hours. A written report shall be submitted within 24 hours. See Procedure #2 for which agencies should receive the report, based on the location and perpetrator of the abuse.
- c. The completion of suspected or observed elder or dependent abuse report shall be documented in a clinical progress note, which may be designated “Restricted Disclosure” based on clinical judgment.
- d. If the individual is conserved, the conservator is to be notified.

Note: Mandated reporters shall file their own SOC341 form and not allow their supervisor or another staff to file or process a mandated report on their behalf. Informing the immediate supervisor or other co-worker of the report shall not be a substitute for making a mandated report to APS. A supervisor or administrator shall not impede or prohibit mandated reporting duties. No person making a report shall be subject to any sanction for making the report.

Disclosure of Protected Health Information (PHI)

- Mandated Reporters can only release Protected Health Information (PHI) to APS as it pertains to the known or suspected Elder or Dependent Adult abuse.
- The SOC341 form will be limited to the least amount of information necessary to ensure the safety of the Child and directly related to the reported abuse.
- The SOC341 form is confidential and may be disclosed only to specifically authorized persons or agencies.
- All other information requested will require a signed Release of Information (ROI) by the client or authorized representative.
- Note that HIPAA requires staff to “promptly inform” the elder or dependent adult that such a report has been made or will be made unless:
 - In the exercise of professional judgment, the staff believes informing the elder or dependent adult would put them at risk of serious harm, or
 - Staff would be informing the “personal representative” and believes that person is responsible for the abuse or neglect and informing them would not be in the elder or dependent adult’s best interest.
 - Staff should be sure to document their rationale for informing or not informing the elder or dependent adult in a progress note, which may be designated “Restricted Disclosure” based upon clinical judgment.
- For MCBH contracted SUD Programs that are held to 42CFR Part 2:
 - When making a suspected elder or dependent abuse report (verbally and/or in writing), staff may identify themselves as *working for an MCBH contracted provider* to ensure that they are not making a connection between themselves and/or the elder/dependent adult and the SUD part 2 program. This is to uphold confidentiality.

Definitions

- i. **Abuse of an elder or a dependent adult:** means any of the following: behavior, including an act or omission, that constitutes abuse including sexual assault, 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 Welfare and Institutions Code 15610.63, 15610.67, 15610.07(a)]
- ii. **Dependent Adults:** are persons residing in California between the ages of 18 and 64 years, who have physical or mental limitations that restrict their ability to carry out normal activities or to protect their rights including persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility. The determination of whether a specific adult meets the criteria for dependent adult requires clinical evaluation on a case-by-case basis. If unclear whether an individual meets the definition of dependent adult, staff should consult with their supervisor.
- iii. **Elders:** are persons in California 65 years of age or older.
- iv. **Mandated Reporters:** (for the purposes of this policy) mean any person who has assumed full or intermittent care or custody of an adult 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 or health practitioner. The law names additional mandated reporters (see W&I Code Section 15610.17 for full list).
- v. **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 his or her training and experience, to suspect abuse.