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Director & State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN, JR.
Governor

December 19, 2012

AFL 12-50

TO: Adult Day Health Center
Congregate Living Health Facility
Intermediate Care Facility
Intermediate Care Facility-Developmentally Disabled
Intermediate Care Facility-Developmentally Disabled-Continuous
Nursing
Intermediate Care Facility-Developmentally Disabled-Habilitative
Intermediate Care Facility-Developmentally Disabled-Nursing
Nursing Facility
Skilled Nursing Facility

SUBJECT: Revised Mandated Reporter Reporting under the Elder Abuse and
Dependent Adult Civil Protection Act

AUTHORITY: Welfare and Institutions Code Sections 15610.67 and 15630

This All Facility Letter (AFL) describes the revised mandated reporting requirements enacted by Assembly Bill (AB) 40 (Chapter 659, Statutes of 2012).

Effective January 1, 2013, mandated reporting under the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) requires that facilities report to the local Long-Term Care Ombudsman (Ombudsman), local law enforcement, *and* the Licensing and Certification (L&C) Program.

The time frame for reporting serious bodily injury will also change. The statute defines "serious bodily injury" to mean an injury involving extreme physical pain, substantial risk of death, or protracted loss of impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention that may include hospitalization, surgery or physical rehabilitation.

After January 1, 2013, if suspected abuse results in serious bodily injury, then facilities must do the following:

- Report the incident immediately and no later than two hours by telephone to local law enforcement, and
- Send a written report within two hours to the local law enforcement agency, the L&C Program and the Ombudsman.

If the suspected abuse does not result in serious bodily injury, the mandated reporter must:

- Report the incident by telephone within 24 hours to local law enforcement agency.
- Provide a written report to the local Ombudsman, the L&C Program and the local law enforcement agency within 24 hours.

In addition, the statute has created a new time frame for suspected abuse not resulting in serious bodily injury by a resident with a diagnosis of dementia. In these cases, mandated reporters must do the following:

- Report the incident to the local Ombudsman or the local law enforcement agency by telephone as soon as possible.
- And a written report must follow within 24 hours to either the local Ombudsman or the local law enforcement agency.
- According to statute, the L&C Program is not required to receive these reports.

Facilities are encouraged to review their policies and procedures to ensure the inclusion of the local Ombudsman and new time frames for mandated reporter reporting requirements according to the EADACPA. Facilities should continue reporting incidents using the Form 341 (Report of Suspected Dependent Adult/Elder Abuse) for all instances of abuse under the EADACPA.

The revised mandated reporting requirements attempted to align the EADACPA with the federal Elder Justice Act. However, the two laws have separate and distinct reporting requirements for elder abuse. Facilities are responsible to have policies and procedures in place to satisfy both state and federal requirements when reporting abuse. On March 23, 2012, the L&C Program released an AFL outlining reporting requirements under the federal Elder Justice Act. Please refer to the AFL for the federal requirements: <http://www.cdph.ca.gov/certific/facilities/Documents/LNC-AFL-12-01.pdf>.

Facilities are responsible for following all applicable laws. The California Department of Public Health's failure to expressly notify facilities of statutory or regulatory requirements does not relieve facilities of their responsibility for following all state and federal laws and regulations. Facilities should refer to the full text of all applicable sections of the Welfare and Institutions Code to ensure compliance.

If you have any questions, please contact your respective Licensing and Certification district office.

Sincerely,

Original signed by Debby Rogers

Debby Rogers, RN, MS, FAEN
Deputy Director
Center for Health Care Quality