

## Recognizing and Reporting Elder Abuse

CANHR is a private, nonprofit 501(c)(3) organization dedicated to improving the quality of care and the quality of life for long term care consumers in California.

### What is Elder Abuse?

In California, elders are defined as persons 65 years and older. Under California law, elder abuse can be both civil and criminal.

**California Civil law** The Welfare & Institutions Code § 15610 defines elder abuse as physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in harm, pain or mental suffering to an elder. It also means the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Undue influence is also considered to be elder abuse.

**Abandonment:** The desertion of an elder by someone who is a caregiver.

**Abduction:** The removal, without the consent of the conservator, of a conservatee to another state.

**Financial Abuse:** The wrongful taking or use of an elder's funds, property, or other assets.

**Isolation:** The intentional prevention of an elder from receiving mail, telephone calls or visitors.

**Mental Suffering:** The infliction of fear, agitation, or confusion through threats, harassment or other forms of intimidating behavior.

**Neglect:** A caregiver's failure to assist in an elder's personal hygiene, failure to provide food, clothing or shelter, or protect an elder from health and safety hazards.

**Physical Abuse:** The infliction of physical pain or injury, sexual assault or molestation, or the use of physical or chemical restraints for punishment.

**Undue Influence:** Where an inequity occurs when a person uses excessive persuasion on an elder that overcomes an elder's free will and causes an elder to act or refrain from acting in an appropriate manner.

**California Criminal law** Under Penal Code § 368, elder abuse occurs when a person knows that victim is an elder then inflicts unjustifiable physical pain or mental suffering on the elder or willfully causes or permits that elder to suffer. It also covers situations where a person willfully causes or permits an elder to be placed in a situation in which their health is endangered.

# How to Recognize Abuse

## 1. Possible Physical Abuse and Neglect Indicators:

The following are clues for recognizing signs of physical elder abuse or neglect. This is not intended to be an exhaustive list.

- Malnutrition and/or dehydration, bedsores. Unexplained weight loss.
- Unseen but suspected physical injury: Painful reactions when touched.
- Bruises, skin tears or broken bones or teeth.

## 2. Possible Financial Abuse Indicators:

- Suspicious banking or financial transactions
- Money missing from accounts
- Unusable ATM or Credit Card transactions
- Unexpected changes to estate planning documents or property deeds
- Missing possessions

## 3. Behavioral Indicators

- Agitation
- Anger
- Confusion or disorientation
- Defensiveness
- Depressed or withdrawn
- Fearful or hesitant to talk openly
- Non-responsive or implausible excuses

## 4. Caregiver or Family Member Abuse Indicators

- The elder is not allowed to speak for him/herself.
- Caregiver's indifference or anger toward the elder.
- Socially isolated or unnecessary restrictions of the elder's activities.
- Conflicting explanations of incidents by the family or caregivers.
- Family members or caregivers having gambling or substance abuse problems.

# Mandated Reporting

## Who Are the Mandated Reporters?

The law requires certain persons to make reports. The list of mandated reporters is extensive. They are the administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder; any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency; any person who has assumed full or intermittent responsibility for the care or custody of an elder, whether or not he or she receives compensation. Officers and employees of financial institutions are mandated reporters of financial abuse.

## **What Is to Be Reported?**

Mandated reporters **MUST** report actual or suspected physical abuse, abandonment, isolation, financial abuse, or neglect which is observed, evident, or described.

***Mandated Report Forms: Form SOC 341 must be completed and signed by the mandated reporter.***

## **When Must Mandated Reporters Make Their Reports?**

The reports are to be made immediately or as soon as possible by telephone, followed by a written report or Internet report through the confidential Internet reporting tool within two (2) working days. If the suspected or alleged abuse is physical abuse, and the abuse has occurred in a long-term care facility a report has to be made to both the ombudsmen and law enforcement. When serious bodily injury occurs, the mandated reporter has to contact law enforcement within two hours and also make a report to the ombudsmen within twenty-four hours. Reports of less than serious bodily injury goes to law enforcement and ombudsmen within twenty-four hours. The only exception to the dual reporting is when a resident has caused abuse and there was no serious bodily injury. In these instances the reporter shall make the report either to law enforcement or the ombudsman.

## **Failure to Report**

A mandated reporter's failure to report or their impeding of a report of physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder is a misdemeanor, punishable by six months in the county jail and a fine of one thousand dollars (\$1,000).

Any mandated reporter who willfully fails to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail and a fine of \$5,000. Failure of an officer or employee of a financial institution to report financial abuse is limited to a \$1000 fine and \$5000 if the failure to report is intentional.

## **What if you are not a Mandated Reporter?**

**There is no excuse for Elder Abuse! Anyone can and should report elder abuse. When you know or suspect elder abuse is occurring, make a report to the authorities. In case of immediate harm, CALL 911!**

## **Where to Report Elder Abuse**

### **Abuse in Nursing Homes**

(Refer to CANHR's Fact Sheet – [How to File a Nursing Home Complaint](http://www.canhr.org/factsheets/nh_fs/html/fs_NH_complaint.htm) ([www.canhr.org/factsheets/nh\\_fs/html/fs\\_NH\\_complaint.htm](http://www.canhr.org/factsheets/nh_fs/html/fs_NH_complaint.htm)))

Make a report to each of the following:

- CNA/HHA/CHT Report of Misconduct Form: [www.cdph.ca.gov/pubsforms/forms/CtrldForms/cdph318.pdf](http://www.cdph.ca.gov/pubsforms/forms/CtrldForms/cdph318.pdf).
- Department of Public Health (DPH), Licensing and Certification at: [www.cdph.ca.gov/certlic/facilities/Pages/LCDistrictOffices.aspx](http://www.cdph.ca.gov/certlic/facilities/Pages/LCDistrictOffices.aspx).

- Local Law Enforcement — Police or Sheriff and your county district attorney's office.
- Long-Term Care Ombudsman Program at 1-800-231-4024 or [www.aging.ca.gov/programs/LTCOP/](http://www.aging.ca.gov/programs/LTCOP/).
- Office of State Attorney General, Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA) at 1-800-722-0432 or [ag.ca.gov/bmfea/reporting.php](http://ag.ca.gov/bmfea/reporting.php).

### **Abuse in Residential Care Facilities for the Elderly (RCFEs)/Assisted Living**

(Refer to CANHR's Fact Sheet – Filing Complaints in RCFEs/Assisted Living.) Make a report to each of the following:

- Community Care Licensing, Department of Social Services at [cclid.ca.gov/](http://cclid.ca.gov/).
- Local Law Enforcement — Police or Sheriff and your county district attorney's office.
- Long-Term Care Ombudsman Program at 1-800-231-4024 or [www.aging.ca.gov/programs/LTCOP/](http://www.aging.ca.gov/programs/LTCOP/).
- Office of State Attorney General, Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA) at 1-800-722-0432 or [ag.ca.gov/bmfea/reporting.php](http://ag.ca.gov/bmfea/reporting.php).

### **Reporting Abuse in Community Settings**

When abuse occurs in one's home or apartment or the home or apartment of a family or friend, make a report to each of the following:

- Adult Protective Services (APS) in your county by referring to California Department of Social Services Web site at [www.cdss.ca.gov/agedblinddisabled/PG1298.htm](http://www.cdss.ca.gov/agedblinddisabled/PG1298.htm).
- Local law enforcement and county District Attorney's office.

## **Reporting Health Related Abuse**

**Fraudulent Medi-Cal Practices:** Contact the Office of Attorney General, Bureau of Medi-Cal Fraud and Elder Abuse at 1-800-722-0432 or [ag.ca.gov/bmfea/reporting.php](http://ag.ca.gov/bmfea/reporting.php).

**Fraudulent Medicare Practices:** Contact the Health Insurance Counseling and Advocacy Program (HICAP) at 1-800-434-0222 or visit [www.medicare.gov/FraudAbuse/Overview.asp](http://www.medicare.gov/FraudAbuse/Overview.asp), or California Senior Medicare Patrol at (714) 560-0309.

For additional information on how to report and identify abuse call 1-800-447-8477 or visit [www.cahealthadvocates.org/fraud/](http://www.cahealthadvocates.org/fraud/).

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# Reporting Elder Financial Abuse

**Consumer Scams:** Contact the county office of the District Attorney.

**The Consumer Financial Protection Bureau (CFPB):** You can submit a complaint about an issue you have with a company about a consumer financial product or service. The CFPB receives complaints about bank accounts or services, credit cards, credit reporting, money transfers, mortgages, student loans, and vehicle or consumer loans. Contact the CFPB by visiting: [www.consumerfinance.gov/complaint/](http://www.consumerfinance.gov/complaint/).

## Making Complaints to the Proper Licensing Authorities

If the elder was victimized by a licensed professional then the government entity that controls the license needs to be contacted. They will investigate the complaint and if an investigation finds fault, the licensee may lose their license and be forced to make restitution.