

Recognizing and Reporting Elder Abuse

What is Elder Abuse?

In California, elders are defined as persons 65 years and older.

Under California law, elder abuse can be both criminal and civil.

Criminal elder abuse occurs where any person who knows that a person is an elder and willfully causes or permits that elder to suffer, or inflicts unjustifiable physical pain or mental suffering on the elder. It also covers situations where a person willfully causes or permits an elder to be placed in a situation in which elder's health is endangered. (Penal Code Section 368)

Civil law defines civil elder abuse to mean physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in physical harm or 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. (Welfare & Institutions Code Section 15610.)

- **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 illegal or unethical exploitation and/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, confusion through threats, harassment or other forms of intimidating behavior.
- **Neglect:** The failure to fulfill a caretaking obligation such as assisting in personal hygiene, providing food, clothing or shelter, protecting an elder from health and safety hazards, or preventing malnutrition.
- **Physical Abuse:** The infliction of physical pain or injury, sexual assault or molestation, or use of physical or chemical restraints for punishment.

How to Recognize Abuse

1. Possible Physical Abuse and Neglect Indicators:

The following are clues for recognizing signs of physical elder abuse. It is not intended to be exhaustive.

- Unexplained weight loss, malnutrition and/or dehydration, bedsores.
- Unseen physical injury: Painful reaction when touched.

- Bruises, skin damage or broken bones.

2. Behavioral Indicators

- Agitation
- Anger
- Anxiety
- Confusion or disorientation
- Defensiveness
- Depression
- Fear
- Helplessness
- Hesitation to talk openly
- Implausible stories
- Non-responsiveness
- Withdrawal

3. Possible Relative or Caregiver Abuse Indicators

- The elder may not be given the opportunity to speak for him/herself
- Obvious absence of assistance, attitudes of indifference, or anger toward the elder by family member or caregiver
- Social isolation or restriction of activity of the elder
- Conflicting accounts of incidents by the family or caregivers
- Substance abuse by individual responsible for the care of the elder

What to Do About Known or Suspected Elder Abuse?

When you know about or even suspect Elder Abuse, REPORT IT -
There is no excuse for Elder Abuse!

In cases where the elder is at risk of immediate harm, CALL 911!

Who Reports?

Any concerned citizen and all mandated reporters.

Who Are Mandated Reporters?

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 Reported?

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

Mandated Reports: Form SOC 341 must be completed and signed by the mandated reporter.

When To Report?

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 go 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 ombudsmen.

Failure to Report

Failure to report, impeding or inhibiting 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 five thousand dollars (\$5,000). Failure of an officer or employee of a financial institution to report financial abuse is punishable by a \$1000 fine and \$5000 if the failure to report is intentional.

Where to Report Elder Abuse

Abuse in Nursing Homes

(Refer to CANHR's Fact Sheet – **How to File a Nursing Home Complaint:**

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/CtrlForms/cdph318.pdf.
- Department of Public Health (DPH), Licensing and Certification at:
www.cdph.ca.gov/certlic/facilities/Pages/LCDistrictOffices.aspx.
- Local Law Enforcement - Police or Sheriff and District Attorney's office – check the CA District Attorney's Association for current addresses and phone numbers at 916-443-2017 or www.cdaa.org.

- Long-Term Care Ombudsman Program at 1-800-231-4024 or 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.

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 ccl.d.ca.gov/.
- Local Law Enforcement — Police or Sheriff and District Attorney's office — check California District Attorney's Association for current addresses and phone numbers at 916-443-2017 or www.cdca.org.
- Long-Term Care Ombudsman Program at 1-800-231-4024 or www.aging.ca.gov/programs/LTCOP/.

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.
- **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, 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/.

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.
- Local law enforcement and county District Attorney's office (see contact information above).

Reporting Elder Financial Abuse

Consumer Scams: Contact the county office of the District Attorney—check California District Attorney’s Association for current addresses and phone numbers at 916-443-2017 or www.cdaa.org.

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/.

Questionable Annuity or Insurance Practices: Contact the State Insurance Commissioner’s Office at 1-800-927-4347 or www.insurance.ca.gov/0300-fraud/index.cfm. If an attorney sold the annuity, file a complaint with the State Bar Association at 1-800-843-9053 or www.calbar.ca.gov/Attorneys/LawyerRegulation/FilingaComplaint.aspx.

Reverse Mortgage Scams: File a complaint with the Federal Trade Commission online or by phone, toll-free, at 1-877-FTC-HELP. If you believe that a real estate professional has committed fraud having to do with your reverse mortgage, file a complaint with the California Department of Real Estate at www.yourhome.ca.gov/filing-complaint.shtml.