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## 10. MEDICAL CARE STANDARDS

### M. Mandatory Elder or Dependent Adult Abuse Reporting

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#### APPLIES TO:

- A. This policy applies to Mandated Reporters who treat or have contact with IEHP Medi-Cal Members.

#### DEFINITIONS:

- A. **Abuse** – Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering of an Elder or Dependent Adult. Abuse is also the deprivation to an Elder or Dependent Adult by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.
1. **Abandonment** – the desertion or willful forsaking of an Elder or a Dependent Adult by anyone having care of custody of that person under circumstances in which a reasonable person would continue to provide care and custody.
  2. **Abduction** – the removal from this state and/or the restraint from returning to this state, of any Elder or Dependent Adult who does not have the capacity to consent to such removal and/or restraint from returning. This also applies to the removal or restraint of any conservatee without the consent of the conservator or the court.
  3. **Financial Abuse** – the taking or assistance in taking real or personal property of an Elder or Dependent Adult by undue influence, or for a wrongful use or intent to defraud the Elder or Dependent Adult.
  4. **Isolation** – acts intentionally committed to prevent an Elder or Dependent Adult from receiving mail, telephone calls, and callers/visitors (when that is contrary to the wishes of the Elder or Dependent Adult). These activities will not constitute isolation if performed pursuant to a physician and surgeon's instructions, who is caring for the Elder or Dependent Adult at the time, or if performed in response to a reasonably perceived threat of danger to property or physical safety.
  5. **Neglect** – the negligent failure of any person having the care or custody of an Elder or a Dependent Adult to exercise a reasonable degree of care. This includes, but is not limited to, the failure to assist in personal hygiene; provide food, clothing, or shelter; provide medical care for physical and mental health needs; failure to protect from health and safety hazards; and failure to prevent malnutrition or dehydration. Neglect includes self-neglect, which is the Elder or Dependent Adult's inability to satisfy the aforementioned needs for himself or herself.
  6. **Physical Abuse** – this includes but is not limited to, assault, battery, unreasonable physical constraint, prolonged/continual deprivation of food or water, sexual assault or battery, rape, incest, sodomy, oral copulation, sexual penetration, lewd or lascivious acts; or the use of physical or chemical restraint or psychotropic medication for punishment, for a period beyond that which was ordered by a physician and surgeon

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providing care, or for any purpose not authorized by the physician and surgeon.

- B. **Dependent Adult** – any person between the ages of 18 and 64 years who resides in this state and who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights.
- C. **Elder** – any person residing in this state, 65 years or older.
- D. **Mandated Reporter** – an individual who is required by law to report identified or suspected Elder/Dependent Adult abuse. Such individuals include any person who has assumed full or intermittent responsibility for care or custody of an Elder or Dependent Adult, whether or not he or she 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, health Provider, clergy Member, or employee of a county adult protective services agency or a local law enforcement agency.
- E. **Ombudsman** – the State Long-Term Care Ombudsman, local ombudsman coordinators, and other persons currently certified as ombudsmen by the Department of Aging.
- F. **Serious Bodily Injury** – 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.

#### **POLICY:**

- A. Any Mandated Reporter who, in his or her professional capacity, or within the scope of his/her employment, has observed or has knowledge of an incident that reasonably appears to be Abuse, is required by law to directly inform appropriate county agencies by telephone immediately or as soon as practicably possible. An additional written report shall also be submitted to the appropriate agency(ies) within two (2) working days.<sup>1</sup>
- B. Mandated Reporters include, but are not limited to: PCPs, Specialists, nurses, and IEHP professional staff (i.e. Providers, care managers, and UM personnel), who treat and/or provide assistance in the delivery of health care services to IEHP Members.
- C. **Exceptions:** Physicians and Surgeons, Registered Nurses, and Psychotherapists (as defined in Section 1010 of the Evidence Code) are NOT required to report incidents of Elder/Dependent Adult Abuse when **all** of the following exist:<sup>2</sup>
  - 1. The Mandated Reporter has been informed by an Elder/Dependent Adult that he or she has experienced Abuse; and
  - 2. The Mandated Reporter is not aware of any independent evidence that corroborates the statement that the Abuse has occurred; and

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<sup>1</sup> Welfare & Institutions Code § 15630.

<sup>2</sup> Welfare & Institutions Code § 15630.

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3. The Elder/Dependent Adult had been diagnosed with a mental illness or dementia; and
4. In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist reasonably believes that the Abuse did not occur.

#### **PROCEDURES:**

##### **Identification of Suspected Abuse**

- A. Health Care Providers and caregivers must be alert for signs of possible Elder/Dependent Adult Abuse including, but not limited to, the following signs and symptoms:
  1. Evidence of malnutrition, starvation, dehydration;
  2. Chronic Neglect;
  3. Sexual assault;
  4. Evidence of financial misappropriation or theft from an Elder/Dependent Adult;
  5. Conflicting or inconsistent accounts of incidents and injuries;
  6. Depression, not responding to appropriate therapy, or characterized by suicidal thoughts;
  7. Blunt force trauma that is not consistent with a fall;
  8. Infection due to lack of medical treatment;
  9. A series of accidents, bruises, or fractures over time;
  10. Unexplained illness or injury;
  11. On office visit, the presence of physical findings of trauma inconsistent with a Member's stated history, or inconsistent with the caregiver's history. Examples include a stated mechanism of injury not consistent with an Elder/Dependent Adult's functional capabilities; and/or
  12. On office visit, the presence of behavioral or emotional clues pointing toward possible Abuse. These may include excessive hostility between a Member and his/her caregiver; excessively avoidant, sullen, fearful, submissive, or anxious behaviors on the part of the Member.
- B. In addition, Mandated Reporters have a variety of further information sources for the identification of Elder/Dependent Adult Abuse cases, including the following (when access to such information is available to the Mandated Reporter, and not otherwise prohibited by state or federal law):
  1. Request by an Emergency Room for authorization to treat an illness or injury of suspicious or questionable nature;

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2. Request by an Urgent Care Center for authorization to treat an illness or injury of suspicious or questionable nature;
  3. Hospitalization of a Member for suspicious trauma, illness, or injury;
  4. Office visits with Primary Care Physicians (PCPs), and other health care Providers that reveal unusual physical or emotional findings;
  5. Abuse cases identified during the UM or CM process;
  6. Requests for assistance received by Member Services from victims of Abuse; and/or
  7. Calls to the twenty-four (24) Hour Nurse Advice Line from potential victims of Abuse.
- C. Any obligation to investigate the particulars of any case rests with Adult Protective Services. This allows Mandated Reporters to act based only upon clinical suspicion, without being constrained by the need to investigate or to cast judgment.

#### **Reporting of Suspected Abuse**

##### **A. Suspected or Alleged Physical Abuse in a Long Term Care Facility**

1. **Please note**: this section relates to reporting suspected physical abuse which occurred in a long-term care facility but **not** a state mental health hospital or a state development center.
2. If the suspected physical abuse results in serious bodily injury:
  - a. A telephone report shall be made to the local law enforcement agency, within two (2) hours of the Mandated Reporter identifying/suspecting the Physical Abuse; and
  - b. A written report shall be made to the local Ombudsman, the corresponding licensing agency, and the local law enforcement agency within two (2) hours of the Mandated Reporter identifying/suspecting the Physical Abuse.
3. If the suspected Physical Abuse does **not** result in Serious Bodily Injury:
  - a. A telephone report shall be made to the local law enforcement agency within twenty-four (24) hours of the Mandated Reporter identifying/suspecting the Physical Abuse; and
  - b. A written report shall be made to the local Ombudsman, the corresponding licensing agency, and the local law enforcement agency within twenty-four (24) hours of the Mandated Reporter identifying/suspecting the Physical Abuse.
4. If the suspected Physical Abuse is allegedly caused by a resident of the long term care facility who is diagnosed with dementia, and there is no Serious Bodily Injury, the Mandated Reporter shall report to the local Ombudsman or law enforcement agency by telephone, immediately or as soon as practicably possible, and by written report, within twenty-four (24) hours.

##### **B. Suspected or Alleged Abuse (Other Than Physical Abuse) in a Long Term Care**

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#### Facility

1. **Please note:** this section relates to reporting suspected Abuse (other than Physical Abuse) which occurred in a long-term care facility but **not** a state mental health hospital or a state development center.
2. If the suspected or alleged Abuse is other than Physical Abuse, a telephone report and a written report shall be made to the local Ombudsman or the local law enforcement agency immediately or as soon as practicably possible. The written report shall be submitted within two (2) working days.

#### C. Suspected or Alleged Abuse in a State Mental Hospital or a State Development Center

1. If the suspected or alleged Abuse resulted in any of the following incidents, a report shall be made immediately, no later than two (2) hours, by the Mandated Reporter identifying/suspecting Abuse to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, and the local law enforcement agency:
  - a. A death.
  - b. A sexual assault, as defined in WIC § 15610.63.
  - c. An assault with a deadly weapon<sup>3</sup> by a nonresident of the state mental hospital or state development center.
  - d. An assault with force likely to produce great bodily injury.<sup>4</sup>
  - e. An injury to the genitals when the cause of the injury is undetermined.
  - f. A broken bone when the cause of the break is undetermined.
2. All other reports of suspected or alleged Abuse shall also be made within two (2) hours of the Mandated Reporter identifying/suspecting Abuse, to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local law enforcement agency.
3. Reports can be made by telephone or through a confidential Internet reporting tool; if reported by telephone, a written report shall be sent, or an Internet report, within two (2) working days.

#### D. Abuse Outside of a Long Term Care Facility, State Mental Hospital, or a State Development Center

1. If the Abuse has occurred in any place other than a long-term care facility, a state mental hospital, or state development center, the report shall be made to the adult protective services agency or the local law enforcement agency.

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<sup>3</sup> Penal Code § 245.

<sup>4</sup> Penal Code § 245.

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2. Reports can be made by telephone or through a confidential Internet reporting tool; if reported by telephone, a written report shall be sent, or an Internet report, within two (2) working days.

#### E. Suspected Abuse when a patient transfers to a receiving hospital

1. If the Admitting Physician or other persons affiliated with a hospital receives a patient, transferred from another health care facility or community health facility, who exhibits a physical injury or condition that appears to be due to the result of abuse or neglect, they must submit a telephonic and written report within thirty-six (36) hours to both the police and the local county health department. (See Penal Code § 11161.8)

#### F. Information to include in Abuse Reports

1. The report shall include the following, if known:
  - a. Name, title, and daytime number of reporting party, agency name and address, and date of report.
  - b. Name, address, age and present location of the Elder/Dependent Adult.
  - c. Any information that led the reporting party to suspect that Abuse has occurred.
  - d. Nature and extent of the Elder/Dependent Adult's condition.
  - e. The date and time of incident.
  - f. Names and addresses of family members or any other person responsible for the Elder/Dependent Adult's care.
  - g. Any other information requested by the adult protective agency.

#### **Riverside**

Dependent Adult and Elder Abuse:  
Adult Services Division  
(800) 491-7123 (24 hours)

#### **San Bernardino**

Dependent Adult and Elder Abuse:  
Department of Aging and Adult Services  
(877) 565-2020 (24 hours)

#### **Other Related Responsibilities**

- A. IEHP and its Delegated IPAs are responsible for educating their contracted PCPs and Specialists of the procedures for reporting Abuse cases.
- B. IEHP and its Delegated IPAs are responsible for case managing Abuse cases and verifying that reporting has occurred.
- C. IEHP and its Delegated IPAs are responsible for documenting Abuse cases on the monthly Case Management Log (See Attachment, "Monthly Care Management Log" in Section 25).

#### **Penalties for Noncompliance**

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- A. Failure to report, or impeding or inhibiting a report of Abuse is a misdemeanor, punishable by not more than six (6) months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or both.
- B. Any Mandated Reporter who willfully fails to report, or impedes or inhibits a report of Abuse, if that Abuse results in death or great bodily injury, shall be punished by not more than one (1) year in a county jail, by a fine of not more than five thousand dollars (\$5,000) or both.
- C. If a Mandated Reporter intentionally conceals his/her failure to report an incident known by the Mandated Reporter to be Abuse, the failure to report is a continuing offense until discovered by the applicable law enforcement agency.

#### **REFERENCES:**

- A. California Welfare and Institutions Code § 15630.
- B. California Welfare and Institutions Code § 15610 *et seq.*
- C. California Evidence Code § 1010.
- D. California Penal Code § 245.
- E. California Penal Code § 11161 *et seq.*
- F. California Penal Code § 368 *et seq.*

INLAND EMPIRE HEALTH PLAN		
<b>Chief Approval:</b> <i>Signature on file</i>	<b>Original Effective Date:</b>	April 1, 2012
<b>Chief Title:</b> Chief Medical Officer	<b>Revision Date:</b>	January 1, 2020