



Abuse Reporting Requirements

Website:

<http://leginfo.ca.gov/calaw.html>

Article 2 Report of Injuries

Article 2.5 Child Abuse and Neglect Reporting Act

<http://leginfo.ca.gov/calaw.html>

§ 15610.37 “Health Practitioner”

<http://leginfo.ca.gov/calaw.html>

Article 3 Mandatory and Nonmandatory Reports of Abuse §15630 Welfare and Institutions Code

This information is available in the published California Nursing Practice Act 2010 Edition. This book can be ordered from <http://www.lexisnexis.com/bookstore>

Registered nurses are among the health practitioners who must report known or observed instances of abuse to the appropriate authorities. This mandate applies to those situations that occur in the RN’s professional capacity or within the scope of employment. Registered nurses must also be aware that failure to report as required is also considered unprofessional conduct and can result in disciplinary actions against the RN’s license by the BRN.

The California Nursing Practice Act with Rules and Regulations and Related Statutes contains extracted text of abuse reporting statutes. Website: California Legislation Info, <http://leginfo.ca.gov> to research related statutes on abuse reporting.

Highlights from the Nursing Practice Act abuse reporting laws are noted below.

Article 2 Report of Injuries

Penal Code § 11160 Injuries required to be reported: method of reporting: any health practitioner in a health facility, clinic, physician’s office, local or state public health department, or a clinic, or other type of health facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provide medical services for a physical condition to a patient who he or she knows or reasonably suspects is a person described as follows shall immediately make a report to local law enforcement agency (1) report by telephone shall be made immediately or as soon as practically possible and a written report shall be prepared on the standard form developed in compliance with state agencies. The completed forms shall be sent to local law enforcement agency within two working days of receiving the information regarding the person.

Article 2.5 Child Abuse and Neglect Reporting Act

Penal Code §11165.2 “Neglect”; “Severe neglect”; “General neglect”

“Neglect” means the negligent treatment or the maltreatment of a child by a person responsible for the child’s welfare under circumstances indicating harm or threatened harm to the child’s health or welfare. The term includes both acts and omissions on the part of the responsible person.

- (a) “Severe neglect” means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. “Severe neglect” also means those situations of neglect where any person having the care or custody of a child willfully causes

or permits the person or health of the child to be placed in a situation such that his or her person or health failure to provide adequate food, clothing, shelter, or medical care.

- (b) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For purpose of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

Elder Abuse and Dependent Adult Civil Protection Act

Welfare and Institutions Code §15610-15610.65 provides definitions for the following: abandonment, abuse of an elder or dependent adult, adult protective services, adult protective services agency, Bureau of Medi-Cal Fraud , care custodian, clients' rights advocate, dependent adult, developmentally disabled person, elder, financial abuse of dependent adult, goods and services necessary to avoid physical harm or mental suffering, and listings of health practitioner that includes registered nurses, investigation, isolation, long-term care facility, long-term care ombudsman, mental suffering, neglect, patients' rights advocate, physical abuse and reasonable suspicion.

§ 15610.37 "Health Practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker or associate clinical social worker, marriage, family and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family, and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social services employee who treats an elder or a dependent adult for any condition, or a coroner.

Article 3 Mandatory and Nonmandatory Reports of Abuse

§15630 Welfare and Institutions Code Duties of mandated reporter; Punishment for failure to report.

Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment , has observed or has knowledge of an incident that reasonably appears to be physical abuse as defined in 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known suspect instance of abuse by telephone immediately or as soon as practically possible, and by written report sent within two working days. Specific reporting requirements for long term care facilities, mental health, and clergy are contained in 15630 (A) long term care facilities (B) state mental hospital or state developmental center and (2) (A) clergy member.

§15630 (3)(A) A mandated reporter, physician and surgeon, registered nurse, or a psychologist shall **not** be required to report as defined in Section 15610.63 Welfare an Institutions Code (i) the mandated reporter has been told by an elder or dependent adult that she/he has experienced behavior constituting physical abuse; (ii) the mandated reporter is not aware of any independent evidence that corroborates the statement that abuse has occurred; (iii) the elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of court-ordered conservatorship; (iv) in the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist.

§15630 (4)(A) In a long-term care facility, a mandated reporter shall **not** be required to report as a suspected incident of abuse, as defined in Section 15610.07 where all of the following conditions exist: (i) the mandated

reporter is aware that there is a proper plan of care; (ii) the mandated reporter is aware that the plan of care is properly provided and executed; (iii) a physical, mental, or medical injury occurred as a result of care provided pursuant to (i) and (ii); (iv) the mandated reporter reasonably believes that the injury was not the result of abuse.

If the suspected abuse occurred in a long term care facility the report may be made to the long-term ombudsperson program. The local ombudsperson shall report any case of known suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

If the suspected abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of Mental Health or the State Department of Developmental Services or to local law enforcement agency or to the local ombudsperson. If the abuse occurred in other than long-term care or mental health or developmental center the report may be made to the county adult protective services agency.

Failure to report, or impeding or inhibiting a report of, physical abuse defined in Section 15610.63 of Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in county jail, by a fine not more one thousand dollars (\$1000) or by both that fine and imprisonment. Any mandated reporter who willfully fails to report and the abuse results in death or great bodily harm, shall be punished by not more than one year in county jail, by a fine of not more than five thousand dollars (\$5000), or by both that fines and imprisonment.

The Nursing Practice Act with Regulations and Related Statutes can be obtained from LexisNexis, www.lexisnexis.com , telephone number 800-833-9844. ISBN 978-1-4224-5990-4.