

**ACKNOWLEDGEMENT OF DUTY UNDER WELFARE AND INSTITUTIONS  
CODE TO REPORT KNOWN OR SUSPECTED DEPENDENT ADULT ABUSE**

I, \_\_\_\_\_ (name of employee) acknowledge that I have been advised of the duty to report the physical abuse of elders and dependent adults.

California state law *REQUIRES* care custodians, health practitioners, and employees of adult protective services agencies and local law enforcement agencies to report physical abuse of elders and dependent adults.

Those professionals must report physical abuse under the following circumstances:

- 1) When the reporter has observed an incident that reasonably appears to be physical abuse.
- 2) When the reporter has observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury, clearly indicates that physical abuse has occurred.
- 3) When the reporter is told by an elder or a dependent adult that he or she has experienced behavior constituting physical abuse.

The report must be made immediately, or as soon as possible, by telephone to either the long-term care ombudsman coordinator or to a local law enforcement agency when the abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the abuse is alleged to have occurred anywhere else, and must be followed by a written report within two working days. The report must include:

- 1) The name of the person making the report.
- 2) The name, age, and present location of the elder or dependent adult.
- 3) The names and addresses of family members or other persons responsible for the elder or dependent adult's care, if known.
- 4) The nature and extent of the person's condition.
- 5) Any information that led the reporter to suspect that abuse has occurred.
- 6) The date of the incident.

State law also *PERMITS* the reporting of other types of abuse of elders and dependent adults, such as neglect, intimidation, fiduciary abuse, abandonment, or other treatment that results in physical harm, pain, or mental suffering. These reports may be made when the reporter has actual knowledge or reasonably suspects that abuse has occurred.

Fullerton Joint Union High School District  
**AR 5640.2(b)**

The law provides that care custodians, health practitioners, or employees of adult protective services agencies or local law enforcement agencies shall not incur either civil or criminal liability for any report they are required or permitted to make under this law.

However, failure to report physical abuse of an elder or dependent adult is a misdemeanor, punishable by not more than six months in the county jail or by a fine of not more than one thousand dollars (\$1,000), or by both fine and imprisonment.

Reports made under this law are confidential and may be disclosed only to the agencies specified. Violation of the confidentiality provisions is also a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than five hundred dollars (\$500), or by both fine and imprisonment.

The following is the exact text of portions of the elder and dependent adult abuse reporting law which pertain to the responsibilities of professionals who are required to report abuse of elders and dependent adults.

1. CONDITIONS UNDER WHICH REPORTING OF PHYSICAL ABUSE IS REQUIRED  
Welfare and Institutions Code Section 15630 (a)

"Any elder or dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency, who in his or her professional capacity or within the scope of his or her employment, either has observed an incident that reasonably appears to be physical abuse, has observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury, clearly indicates that physical abuse has occurred, or is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, shall report the known or suspected instance of physical abuse either to the long-term care ombudsman coordinator or to a local law enforcement agency when the physical abuse is alleged to have occurred in a long-term care facility, or to either the county adult protective services agency or to a local law enforcement agency when the physical abuse is alleged to have occurred anywhere else, immediately or as soon as possible by telephone, and shall prepare and send a written report thereof within two working days."

2. CONDITIONS UNDER WHICH REPORTING OF ABUSE IS PERMITTED  
Welfare and Institutions Code Section 15630 (b)

"Any care custodian, health practitioner, or employee of an adult protective services agency or local law enforcement agency who has knowledge of or reasonably suspects that other types of elder or dependent adult abuse have been inflicted upon an elder or dependent adult or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse to a long-term care ombudsman coordinator when the abuse is alleged to have occurred in a long-term care facility, or to the county adult protective services agency when the abuse is alleged to have occurred anywhere else. If the conduct involves criminal activity not already covered by subdivision (a), it may be immediately reported to the appropriate law enforcement agency."

3. PROFESSIONALS WHO ARE REQUIRED TO REPORT PHYSICAL ABUSE OF ELDERS AND DEPENDENT ADULTS

- a) Care custodians, as defined by Welfare and Institutions Code Section 15610 (h), are required to report physical abuse of elders and dependent adults.

"Care custodian' means an administrator or an employee, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff, of any of the following public or private facilities when the facilities provide care for elders or dependent adults:

- 1) Twenty-four-hour health facilities as defined in Section 1250, 1250.2, or 1250.3 of the Health and Safety Code.
- 2) Clinics.
- 3) Home health agencies.
- 4) Adult day health care centers.
- 5) Secondary schools which serve 18- to 22-year-old dependent adults and postsecondary educational institutions which serve dependent adults or elders.
- 6) Sheltered workshops.
- 7) Camps.
- 8) Community care facilities, as defined in Section 1502 of the Health and Safety Code, and residential care facilities for the elderly, as defined by Section 1569.2 of the Health and Safety Code.
- 9) Respite care facilities.
- 10) Foster homes.
- 11) Regional centers for persons with developmental disabilities.
- 12) State Department of Social Services and State Department of Health Services licensing divisions.
- 13) County welfare departments.
- 14) Offices of patients' rights advocates.
- 15) Office of the long-term care ombudsman.

Fullerton Joint Union High School District  
**AR 5640.2(d)**

- 16) Offices of public conservators and public guardians.
  - 17) Any other protective or public assistance agency which provides health services or social services to elders or dependent adults."
- b) Health practitioners, as defined by Welfare and Institutions Code Section 15610 (i) are required to report physical abuse of elders and dependent adults.

"Health practitioner' means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed 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, a 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 the 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 service employee who treats an elder or a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, exams, or treats elder or dependent adults."

- c) Employees of adult protective services agencies, as defined by Welfare and Institutions Code Section 15610 (j), are required to report physical abuse of elders and dependent adults.

"Adult protective services agency' means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff."

- d) Employees of local law enforcement agencies, as defined by Welfare and Institutions Code Section 15610 (r):

"Local law enforcement agency' means a city police or county sheriff's department, or a county probation department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff."

4. DEFINITION OF "ELDER"

Welfare and Institutions Code Section 15610 (a)

"Elder' means any person residing in this state, 65 years of age or older."

5. DEFINITION OF "DEPENDENT ADULT"

Welfare and Institutions Code Section 15610 (b)

- "1) 'Dependent adult' means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.
- 2) 'Dependent adult' includes any person between the ages of 18 and 64 who is admitted as an in-patient to a 24-hour health facility as defined by Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code."

6. DEFINITION OF "ABUSE OF AN ELDER OR A DEPENDENT ADULT"

Welfare and Institutions Code Section 15610 (g)

"'Abuse of an elder or a dependent adult' means physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods and services which are necessary to avoid physical harm or mental suffering."

7. DEFINITION OF "PHYSICAL ABUSE"

Welfare and Institutions Code Section 15610 (c)

"'Physical abuse' means all of the following:

- 1) Assault, as defined in Section 240 of the Penal Code.
- 2) Battery, as defined in Section 242 of the Penal Code.
- 3) Assault with a deadly weapon or force likely to produce great bodily injury, as defined by Section 245 of the Penal Code.
- 4) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- 5) Sexual assault, which means any of the following:
  - a) Sexual battery, as defined in Section 243.4 of the Penal Code.
  - b) Rape, as defined in Section 261 of the Penal Code.
  - c) Rape in concert, as described in Section 264.1 of the Penal Code.
  - d) Incest, as defined in Section 285 of the Penal Code.
  - e) Sodomy, as defined in Section 286 of the Penal Code.

Fullerton Joint Union High School District  
**AR 5640.2(f)**

- f) Oral copulation, as defined in Section 288a of the Penal Code.
- g) Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code."

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Signature of Employee

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Date

Regulation approved: December 21, 1988