

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



March 26, 1999

ALL COUNTY LETTER NO. 99-16

TO: ALL COUNTY WELFARE DIRECTORS
ADULT PROTECTIVE SERVICES (APS)
PROGRAM MANAGERS

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation Change
 Court Order or Settlement Agreement
 Clarification Requested by One or More Counties
 Initiated by CDSS

SUBJECT: ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT
ADULT PROTECTIVE SERVICES

REFERENCE: All-County Information Notice No: 1-73-98 and
All-County Information Notice No: 1-03-99

This All-County Letter (ACL) provides information regarding county Adult Protective Services (APS) agencies' responsibilities for implementing the provisions of Senate Bill (SB) 2199. This bill amends the Elder Abuse and Dependent Adult Civil Protection Act and requires county APS agencies to provide a program of services to maintain the safety of elders and dependent adults in the home and in the community.

Program definitions and reporting mandates became effective on January 1, 1999. The statewide APS program provisions become operative on May 1, 1999. Commencing with the 1999-00 Fiscal Year, the statewide APS Program provisions are to be implemented only to the extent funds are provided in the annual Budget Act. Attached to this ACL are four main sections as follows:

- **Attachment A** – An overview of the definitions and reporting requirements of SB 2199, as they relate to APS agencies, effective January 1, 1999.
- **Attachment B** – Basic implementation instructions for the May 1, 1999 statewide APS program.
- **Attachment C** – Definitions added or changed as a result of SB 2199.
- **Attachment D** – Existing definitions relevant to the mandated reporting requirements or the APS Program.

Additional ACLs will be issued, as needed, to transmit detailed operational instructions on various components of the May 1, 1999 APS Program. SB 2199 authorizes the California Department of Social Services (CDSS) to issue instructions through ACLs for the statewide APS Program until January 31, 2000 when regulations must be adopted. Until regulations are adopted, counties are instructed to use the information in the ACLs to implement their APS Program.

If you have any questions regarding this letter, you may contact your Adult Program Operations and Technical Assistance Analyst at (916) 229-4000 or June Annis, APS Program Analyst, at (916) 229-4588.

Sincerely,

***Original Document Signed by
Donna L. Mandelstam on 3/26/99***

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division

Attachments

ATTACHMENT A

OVERVIEW OF SENATE BILL 2199 DEFINITIONS AND MANDATED REPORTING REQUIREMENTS, AS THEY RELATE TO ADULT PROTECTIVE SERVICES AGENCIES, EFFECTIVE JANUARY 1, 1999

Definitions

- Abuse of an Elder or Dependent Adult (WIC 15610.07)
- Adult Protective Services (WIC 15610.10)
- Care Custodian (WIC 15610.17)
- Financial Abuse (WIC 15610.30)
- Mandated Reporters (WIC 15630)
- Multidisciplinary Personnel Team (Public Guardian was added) (WIC 15610.55)
- Neglect (WIC 15610.57)

Reporting Requirements

Mandated reporters now include the following: {WIC 15630 (a)}

Any person* who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult:

- Whether or not that person receives compensation for the services.
- Including administrators, supervisors, or licensed staff, or any employee or volunteer who meets the definition of care custodian (WIC 15610.17) of a public or private facility or agency that provides care or services to elders and dependent adults.
- Including health practitioners.
- Including any other elder or dependent adult care custodian.
- Including employees of a county adult protective services agency, or local law enforcement agency.

* This includes In-Home Supportive Service providers per ACIN I-03-99

The reporting mandate now includes not only physical (including sexual) abuse, but also the following:

- Abandonment
- Abduction
- Isolation
- Financial abuse and
- Neglect (including self-neglect)

Reports must be made whenever the reporter has knowledge or a reasonable suspicion that abuse occurred unless all of the following apply: {WIC 15630 (b) (2) (A) (ii-iv)}

- The reporter received the information from the elder or dependent adult, and
- The reporter is not aware of any independent corroborating evidence, and
- The elder or dependent adult has been diagnosed with, or is under court-ordered conservatorship due to mental illness, defect, dementia or incapacity, and
- The reporter reasonably believes the abuse did not occur.

The examples listed above shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse, and shall not be construed to lessen or restrict any existing duty of mandated reporters. {WIC 15630 (b) (2)}

Reports should be made immediately by telephone, or as soon as practically possible, or by written report sent within two days to the appropriate agency: {WIC 15630 (b)}

- When an APS agency receives a report of abuse alleged to have occurred in a long-term care facility, other than a state mental hospital or state developmental center, the APS agency shall immediately inform the person making the report that he or she is required to make the report to the long-term care ombudsman program, or to a local law enforcement agency. {WIC 15640 (a) (2)}
- The APS agency shall not accept the report by telephone, but shall forward any written report received to the long-term care ombudsman program.
- When an APS agency receives a report of abuse alleged to have occurred in a state mental hospital or state developmental center, the APS agency shall immediately inform the person making the report that he or she is required to make the report to the State Departments of Mental Health or Developmental Disabilities, respectively. {WIC 15630 (b) (1) (B)}
- All other reports of abuse should be referred to the APS agency or local law enforcement agency. {WIC 15630 (b) (1) (C)}

Cross Reporting

A written report of possible criminal activity may include physical abuse, abandonment, isolation, financial abuse or neglect. Prior to making any cross report of financial abuse to law enforcement agencies, an APS agency shall first determine whether there is reasonable suspicion of any criminal activity. {WIC 15640 (a) (1)}

Each county adult protective services agency shall immediately, or as soon as practically possible, report by telephone:

- To the law enforcement agency having jurisdiction over the case, and to any public agency in the jurisdiction given responsibility for investigation of cases of elder and dependent adult abuse, every known or suspected instance of abuse of an elder or dependent adult.
- Each county adult protective services agency shall also send a written report within two working days of receiving the information to each agency to which it is required to make a telephone report.

If a county adult protective services agency receives a report of known or suspected elder or dependent adult abuse, and determines, pursuant to its investigation, that the abuse is being committed by a health practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related initiative act, or by a person purporting to be a licensee, the adult protective services agency shall immediately, or as soon as practically possible, report this information to the appropriate licensing agency.

Penalties For Failing to Report Abuse {WIC 15630 (h)}

Failure to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect 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, or both imprisonment and fine.

Any mandated reporter who willfully fails to report abuse of an elder or dependent adult, where the abuse results in death or great bodily injury, may be punished by up to one year in a county jail, a fine of up to \$5000, or both imprisonment and fine.

Maintenance of an Inventory of Public and Private Service Agencies {WIC 15650 (e)}

Each county APS agency shall maintain an inventory of all public and private service agencies available to assist victims of abuse. This inventory shall be used to refer victims in the event that the county adult protective services agency cannot resolve the immediate needs of the victim, to act as an alternate resource, and to serve the victim on a long-term, follow-up basis.

ATTACHMENT B

SENATE BILL 2199 ADULT PROTECTIVE SERVICES PROGRAM REQUIREMENTS, EFFECTIVE MAY 1, 1999

Authority: Welfare and Institutions Code (WIC), Sections 15750, 15751, 15752, 15754, 15755, and 15760-15765.

I. Adult Protective Services Program

- A. Each county shall establish an adult protective services program that shall include, but not be limited to, the following:
 - 1. An emergency response system that provides in-person response 24 hours per day, seven days per week to reports of abuse to an elder or dependent adult, for the purpose of providing immediate intake or intervention, or both, to new reports involving immediate life threats and to crises in existing cases.
 - (a) Each county APS agency shall be permitted to utilize telephone answering services to the extent that the telephone answering service immediately transfers to the county APS worker any report of abuse of an elder or dependent adult.
 - 2. Provision for case management services
 - 3. Provision for emergency shelter or in-home protection, as resources are available.
 - 4. Establishment of multidisciplinary teams.

II. Emergency Response/Intake

- A. Each county APS agency shall respond to all reports or referrals that allege that an elder or dependent adult is a victim of, or at risk of abuse as defined in WIC 15610.07 and 15752.
- B. Each county APS agency shall respond to all reports or referrals of abuse to an elder or dependent adult residing in other than a long-term care facility, as defined in WIC, Section 9701, or a residential care facility as defined in Health & Safety Code Section 1502, by one of the following methods, as appropriate:
 - 1. Immediate in-person face-to-face response for the purposes of providing immediate intake or intervention to new reports of immediate life threatening circumstances to an elder or dependent adult or to crises in existing cases.
 - 2. In-person face-to-face response within 10 days to all other reports of danger of abuse, pursuant to WIC 15630, to an elder or dependent adult.

- C. The APS worker may conclude, based on an evaluation, that an in-person, face-to-face response is not necessary because there is no risk of abuse to the elder or dependent adult under the circumstances described below. However, the circumstances shall be limited to include such factors as:
 - 1. The APS worker has attempted, and documented attempts to, locate the elder or dependent adult and their families, but has been unsuccessful.
 - 2. The elder or dependent adult has moved out-of-state in which case the APS worker will provide a follow-up telephone contact to the elder or dependent adult, or cases in which the elder or dependent adult is deceased.
 - 3. The mandated reporter is reporting a past occurrence of abuse wherein no new allegations or risks are present as confirmed by the APS worker through collateral contacts.
 - 4. The factors to consider in this evaluation process will be addressed in a subsequent ACL.

III. Consent to Enter and Meet in Residence

- A. County APS workers, in investigating the report or referral, shall attempt to obtain consent to enter and meet privately with the elder or dependent adult about whom the report was made, unless the elder or dependent adult refuses to meet privately, as follows:
 - 1. In the residence or dwelling in which the elder or dependent adult resides.
 - 2. Without the presence of the person's caretaker, attendant, or family or household member, unless the person requests their presence.
- B. This provision is not intended to prevent the county APS worker from meeting privately with the elder or dependent adult, where acceptable to the adult and where otherwise appropriate, at some other convenient place.

IV. Case Management Services

- A. County APS workers shall provide case management services to elders and dependent adults who are determined to be in need of adult protective services.
- B. County APS agencies shall not contract out for the provision of case management services.
- C. Case management services shall include the following to the extent services are appropriate for the individual:
 - 1. Investigation of the protection issues, including, but not limited to, social, medical, environmental, physical, emotional, socio-economic, or developmental issues. Investigation activities include, but are not limited to:

- (a) A systematic inquiry to determine the validity of a report of elder or dependent adult abuse.
 - (b) Gathering of information to develop an intervention plan to address any condition which places the elder or dependent adult at risk.
 - (c) Interviews with the elder or dependent adult and with other persons including other members of the family or of the household, service providers or other members of the multidisciplinary team.
2. An assessment of the elder or dependent adult on whom the report has been made which shall include:
 - (a) The person's concerns and needs, and the concerns and needs of other members of the family and household.
 - (b) Identification of the person's strengths, problems, and limitations.
3. Development of a service plan for each elder or dependent adult on whom the report has been made which shall include:
 - (a) Identification of the problems to be alleviated.
 - (b) Time-limited objectives based on the problems and strengths identified in the assessment.
 - (c) The services to be provided and activities to be performed in order to meet the service plan objectives and goal.
 - (d) Description of how the client will be stabilized and linked with community services.
 - (e) Provisions for monitoring, follow-up, and reassessment to determine the effectiveness of the service plan.
4. The APS worker shall obtain client input, consent and acceptance of proposed service plans from the client or his or her representative.

V. *Emergency Shelter and In-home Protection.*

- A. Emergency shelter and in-home protection shall be provided, under the following two circumstances:
 1. Pursuant to WIC Section 15763 (a)(2) in response to new reports involving immediate life threats and to crises in existing cases, a place for the elder or dependent adult to stay until the dangers at home can be resolved.
 2. Pursuant to WIC Section 15763 (d), to the extent resources are available, for the purposes of providing emergency shelter in the form of a safe haven or in-home protection to frail and disabled victims who are in need of assistance with activities of daily living.

VI. *Multidisciplinary Teams*

- A. Each county APS agency shall establish multidisciplinary teams whose purpose shall be to:
 - 1. Develop interagency treatment strategies.
 - 2. Ensure maximum coordination with community resources.
 - 3. Ensure maximum access on behalf of elders and dependent adults,
 - 4. Avoid duplication of efforts.
- B. Members of the multidisciplinary teams may include, but not be limited to the individuals listed in WIC 15761.
- C. Each county APS agency shall ensure that the multidisciplinary team:
 - 1. Consists of two or more persons who are trained in the prevention, identification, and treatment of abuse of elder or dependent adults.
 - 2. Are qualified to provide a broad range of services related to abuse of elder or dependent adults.

VII. *Tangible and Non-Tangible Support Services*

- A. Each county APS agency shall provide tangible and non-tangible support services, to the extent resources are available, which may include, but are not limited to:
 - 1. Emergency food *
 - 2. Clothing
 - 3. Repair or replacement of essential appliances
 - 4. Plumbing and electrical repair
 - 5. Blankets, linens, and other household goods
 - 6. Advocacy with utility companies
 - 7. Transportation *
 - 8. Emergency response units, such as Life-Line, ambulances, etc.
- * These two tangible services shall be provided pursuant to WIC 15760.
- B. Tangible and non-tangible support services may include emergency medical supplies, one-time payment of utility bills under emergency circumstances or professional evaluations.
- C. For the purposes of contracting out functions and activities, tangible and non-tangible support services shall not include emergency response, investigation, case management or any other activity requiring the exercise of discretion or judgment as to the client's needs, the services to be provided, the progress of the intervention, or whether there is a continuing need for services.

ATTACHMENT C

DEFINITIONS CHANGED BY THE PASSAGE OF SB 2199

“Abuse of an Elder or Dependent Adult,” as defined in WIC 15610.07 means:

- (a) Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering, or
- (b) The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering

“Adult Protective Services,” as defined in WIC 15610.10 means:

Preventative and remedial activities performed on behalf of elder and dependent adults who are:

- (a) Unable to protect their own interests
- (b) Harmed, threatened with harm, or caused physical or mental injury due to the action or inaction of another person, or their own action, as a result of ignorance, illiteracy, incompetence, mental limitation, substance abuse, or poor health
- (c) Lacking in adequate food, shelter or clothing
- (d) Exploited of their income or resources, or
- (e) Deprived of entitlement due them

“Care Custodian,” as defined in WIC 15610.17 means:

An administrator or an employee of any of the following public or private facilities or agencies, or persons providing care or services for elders or dependent adults, including members of the support staff and maintenance staff of the following:

- (a) Twenty-four hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code
- (b) Clinics
- (c) Home health agencies
- (d) Agencies providing publicly funded in-home supportive services, nutrition services or other home and community-based support services
- (e) Adult day health care centers and adult day care
- (f) Secondary schools that serve 18 to 22 year old dependent adults and postsecondary educational institutions that serve dependent adults or elders
- (g) Independent living centers
- (h) Camps
- (i) Alzheimer’s Disease day care resource centers
- (j) Community care facilities, as defined in Section 1502 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code

- (k) Respite care facilities
- (l) Foster homes
- (m) Vocational rehabilitation facilities and work activity centers
- (n) Designated area agencies on aging
- (o) Regional centers for persons with developmental disabilities
- (p) State Department of Social Services and State Department of Health Services Licensing Divisions
- (q) County welfare departments
- (r) Offices of patients' rights advocates and clients' rights advocates, including attorneys
- (s) The office of the long-term care ombudsman
- (t) Offices of public conservators, public guardians, and court investigators
- (u) Any protection or advocacy agency or entity that is designated by the Governor to fulfill the requirements and assurances of the following:
 - (1) The federal Developmental Disability Assistance and Bill of Rights Act, as amended, contained in Chapter 75 (commencing with Section 6000) of Title 42 of the United States Code, for protection and advocacy of the rights of persons with developmental disabilities.
 - (2) The Protection and Advocacy for the Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with mental illnesses.
- (v) Any other protective, public, sectarian, mental health, or private assistance or advocacy agency or person providing health services or social services to elders or dependent adults.

“Financial Abuse,” as defined in WIC 15610.30 means:

A situation in which one or both of the following apply:

- (1) A person, including, but not limited to, one who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property, to any wrongful use, or with the intent to defraud.
- (2) A situation in which all of the following conditions are satisfied:
 - (A) An elder (who would be a dependent adult if he or she were between the ages of 18 and 64) or dependent adult or his or her representative requests that a third party transfer to the elder or dependent adult or to his or her representative, or to a court appointed receiver, property that meets all of the following criteria:
 - (i) The third party holds or has control of the property.
 - (ii) The property belongs to, or is held in express trust, constructive trust or resulting trust for, the elder or dependent adult.
 - (iii) The ownership or control of the property was acquired in whole or in part by the third party or someone acting in concert with the third party from the elder or dependent adult at a time when the elder or dependent adult was a dependent adult or was a

person who would have been a dependent adult if he or she had then been between the ages of 18 and 64.

- (B) Despite the request for the transfer of property, the third party without good cause either continues to hold the property or fails to take reasonable steps to make the property readily available to the elder or dependent adult, to his or her representative or to a court appointed receiver.
- (C) The third party committed acts described in this paragraph in bad faith. A third party shall be deemed to have acted in bad faith if the third party either knew or should have known that the elder or dependent adult had the right to have the property transferred or made readily available. For the purposes of this subdivision, a third party should have known of this right if, on the basis of the information received by the elder or dependent adult, or the elder or dependent adult's representative, it is obvious to a reasonable person that the elder or dependent adult had this right.

For the purpose of this definition, the term "third party" means a person who holds or has control of property that belongs to or is held in express trust, constructive trust or resulting trust for an elder or dependent adult.

For the purposes of this definition, the term "representative" means an elder or dependent adult's conservator of the estate, or attorney-in-fact acting within the authority of the power of attorney.

"Mandated Reporter," as defined in WIC 15630 (a) means:

Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not that person receives compensation, including administrators, supervisors, and any licensed staff or any employee or volunteer who meets the definition of care custodian (WIC 15610.17) of a public or private facility or agency that provides care or services for elder or dependent adults, any elder or dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency is a mandated reporter.

"Multidisciplinary Personnel Team," as defined in WIC 15610.55 means:

Any team of two or more persons who are trained in the prevention, identification, and treatment of abuse of elderly or dependent adults and who are qualified to provide a broad range of services related to abuse of elderly or dependent persons as defined in WIC 15753.5

A multidisciplinary personnel team may include, but is not limited to, all of the following:

- (1) Psychiatrists, psychologists, or other trained counseling personnel
- (2) Police officers or other law enforcement agents
- (3) Medical personnel with sufficient training to provide health services
- (4) Social workers with experience or training in prevention of abuse of elderly or dependent persons.
- (5) Public guardians

“Neglect,” as defined in WIC 15610.57 means:

(a) Either of the following:

- (1) The negligent failure of any person having the care or custody of an elder or dependent adult to exercise that degree of care which a reasonable person in a like position would exercise.
- (2) The negligent failure of the person themselves to exercise that degree of care that a reasonable person in a like situation would exercise.

(b) Neglect includes, but is not limited to, all of the following:

- (1) Failure to assist in personal hygiene, or in the provision of food, clothing or shelter.
- (2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
- (3) Failure to protect from health and safety hazards.
- (4) Failure to prevent malnutrition or dehydration
- (5) Failure of a person to provide the needs specified in paragraphs (1) to (4), inclusive, for themselves due to ignorance, illiteracy, incompetence, mental limitation, substance abuse, or poor health.

ATTACHMENT D

EXISTING DEFINITIONS THAT ARE RELEVANT TO THE MANDATED REPORTING REQUIREMENTS

“Abandonment,” as defined in WIC 15610.05 means:

The desertion or willful forsaking of an elder or dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

“Abduction,” as defined in WIC 15610.06 means:

The removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state, or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

“Clients’ Rights Advocate,” as defined in WIC 15610.20 means:

The individual or individuals assigned by a regional center or state hospital developmental center to be responsible for clients’ rights assurance for persons with developmental disabilities.

“Dependent Adult,” as defined in WIC 15610.23 means:

Any person residing in this state, between the ages of 18 and 64 years, who has physical or mental limitations that 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.

Dependent adult includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

“Elder,” as defined in WIC 15610.27 means:

Any person residing in this state 65 years of age or older.

“Goods and Services Necessary to Avoid Physical Harm or Mental Suffering,” as defined in WIC 15610.35 means:

Goods and services necessary to avoid physical harm or mental suffering include, but are not limited to, all of the following:

- (a) The provision of medical care for physical and mental health needs
- (b) Assistance in personal hygiene
- (c) Adequate clothing
- (d) Adequately heated and ventilated shelter
- (e) Protection from health and safety hazards
- (f) Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment
- (g) Transportation and assistance necessary to secure any of the needs set forth in subdivision (a) to (f), inclusive

“Health Practitioner,” as defined in WIC 15610.37 means:

All of the following:

Physician and surgeon

Psychiatrists, psychologists, or psychological assistant registered pursuant to Division 2 (commencing with Section 1797) of the Health and Safety Code

Residents or interns

Licensed nurses

Dentists and dental hygienists

Chiropractors and podiatrists

Licensed clinical social workers or interns

Marriage, family and child counselors (whether licensed or not) and trainees

Any other persons currently licensed under Division 2, beginning with Section 500 of the Business and Professions Code

Emergency medical technicians I and II and paramedics

Coroners

Child counselor intern registered under Section 4980.44

State or county public health or social service employees who treat elders or dependent adults for any condition

Religious practitioners who diagnose, examine or treat elders or dependent adults for any condition

“Investigation,” as defined in WIC 15610.40 means:

The activity undertaken to determine the validity of a report of elder or dependent adult abuse.

“Isolation,” as defined in WIC 15610.43 means:

Any of the following, unless performed in response to a reasonably perceived threat of danger to property or physical safety, and except that there is a rebuttable presumption that the following activities do not constitute isolation if performed pursuant to the instructions of a physician or surgeon licensed in this state who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care:

- (A) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
- (B) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor, where the statement is false, is contrary to the express wishes of the elder or dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
- (C) False imprisonment, as defined in Section 236 of the Penal Code.
- (D) Physical restraint, for the purpose of preventing the elder or dependent adult from meeting with visitors.

“Local Law Enforcement Agency,” as defined in WIC 15610.45 means:

Local law enforcement agency includes, but is not limited to, city police, county sheriff’s department, 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.

“Long-Term Care Facility,” as defined in WIC 15610.47 means:

Any of the following:

- (a) Any long-term health care facility, including skilled nursing facilities and intermediate care facilities, as defined in Section 1418, subdivision (a) of the Health and Safety Code.
- (b) Any community care facility, whether licensed or unlicensed, as defined in paragraphs (1) and (2) of subdivision (a) of Section 1502 of the Health and Safety Code.
- (c) Any swing bed in an acute care facility, or any extended care facility
- (d) Any adult day health care facility, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.
- (e) Any residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

“Mental Suffering,” as defined in WIC 15610.53 means:

Fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by threats, harassment, or other forms of intimidating behavior.

“Patients’ Rights Advocate,” as defined in WIC 15610.60 means:

A person who has no direct or indirect clinical or administrative responsibility for the patient, and who is responsible for ensuring that laws, regulations, and policies on the rights of the patient are observed.

“Physical Abuse,” as defined in WIC 15610.63 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.

Physical abuse also means the use of a physical or chemical restraint or psychotropic medication for any of the following conditions:

- (a) For punishment.
- (b) For a period beyond that for which the medication was ordered pursuant to the instructions of the physician or surgeon, licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
- (c) For any purpose not authorized by the physician or surgeon.

Physical abuse also includes sexual abuse, including any of the following:*

- (1) Sexual battery, as defined in Section 243.4 of the Penal Code
- (2) Rape, as defined in Section 261 of the Penal Code
- (3) Rape in concert, as described in Section 264.1 of the Penal Code
- (4) Spousal rape, as defined in Section 262 of the Penal Code
- (5) Incest, as defined in Section 285 of the Penal Code
- (6) Sodomy, as defined in Section 286 of the Penal Code
- (7) Oral copulation, as defined in Section 288a of the Penal Code
- (8) Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code.

* Note: Physical and sexual abuse are reported separately on the SOC 340.

“Reasonable Suspicion,” as defined in WIC 15610.65 means:

Reasonable suspicion means an objectively reasonable suspicion that a person would entertain, based upon facts that could cause a reasonable person in a like position, drawing when appropriate upon his or her training and experience, to suspect abuse.