



Dignity Health™
Community Hospital of
San Bernardino

Elder Justice Act (EJA)

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- EJA reporting requirements are distinct and separate from existing state mandated Elder Abuse reporting systems
- EJA requires an owner, operator, employee, manager, agent or contractor to report any reasonable suspicion of a crime committed against a resident in a Long Term Care (LTC) facility
- EJA reporting requirements apply to Medicare/Medi-Cal participating LTC facilities
- Facilities must notify their “Covered Individuals” during orientation and annually.
- Covered Individuals include:
 1. Owner
 2. Operator
 3. Employee
 4. Manager
 5. Agent
 6. Contractor

Reporting of a Suspected Crime

Reporting of a suspected crime is reported in **three** places:

- At least one law enforcement agency of jurisdiction of the facility
- To the local Long-Term Care Ombudsman (Ombudsman).
- The Licensing and Certification (L & C) Program.

Know your law enforcement agency's definition of a crime against an elder or a dependent adult. Ours refers to CA Penal Code 368:

“An act of any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits the person to suffer, or inflicts unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the person to be injured, or willfully causes or permits the person to be placed in a situation in which his or her person or health is endangered.”

Time requirements for reporting

- If there is serious bodily injury, defined as, “An injury involving extreme physical pain; involving substantial risk of death; involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or requiring medical intervention such as surgery, hospitalization, or physical rehabilitation,”
- If suspected abuse results in serious bodily injury, then facilities must do the following:
 - Report the incident immediately and no later than two hours by telephone to local law enforcement, and
 - Send a written report within two hours to the local law enforcement agency, the L&C Program and the Ombudsman.

Time requirements for reporting

- If the suspected abuse does not result in serious bodily injury, the mandated reporter must:
 - Report the incident by telephone within 24 hours to local law enforcement agency
 - Provide a written report to the local Ombudsman, the L&C Program and the local law enforcement agency within 24 hours

Time requirements for reporting

- If the suspected abuse does not result in serious bodily injury by a resident with a diagnosis of dementia, the mandated reporter must do the following:
 - Report the incident to the local Ombudsman or the local law enforcement agency as soon as possible
 - And a written report must follow within 24 hours to either the local Ombudsman or the local law enforcement agency
 - According to statute, the L&C is not required to receive these reports

Reporting Responsibilities and Retaliation

- A **covered individual** who witnesses or has reasonable suspicion that a crime has occurred and does not report it under the EJA is subject to civil money penalties of up to \$300,000 and is excluded from participation in any Federal health care program for failing to meet their obligations.
- Any **facility** who retaliates against an employee is subject to civil money penalty of up to \$200,000 and may be classified as an excluded entity for 2 years.
- The facility must post in a conspicuous place a sign specifying the employee's rights (freedom from retaliation of reporting) including the right to file a complaint and the manner of filing such a complaint for retaliation with CDPH.
- Failure to comply with EJA requirements may result in exclusion from the Medicare program and loss of Medicare reimbursement for the facility.

Policy & Procedure Changes / Joint Filing and “Excluded Individuals”

- Facilities should develop policies and procedures that ensure compliance with the individual reporting requirements in the EJA, and the prohibition of retaliation in the event of employee reporting.
- If a covered individual has a suspicion of a crime, and discovers it has already been reported, they may do so on a single report with other covered individuals.
- An “excluded individual” is any individual who has been excluded from participating in any Federal health care program due to failure to meet the reporting requirements.
- If a LTC facility employs an excluded individual, the LTC facility is ineligible to receive Federal funds for any period the person was employed.

Definitions

- **Covered Individual** - Anyone who is an owner, operator, employee, manager, agent or contractor of a LTC facility
- **Crime (against elder or dependent adult)** - An act of any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits the person to suffer, or inflicts unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the person to be injured, or willfully causes or permits the person to be placed in a situation in which his or her person or health is endangered
- **Criminal Sexual Abuse** - Categorized as “serious bodily injury”, an act that occurred as a result of aggravated sexual abuse or relating to sexual abuse
- **Excluded Individual** - A covered individual who has been determined by the Secretary of the Act to be excluded from participation in any Federal health care program

Definitions (continued)

- **Excluded Entity** - A LTC facility that has been determined by the Secretary to be excluded for a period of 2 years pursuant to the Act
- **Exploitation** - The fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets
- **Neglect** - The failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder or to avoid physical harm, mental anguish or mental illness
- **Self Neglect** - An adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks, such as obtaining essential food, shelter, or medical care, obtaining the goods or services necessary to maintain physical health, mental health, or general safety, or managing one's own financial affairs

Definitions (continued)

- **Serious Bodily Injury** - An injury involving extreme physical pain; involving substantial risk of death; involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or requiring medical intervention such as surgery, hospitalization, or physical rehabilitation

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Reporting Employee Acknowledgement
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