



# NORTH LOS ANGELES COUNTY REGIONAL CENTER

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August 25, 2016

Dear Providers,

On June 27, 2016, Welfare and Institutions (W&I) Code Section 4659.2 (b) (1) was amended by the State Legislature to require the following:

“(b) (1) All regional center vendors that provide crisis or residential services or supported living services, long-term health care facilities, and acute psychiatric hospitals shall report to the agency designated pursuant to subdivision (i) of Section 4900 all of the following:

(A) Each death or serious injury of a person occurring during, or related to, the use of seclusion, physical restraint, or chemical restraint, or any combination thereof.

(B) Any unexpected or suspicious death, regardless of whether the cause is immediately known.

(C) Any allegation of sexual assault, as defined in Section 15610.63, in which the alleged perpetrator is a staff member, service provider, or facility employee or contractor.

(D) Any report made to the local law enforcement agency in the jurisdiction in which the facility is located that involves physical abuse, as defined in Section 15610.63, in which a staff member, service provider, or facility employee or contractor is implicated.

(2) The reports described in paragraph (1) shall be made no later than the close of the business day following the death or serious injury. The report shall include the encrypted identifier of the person involved, and the name, street address, and telephone number of the facility.

*(Amended by Stats. 2016, Ch. 26, Sec. 9. Effective June 27, 2016.)”*

Effective immediately, all residential providers, crisis services providers, Long-Term Health Care Facilities, Supported Living service providers, and acute psychiatric hospitals vendored with the North Los Angeles County Regional Center (NLACRC) must report all incidents noted in W&I Code section 4659.2 (b) (1)(A)(B) (C) & (D) above to NLACRC. These reporting requirements

are in addition to the special incident reporting requirements noted in Title 17, California Code of Regulations, Section 54327.

To help you better understand the new statutory requirements noted in section 4659.2(b) (1) a copy of W&I Code Section 4659.2 in its entirety and Title 17, California Code of Regulations, Section 54327 are enclosed for your reference. Also enclosed is a reference list of other relevant Code sections that are discussed in W&I Code Section 4659.2. A copy of this letter and the attachments are also available on NLACRC's website; [www.nlacrc.org](http://www.nlacrc.org).

Please be advised that NLACRC intends to provide training in the near future on the new statutory requirements noted above, and will post notification of the dates of training on the Agency's website. In the meantime, should you have any questions, please feel free to contact me at (818) 756-6471 or [sdorian@nlacrc.org](mailto:sdorian@nlacrc.org).

Sincerely,

Stella Dorian

Stella Dorian  
Risk Assessment Supervisor

Enclosure

## Code Sections Reference List

### **Title 17, California Code of Regulations, Section 54302 (a) (71) defines supported living services as follows:**

(71) "Supported Living Service(s) (SLS)" means those services and supports referenced in Section 54349(a) through (e), and specified as SLS service and support components in Title 17, Section 58614, which are provided by a SLS vendor, paid for by the regional center, and support consumers' efforts to:

- (A) Live in their own homes, as defined in Title 17, Section 58601(a) (3);
- (B) Participate in community activities to the extent appropriate to each consumer's interests and capacity; and
- (C) Realize their individualized potential to live lives that are integrated, productive, and normal;

### **Title 17, California Code of Regulations, Section 56002 (a) (41) defines a residential service provider as follows:**

"Residential Service Provider" means an individual or entity which has been licensed by the Department of Social Services as a community care facility pursuant to Health and Safety Code Section 1502(a)(1), (4), (5) or (6); or is defined as a licensed facility for the elderly in Health and Safety Code Section 1569.2; has completed the vendorization process pursuant to Title 17, California Code of Regulations, Division 2, Subchapter 2; and has been assigned a vendor identification number beginning with the letter "H" pursuant to Title 17, California Code of Regulations, Section 54340(a)(1). [Emphasis added]

### **Health and Safety Code Section 1502 (a)(1), (4), (5) and (6) define a residential facility as follows:**

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(4) "Foster family agency" means any public agency or private organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) "Small family home" means any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

**Health and Safety Code Section 1569.2 (o) (1) defines a licensed facility for the elderly as follows:**

"Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

**Health and Safety Code Section 1180.1 (d) defines physical restraint as follows:**

"Physical restraint" means the use of a manual hold to restrict freedom of movement of all or part of a person's body, or to restrict normal access to the person's body, and that is used as a behavioral restraint. "Physical restraint" is staff-to-person physical contact in which the person unwillingly participates. "Physical restraint" does not include briefly holding a person without undue force in order to calm or comfort, or physical contact intended to gently assist a person in performing tasks or to guide or assist a person from one area to another.

**Health and safety Code Section 1180.1 ( e ) defines seclusion as follows:**

"Seclusion" means the involuntary confinement of a person alone in a room or an area from which the person is physically prevented from leaving. "Seclusion" does not include a "timeout,"

as defined in regulations relating to facilities operated by the State Department of Developmental Services.

**Welfare and Institutions Code Section 15610.67 defines “serious bodily injury” as follows:**

“Serious bodily injury” means 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.

**Health and Safety Code Section 1418 defines Long Term Health Care Facilities as follows:**

As used in this chapter:

(a) “Long-term health care facility” means any facility licensed pursuant to Chapter 2 (commencing with Section 1250) that is any of the following:

- (1) Skilled nursing facility.
- (2) Intermediate care facility.
- (3) Intermediate care facility/developmentally disabled.
- (4) Intermediate care facility/developmentally disabled habilitative.
- (5) Intermediate care facility/developmentally disabled-nursing.
- (6) Congregate living health facility.
- (7) Nursing facility.
- (8) Intermediate care facility/developmentally disabled-continuous nursing.

(b) “Long-term health care facility” also includes a pediatric day health and respite care facility licensed pursuant to Chapter 8.6 (commencing with Section 1760).

(c) “Long-term health care facility” does not include a general acute care hospital or an acute psychiatric hospital, except for that distinct part of the hospital that provides skilled nursing facility, intermediate care facility, intermediate care facility/developmentally disabled, or pediatric day health and respite care facility services.

(d) “Licensee” means the holder of a license issued under Chapter 2 (commencing with Section 1250) or Chapter 8.6 (commencing with Section 1760) for a long-term health care facility.

**Health and Safety Code Section 1250 (b) defines an acute psychiatric hospital as follows:**

“Acute psychiatric hospital” means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for persons with mental health disorders or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with

Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

**Welfare and Institutions Code Section 15610.63 defines “physical abuse” and “sexual assault” as follows:**

“Physical abuse” means any of the following:

- (a) Assault, as defined in Section 240 of the Penal Code.
- (b) Battery, as defined in Section 242 of the Penal Code.
- (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
- (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- (e) Sexual assault, that means 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) Sexual penetration, as defined in Section 289 of the Penal Code.
  - (9) Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.
- (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
  - (1) For punishment.
  - (2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and 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.
  - (3) For any purpose not authorized by the physician and surgeon.