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Board of Trustees

Zero Tolerance Policy for Consumer Abuse or Neglect

1. Scope

Pursuant to the requirements in Article 1, section 17 of NLACRC's master contract with the State of California, the Board of Trustees hereby adopts the following Zero Tolerance Policy for Consumer Abuse or Neglect. This policy applies to:

A. All of NLACRC's vendored service providers that provide direct services and supports (as defined by Welfare & Institutions Code (WIC) section 4512(b)) to individuals with developmental disabilities within NLACRC's catchment area (consumers).

B. All long-term health care facilities serving NLACRC's consumers.

C. NLACRC employees, if any, who are considered "mandatory reporters" under either of the reporting laws described in sections 4 and 5 below.

2. Background

The California Legislature has adopted various laws to protect all children, dependent adults, and elders from various types of abuse and neglect. These laws also apply to individuals with developmental disabilities. This policy concerns the application of such laws to consumers.

3. The Adult Reporting Law

California WIC sections 15600-15675, known as the Elder Abuse and Dependent Adult Civil Protection Act (adult reporting law) provides (among other things) that any person who has assumed responsibility for the care or custody of an adult consumer, including administrators, supervisors, and any licensed staff of a facility that provide care or services for adult consumers, is a mandated reporter.[1] Under the adult reporting law, any mandated reporter who experiences any of the following shall report the abuse to the applicable governmental authorities (subject to certain limited exceptions described in the adult reporting law)[2].

A. Has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an adult consumer.

B. Is told by an adult consumer that he or she has experienced adult abuse, and reasonably believes that such abuse has occurred.

C. Reasonably suspects the existence of adult abuse.

[1] The definition of "mandated reporter" under the Adult Reporting Law is found in Welfare and Institutions Code (WIC) section 15630(a). The list of care custodians who are mandated reporters is found in WIC section 15610.17.
[2] Definitions of elder and adult abuse are found in WIC sections 15610-15610.70.

4. The Child Reporting Law

California Penal Code sections 11164 – 11174.3., known as the Child Abuse and Neglect Reporting Act (child reporting law) provides (among other things) that various categories of persons who interact with a consumer under the age of 18 are mandated reporters.[3] Under Penal Code section 11166, any mandated reporter who has knowledge of or observes a person under 18 whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect (child abuse), shall report the abuse to the applicable government authorities (subject to certain limited exceptions described in the child reporting law).[4] It is important to note that the list of mandated reporters who are obligated to report child abuse is different than the list of mandated reporters obligated to report adult abuse.

5. Purpose

The purpose of this policy is to protect the interests of NLACRC's consumers and their families by:

A. Educating all mandated reporters about their legal obligation to report adult and child abuse (consumer abuse).

B. Requiring mandated reporters to fully comply with the adult and child reporting laws (reporting laws).

C. Providing information to assist mandated reporters in reporting consumer abuse to the proper authorities.

D. Describing the consequences resulting from a mandated reporter's failure to comply with the reporting laws and this policy. The implementation of this policy will assist in ensuring a safe and healthful environment to all individuals with a developmental disability who are provided services or supports by a service provider or a long-term health care facility.

6. Responsibility for Enforcement of Policy

NLACRC's Board of Trustees has general oversight of this policy. The Board of Trustees delegates the oversight and implementation of this policy to NLACRC's executive director.

7. The Policy

A. Duty to Comply with Reporting Laws. All service providers and long-term health care facilities shall ensure all of their employees and contractors who are mandated reporters strictly comply with the reporting laws at all times. All of NLACRC's employees who are

[3] Penal Code section 11165.7 identifies those individuals who are mandated reporters under the child reporting law.
[4] "Child abuse or neglect" is defined in Penal Code section 11165.6, which in turn references specific forms of abuse and neglect, which are defined in Penal Code sections 11165.1-11165.4.

mandated reporters (if any) shall also strictly comply with the reporting laws at all times. A mandated reporter must (unless exempt under law) report all consumer abuse to the applicable governmental authorities immediately, or as soon as practically possible, after his or her discovery or reasonable belief of consumer abuse.

B. Service Provider/Health Care Facility Compliance Policies. Each service provider and long-term health care facility shall ensure maximum compliance with the reporting laws by developing its own written compliance policy for its respective employees and contractors (provider compliance policy) within 120 days after the effective date of this policy. Each provider compliance policy shall incorporate all of the following information:

1. The types and signs of consumer abuse.
2. The responsibility to protect consumers from consumer abuse.
3. The process for reporting consumer abuse to applicable authorities under the reporting laws.
4. Identification of the entities entitled to receive reports of consumer abuse under the reporting laws.
5. A requirement that this policy be provided to all employees upon hire.
6. A requirement that this policy be reviewed annually by all employees.
7. The consequences of failing to follow the reporting laws and this policy.

C. Delivery of Provider Compliance Policy to NLACRC. All service providers and long-term health care facilities shall provide their provider compliance policies to NLACRC upon request.

D. Taking Action to Ensure Consumer Health and Safety. If NLACRC, a service provider, or a long-term health care facility becomes aware of consumer abuse, such entity shall take immediate action, to the extent permitted by law, to ensure the health and safety of the affected consumer and all other consumers receiving services and supports from NLACRC, such service provider or long-term health care facility. This obligation is in addition to a mandated reporter's obligation to report consumer abuse under the reporting laws.

8. Procedures

A. NLACRC's Annual Notice. NLACRC shall notify its employees, service providers and long-term health care facilities of this policy on an annual basis.

B. NLACRC's Posting of this Policy on its Website. NLACRC shall promptly post and maintain this policy on its website.

C. Vendor's Distribution of Policies to its Employees and Contractors. Each service provider and long-term health care facility shall:

1. Provide a copy of this policy and its own provider compliance policy to each of its respective employees and contractors upon hire/engagement, as well as annually thereafter.

2. Retain documentation of its compliance with this requirement (such as signed and dated receipts from its employees). Each service provider or long-term health care facility shall provide such compliance documentation to NLACRC upon request.

D. Incorporation of this Policy into Vendor Contracts. This policy shall be attached as an exhibit and/or incorporated by reference into all NLACRC contracts and contract amendments that are entered into after the effective date of this policy with NLACRC's service providers and long-term health care facilities.

9. How to Report Adult Abuse Under the Adult Reporting Law

A. Reporting rules for a consumer in a long-term care facility. When adult abuse occurs in a long-term care facility (as defined by the reporting law), the scope of the mandated reporter's duties depends on the nature of abuse.

1. Serious Bodily Injury. If a consumer suffers physical abuse which results in serious bodily injury (as defined in WIC section 15610.67), the mandated reporter must:

- Immediately report such abuse by phone to the local law enforcement agency, and
- Submit a written report on Department of Social Services (DSS) form SOC 341 (defined in section 10E. below) to law enforcement, the local ombudsman, and the applicable licensing agency within 2 hours.

2. Other Physical Abuse. If a consumer suffers physical abuse which does not result in serious bodily injury, the mandated reporter must:

- Report such abuse by phone to law enforcement within 24 hours and
- Submit a written report on DSS form SOC 341 to law enforcement, the ombudsman, and the applicable licensing agency within 24 hours.

3. Other Non-Physical Adult Abuse. If a consumer suffers other types of adult abuse, the mandated reporter must:

- Report such abuse by phone to law enforcement or the ombudsman immediately, or as soon as practically possible, and
- Submit a written or Internet report to law enforcement or the ombudsman within 2 working days.

B. Reporting Rules for a Consumer Not in a Long-Term Care Facility. When a consumer suffers adult abuse at any place other than a long-term care facility[5] [5], the mandated reporter shall immediately, or as soon as practically possible, submit such report to the county adult protective services agency or law enforcement. The mandated reporter shall

[5] Other than developmental centers and state mental health hospitals, which have separate reporting requirements.

submit either:

1. A confidential Internet report (as noted in section 10.C. below) or
2. Both a telephonic and written report (as noted in sections 10.D. and 10.E. below).

C. Internet Report. To report suspected adult abuse to APS via the Internet, the mandated reporter should complete a confidential Internet report. For consumers residing in Los Angeles County, the reporting website is: https://hsslacountyprod.wellsky.com/assessments/?WebIntake=A6DCB64F-7D31-4B6D-88D6-0A8FA7EA505F/.

D. Telephonic Report. To report suspected adult abuse to APS via telephone, the mandated reporter should call the office of APS in the county where the consumer is located. In Los Angeles County, the reporting phone number is: (877)477-3646. Within two working days after the mandated reporter submits a telephonic report, the mandated reporter shall submit either the Internet report described in section 10.C above or the written report described in section 10.E below.

E. Written Report. To report suspected adult abuse to APS in writing, the mandated reporter should file a report on California Department of Social Services (DPSS) Form SOC 341 (entitled, "Report of Suspected Dependent Adult/Elder Abuse"). The form can be found on the following website: https://cdss.ca.gov/MandatedReporting/story_content/external_files/SOC341.pdf.

F. Contents of Report. A telephonic report or Internet report of adult abuse shall include, if known:

1. The name of the person making the report.
2. The name and age of the consumer.
3. The present location of the consumer.
4. The names and addresses of family members or any other adult responsible for the consumer's care.
5. The nature and extent of the consumer's condition.
6. The date of the incident, and any other information, including information that led that person to suspect adult abuse, as requested by the agency receiving the report.

G. Review the Law in Full to Understand Your Responsibilities. This policy only highlights a portion of the adult reporting law. All service providers, long term health care facility providers, and mandated reporters are encouraged to read the adult reporting law in full. A copy of the adult reporting law can be downloaded from the Internet at http://www.leginfo.ca.gov/calaw.html by checking the box next to "Welfare and Institutions" and looking for the appropriate section numbers.

H. Additional Resources. The California Office of the Attorney General has published two videos and a related training document, entitled, "Your Legal Duty…Reporting Elder and Dependent Adult Abuse," which contain additional information. The videos are on the webs at: https://oag.ca.gov/dmfea. The training document is on the web at:

https://oag.ca.gov/sites/all/files/agweb/pdfs/bmfea/yld_text.pdf

10. How to Report Child Abuse Under the Child Reporting Law

A. Recipient of Report. Mandated reporters shall make reports of suspected child abuse to:
   1. Any police department or sheriff's department (not including a school district police or security department),
   2. A county probation department, if designated by the county to receive mandated reports, or
   3. The county welfare department.

B. Telephonic Report. The mandated reporter shall make an initial report of child abuse by telephone to the applicable agency immediately or as soon as is practically possible. For example, the emergency response child abuse reporting telephone number for Los Angeles County is: (800)540-4000.

C. Written Report. The mandated reporter shall prepare and send, fax, or electronically transmit a written follow-up report (on CDSS Form SS 8572) within 36 hours of receiving the information concerning the incident. The report form, entitled "Suspected Child Abuse Report," can be found at http://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/ss_8572.pdf

D. Contents of Report. Reports of suspected child abuse shall include:

   1. The name, business address, and telephone number of the mandated reporter.
   2. The capacity that makes the person a mandated reporter.
   3. The information that gave rise to the reasonable suspicion of child abuse and the source or sources of that information.

If a report is made, the following information, if known, shall also be included in the report:

   4. The child's name.
   5. The child's address, present location, and, if applicable, school, grade, and class.
   6. The names, addresses, and telephone numbers of the child's parents or guardians.
   7. The name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child.

The mandated reporter shall make a report even if some of this information is not known or is uncertain to him or her.

E. Review the Law in Full to Understand Your Responsibilities. This policy only highlights a portion of the child reporting law. All service providers, long term health care facility providers, and mandated reporters are encouraged to read the child reporting law in full. A copy of the Child Abuse Law and Neglect Reporting Act can be downloaded from the Internet at http://www.leginfo.ca.gov/calaw.html by checking the box next to "Penal Code" and looking for the appropriate section numbers.

F. Additional Resources. The CDSS publishes a booklet entitled, "The California Child Abuse & Neglect Reporting Law: Issues and Answers for Mandated Reporters," which contains additional information. The booklet is on the web at: www.cdss.ca.gov/cdssweb/entres/forms/English/PUB132.pdf.

11. Consequence of Failure to Comply

A. NLACRC's Intention to Enforce. NLACRC expects all service providers and long-term health care facilities to comply with this policy and the reporting laws. To the extent they fail to do so, NLACRC will utilize all remedies available to it in statute and regulations to protect the health and safety of its consumers.

B. Breach of Contract. The failure of a service provider or a long-term health care facility to strictly comply with this policy or either of the reporting laws shall constitute a material breach of its contract with NLACRC, and shall give NLACRC the right and option to terminate such contract.

C. Statutory Penalties For Failure to Report Adult Abuse (WIC section 15630(h)) A mandated reporter's failure to report, or impeding or inhibiting a report of, adult abuse, in violation of the adult reporting law, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, adult abuse, in violation of the adult reporting law (if that abuse results in death or great bodily injury), shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

D. Statutory Penalties for Failure to Report Child Abuse (Penal Code sections 11166(c) and 11166.01(b). Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse as required by the child reporting law is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars ($1,000) or by both that imprisonment and fine. Any mandated reporter who willfully fails to report child abuse in violation of the child reporting law (where that abuse or neglect results in death or great bodily injury to the child) shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

E. Statutory Penalties for Impeding a Report of Child Abuse (Penal Code section 11166.01. Any supervisor or administrator who impedes or inhibits the reporting duties of a mandated reporter concerning child abuse shall be punished by not more than six months in a county jail, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment. However, such punishment shall be increased to up to one year in a county jail, or by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment, where that abuse or neglect results in death or great bodily injury to the child.

12. Inconsistencies

If any inconsistency exists between this policy and the reporting laws, the provisions in the reporting laws shall prevail.

[Approved by Board: 11/04/26]