

SANTA CRUZ COUNTY
Mental Health & Substance Abuse Services

POLICIES AND PROCEDURE MANUAL

Subject: Mandatory Reporting Requirements

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Responsible for Updating:
Quality Improvement Staff

Approval: 
Behavioral Health Director


Date

POLICY:

Clinical staff shall report suspected child abuse, elder or dependent adult abuse, and warn intended victims and the police when a client makes a threat of violence. This policy is not intended to replace any legal or ethical obligations of Mental Health and Alcohol and Drug Program staff.

PURPOSES:

1. To protect consumers, family members and the community from potential harm and/or abuse.
2. To ensure that clinicians and program staff understand their role as “mandated reporters” and meet statutory reporting requirements.

DEFINITIONS:

1. Elder

Person 65 years of age or older.

2. Dependent Adult

A person between ages 18 and 64 with physical or mental limitations such as physical or developmental disabilities or age-diminished physical or mental abilities. This includes any person between the ages of 18 and 64 who is admitted as an inpatient in an acute care hospital or other 24-hour health facility.

3. Reasonable Suspicion

- a. It is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.
- b. The pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

PROCEDURES:

1. MHSAS Mandated Reporter

All MHSAS clinical staff, whether licensed, interns and/or trainees, are required to report any actual or suspected abuse, as directed in this policy.

2. General Expectations

a. Knowledge of Legal Requirements: Clinical staff are expected to know, understand, and follow State and Federal laws regarding all mandatory reporting requirements and the related ethical standards that pertain to their profession.

b. Inform Supervisor

- i) It is always advisable to consult and inform your immediate supervisor regarding actual or potential mandated reporting incidents; and
- ii) Inform your immediate supervisor regarding any report made.

3. Child Abuse

Required Reports:

A report is required when there is known or a reasonable suspicion of:

- a) Child sexual abuse
- b) Neglect
- c) Willful cruelty or unjustifiable punishment
- d) Unlawful corporal punishment or injury
- e) Abuse or neglect in out-of-home care

Report abuse of an adult (over the age of 18) is not required, unless the clinician suspects that the abuser may be victimizing other children.

For additional information refer to the References citations (above) or consult your applicable professional organization.

How to Report:

1) Phone Report

a) A telephone report must be made *immediately*, or as soon as is practically possible, to the police or Child Protective Services.

b) The report must include:

- The reporters name
- Business address and phone number
- Name and address of child
- Present location of child
- Names of parents

- Information regarding the reasonable suspicion and source(s) of that information
- Exception is for Alcohol & Drug Programs where reporter does not acknowledge person is recipient of SUD service

2) Written Report and Form

- A written report must be sent within 36 hours.
- The required form, "Suspected Child Abuse Report" must be attached.

3) Other Agency Investigations

a) Information relevant to the incident of child abuse or neglect may also be given to an investigator from an agency that is investigating a known or suspected case of abuse.

b) Only information that is relevant to the incident of abuse or neglect may be disclosed.

c. Immunity

No mandated reporter shall incur any civil or criminal liability as a result of making a report required or authorized by statutes (Penal Code Section 11172).

d. Failure to Report

i) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect may be found guilty of a misdemeanor punishable by up to six months in a county jail or by a fine of one thousand dollars or both.

ii) For additional information, refer to the above citations and/or consult your applicable professional organization.

4. Elder and Dependent Adult Abuse

A. Required Reports

A report is required when there is known or a reasonable suspicion of:

- Physical abuse
- Neglect
- Financial abuse
- Abandonment
- Isolation
- Abduction
- Other treatment with resulting physical harm or pain or mental suffering.
- Deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

B. Reports Not Required

Physicians, registered nurses or psychotherapists do not have to report in the following situation:

- a) An elder or dependent adult says that he or she has experienced behavior constituting physical abuse, abandonment, abduction, isolation, financial abuse or neglect.
- b) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse occurred.
- c) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.
- d) The physician, registered nurse, or psychotherapist, as defined in Evidence Code Section 1010, reasonably believes, in their exercise of clinical judgment, that the abuse did not occur.

C. How to Report

1) Telephone Report

- a) A telephone report must be made immediately to Adult Protective Services or as soon as is practically possible, after receiving information concerning the incident;
- b) The report must include the:
 - Reporter's name
 - Business address and phone number
 - Name and address of elder or dependent adult
 - Present location of elder or dependent adult
 - Names of family members or any other person responsible for the elder or dependent adult's condition
 - Nature and extent of the elder's or dependent adult's condition
 - Date of the incident
 - Other information, if requested by the agency receiving the report, including information that led the person to suspect elder or dependent adult abuse.
 - Exception is for Alcohol & Drug Programs where reporter does not acknowledge person is recipient of SUD service

2) Written Report

- a) A written report must be sent within two (2) working days of receiving the information concerning the incident.
- b) Reports should be made to Adult Protective Services.

D. Failure to Report

Any mandated reporter who fails to report an incident of known or reasonably suspected elder or dependent adult abuse or neglect may be found guilty of a misdemeanor punishable by up to six months in a county jail or by a fine of one thousand dollars or both.

E. Immunity

No mandated reporter shall incur any civil or criminal liability as a result of making a required report.

5. Elder/Dependent Adult Abuse in Long Term Care

1. Serious Bodily Injury

- a) Phone report to law enforcement immediately but no later than 2 hours and
- b) Written report within 2 hours to law enforcement, State Licensing, Long Term Care Ombudsman.

2. No Serious Injury

- a) Phone report to law enforcement within 24 hours
- b) Written report within 24 hours to Long Term Care Ombudsman, State Licensing and law enforcement.
- c) No serious injury and perpetrator is a resident with dementia diagnosis, report to law enforcement or Long Term Care Ombudsman within 24 hours.

All other reporting should be a prompt verbal notification with a written report within 2 working days. For Alcohol & Drug Programs, the reporter does not acknowledge person is recipient of SUD service

6. Tarasoff: "Duty to Warn"

A. Required Report

- 1) A duty to warn arises whenever a licensed clinician:
 - a) Knows of a serious threat and predicts or believes that there will be violence against a reasonably identified victim(s); or
 - b) When a credible threat has been communicated by a client or their family member.
- 2) For additional information refer to the above citations or consult your applicable professional organization.
- 3) For Alcohol & Drug Programs reporter does not acknowledge person is recipient of SUD service

B. Immunity

There shall be no monetary liability on the part of, and no cause of action shall arise against any person

C. Who to Notify

The clinician must take appropriate action to protect the potential victim by

- 1) Contacting the police, and
- 2) Notifying the potential victim.

D. Possible 5150 Hold

If the threat meets 5150 criteria, the clinician can refer the individual for a 72 hour 5150 involuntary hold (see policy **2203: Adult Involuntary Detention - WIC 5150** for more information).

PRIOR VERSIONS: May 30, 2013

Reviewed & reformatted by QI August 31, 2016

REFERENCES: WIC Sections 15630-15632; 15610.67 & 15657.8 (Elder Abuse), Penal Code Sections 11164-11174.3 (Child Abuse), Tarasoff v. Regents of University of California, WIC Section 5328 (r), Evidence Code Sections 1010 & 1024; Civil Code Section 43.92.

FORMS/ATTACHMENTS: Suspected Child Abuse Report (SS 8572)

Report of Suspected Dependent Adult / Elder Abuse (SOC 341)