



### **Applicant/Vendor Disclosure Statement Form DS 1891**

Effective March 24, 2011, Section 4648.12 was added to the Welfare and Institutions Code. Section 4648.12 requires all vendors to complete the Applicant/Vendor Disclosure Statement, Form DS 1891, and submit it to the vendoring regional center.

If you have questions about how to complete the form, please visit our website to review sample forms with additional instructions. The sample forms are available on RCOC's website at <http://www.rcocdd.com>. Select the following menu options: Service Providers, Resources for Current Service Providers, then, at the bottom of the screen, select the DS 1891 Applicant Vendor Disclosure Statement, click on the sample form that applies to you.

DS 1891 – Parent [Parents vendored to coordinate services for their children and parents using Financial Management Services (FMS).],

DS 1891 – Business – Including Sole Proprietors, Partnerships, LLCs and Corporations,

DS 1891 – Government and Non-Profit, and

DS 1891 – Disclosure Statement (blank form). The form is also available on DDS' website.

**The form must reflect the social security number or employer identification number provided upon vendorization. A separate form must be completed for each social security number or employer identification number on file.**

Complete pages 2-4 of Applicant/Vendor Disclosure Statement, Form DS 1891, and submit them

Failure to submit the Mandatory Applicant/Vendor Disclosure Statement, Form DS 1891, **will result in termination** of vendorization, pursuant to California Code of Regulations, Title 17, Section 54370(c).

**Applicant/Vendor Disclosure Statement Form DS 1891**  
**Welfare and Institutions Code Section 4648.12**

(a) The Legislature finds and declares that under federal and state law, certain individuals and entities are ineligible to provide Medicaid services.

(b) An individual, partnership, group association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that has been convicted of any felony or misdemeanor involving fraud or abuse in any government program, or related to neglect or abuse of an elder or dependent adult or child, or in connection with the interference with, or obstruction of, any investigation into health care related fraud or abuse, or that has been found liable for fraud or abuse in any civil proceeding, or that has entered into a settlement in lieu of conviction for fraud or abuse in any government program, within the previous 10 years, shall be ineligible to be a regional center vendor. The regional center shall not deny vendorization to an otherwise qualified applicant whose felony or misdemeanor charges did not result in a conviction solely on the basis of the prior charges.

(c) In order to ensure compliance with federal disclosure requirements and to preserve federal funding of consumer services, the department shall do all of the following:

(1) (A) Adopt emergency regulations to amend provider and vendor eligibility and disclosure criteria to meet federal participation requirements. These emergency regulations shall address, at a minimum, disclosure requirements of current and prospective vendors, including information about entity ownership and control, contracting interests, and criminal convictions or civil proceedings involving fraud or abuse in any government program, or abuse or neglect of an elder, dependent adult, or child.

(B) Adopt emergency regulations to meet federal requirements applicable to vouchered services.

(C) The adoption, amendment, repeal, or readoption of a regulation authorized by this paragraph is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.9 of the Government Code, and the department is hereby exempted from that requirement. For purposes of subdivision (e) of Section 11346.1 of the Government Code, the 120-day period, as applicable to the effective period of an emergency regulatory action and submission of specified materials to the Office of Administrative Law, is hereby extended to 180 days.

(2) Adopt nonemergency regulations to implement the terms of paragraph (1) through the regular rulemaking process pursuant to Sections 11346 and 11349.1 of the Government Code within 18 months of the adoption of emergency regulations pursuant to paragraph (1).

## **Background Check Requirements for Providers** **Board Policy**

On March 7, 2019, the Regional Center of Orange County (RCOC) Board of Directors approved a Policy on Background Check Requirements for all Providers.

The policy requirements are delineated below and apply to all vendors.

### **Background**

The Regional Center of Orange County (RCOC) is responsible for coordinating services for people with developmental disabilities who reside in Orange County. As established in the Lanterman Developmental Disabilities Services Act, RCOC is committed to assuring the health, well-being and safety of the individuals it serves.

### **Policy**

All RCOC vendors shall obtain criminal background checks prior to hire for all employees who provide direct services to RCOC persons served. The background checks shall include, at a minimum, a nationwide criminal history search covering felonies and misdemeanors, as well as a sex offender registry search. Background checks mandated by California Code of Regulations Title 77, or Title 22 and conducted through the California Department of Justice shall satisfy this requirement. Vendors shall comply with all applicable federal, state, and local laws and regulations regarding background checks and the use of information obtained through background checks.

### **Guiding Principles**

- Persons served are in safe and supportive settings that promote a life of independence, acknowledge diverse cultural perspectives and that respect the inherent risks and valuable learning experiences that come from living in the community.
- Persons served live in homes where they receive quality care and form relationships.

## **Independent Audit or Independent Review Report of Financial Statements**

Effective March 24, 2011, Section 4652.5 was added to the Welfare and Institutions Code. It requires **some** vendors to obtain an independent audit or an independent review report of their financial statements. We understand that this is a new and costly requirement; however, it is a statutory requirement and RCOC does not have the authority to waive it or disregard it.

### **Effective June 9, 2016**

If you/your agency received \$500,000.00 or more in payments from the regional center or regional centers during you/your entity's fiscal year, compliance with this section is mandatory.

Failure to submit the audit or review report will result in a "Do Not Refer Status" and may result in termination of vendorization pursuant to California Code of Regulations, Title 17, Section 54370(c).

### **Welfare and Institutions Code 4652.5**

(a) (1) An entity that receives payments from one or more regional centers shall contract with an independent accounting firm to obtain an independent audit or independent review report of its financial statements relating to payments made by regional centers, subject to both of the following:

(A) If the amount received from the regional center or regional centers during the entity's fiscal year is more than or equal to five hundred thousand dollars (\$500,000), but less than two million dollars (\$2,000,000), the entity shall obtain an independent review report of its financial statements for the period. Consistent with Subchapter 21 (commencing with Section 58800) of Chapter 3 of Division 2 of Title 17 of the California Code of Regulations, this subdivision shall also apply to work activity program providers receiving less than five hundred thousand dollars (\$500,000).

(B) If the amount received from the regional center or regional centers during the entity's fiscal year is equal to or more than two million dollars (\$2,000,000), the entity shall obtain an independent audit of its financial statements for the period.

(2) This requirement does not apply to payments made using usual and customary rates, as defined by Title 17 of the California Code of Regulations, for services provided by regional centers.

(3) This requirement does not apply to state and local governmental agencies, the University of California, or the California State University.

(b) An entity subject to subdivision (a) shall provide copies of the independent audit or independent review report required by subdivision (a), and accompanying management letters, to the vendoring regional center within nine months of the end of the fiscal year for the entity.

(c) Regional centers that receive the audit or review reports required by subdivision (b) shall review and require resolution by the entity for issues identified in the report that have an impact on regional center services. Regional centers shall take appropriate action, up to termination of vendorization, for lack of adequate resolution of issues.

(d) Regional centers shall notify the department of all qualified opinion reports or reports noting significant issues that directly or indirectly impact regional center services within 30 days after receipt. Notification shall include a plan for resolution of issues.

(e) For purposes of this section, an independent review of financial statements shall be performed by an independent accounting firm and shall cover, at a minimum, all of the following:

(1) An inquiry as to the entity's accounting principles and practices and methods used in applying them.

(2) An inquiry as to the entity's procedures for recording, classifying, and summarizing transactions and accumulating information.

(3) Analytical procedures designed to identify relationships or items that appear to be unusual.

(4) An inquiry about budgetary actions taken at meetings of the board of directors or other comparable meetings.

(5) An inquiry about whether the financial statements have been properly prepared in conformity with generally accepted accounting principles and whether any events subsequent to the date of the financial statements would have a material effect on the statements under review.

(6) Working papers prepared in connection with a review of financial statements describing the items covered as well as any unusual items, including their disposition.

(f) For purposes of this section, an independent review report shall cover, at a minimum, all of the following:

(1) Certification that the review was performed in accordance with standards established by the American Institute of Certified Public Accountants.

(2) Certification that the statements are the representations of management.

(3) Certification that the review consisted of inquiries and analytical procedures that are lesser in scope than those of an audit.

(4) Certification that the accountant is not aware of any material modifications that need to be made to the statements for them to be in conformity with generally accepted accounting principles.

(g) The department shall not consider a request for adjustments to rates submitted in accordance with Title 17 of the California Code of Regulations by an entity receiving payments from one or more regional centers solely to fund either anticipated or unanticipated changes required to comply with this section.

(h) (1) An entity required to obtain an independent review report of its financial statement pursuant to subparagraph (A) of paragraph (1) of subdivision (a) may apply to the regional center for, and the regional center shall grant, a two-year exemption from the independent review report requirement if the regional center does not find issues in the prior year's independent review report that have an impact on regional center services.

(2) An entity required to obtain an independent audit of its financial statements pursuant to subparagraph (B) of paragraph (1) of subdivision (a) may apply to the regional center for an exemption from the independent audit requirement, subject to both of the following conditions:

(A) If the independent audit for the prior year resulted in an unmodified opinion or an unmodified opinion with additional communication, the regional center shall grant the entity a two-year exemption.

(B) If the independent audit for the prior year resulted in a qualified opinion and the issues are not material, the regional center shall grant the entity a two-year exemption. The entity and the regional center shall continue to address issues raised in this independent audit, regardless of whether the exemption is granted.

(3) A regional center shall annually report to the department any exemptions granted pursuant to this subdivision.

## **Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve**

Effective July 1, 2013, the Regional Center of Orange County's (RCOC's) contract with the Department of Developmental Services requires that RCOC annually notify its vendors and long-term care facilities of its Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve.

All of RCOC's vendors and licensees who operate long-term health care facilities shall ensure their employees are fully informed upon hire and annually thereafter regarding RCOC's Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve and the mandatory abuse and neglect reporting laws. Each employee must be knowledgeable of their responsibility to protect persons served from abuse and neglect, the signs of abuse and neglect, the process for reporting suspected abuse or neglect, and the consequences of failing to follow the law and enforcing this policy.

If RCOC or RCOC's vendor or a licensee who operates a long-term health care facility becomes aware of abuse of a person served, it shall take immediate action, to the extent permitted by law, to ensure the health and safety of the affected person served and all other persons served receiving services and supports from RCOC. This obligation is in addition to those obligations required of mandated reporters to report person served abuse under the reporting laws.

Pursuant to Welfare and Institutions Code Sections 15630-15632, see attachment, a mandated reporter must (unless exempt under law) report all person served abuse to the applicable governmental authorities immediately or as soon as practicable after his or her discovery or reasonable belief that person served abuse has occurred.

RCOC's Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve is available on RCOC's website at [www.rcocdd.com](http://www.rcocdd.com). Vendor samples are also available at <http://www.rcocdd.com/vendor-resources/vendor-advisory-committee>.

**Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve  
Welfare and Institutions Code Sections 15630-15632**

**15630.** (a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days:

(A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:

(i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, and no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

(ii) If the suspected abuse does not result in serious bodily injury, a telephone report shall be made to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

(iii) When the suspected abuse is allegedly caused by a resident with a physician's diagnosis of dementia, and there is no serious bodily injury, as reasonably determined by the mandated reporter, drawing upon his or her training or experience, the reporter shall report to the local ombudsman or law enforcement agency by telephone, immediately or as soon as practicably possible, and by written report, within 24 hours.

(iv) When applicable, reports made pursuant to clauses (i) and (ii) shall be deemed to satisfy the reporting requirements of the federal Elder Justice Act of 2009, as set out in Subtitle H of the federal Patient Protection and Affordable Care Act (Public Law 111-148), Section 1418.91 of the Health and Safety Code, and Section 72541 of Title 22 of California Code of Regulations. When a local law enforcement agency receives an initial report of suspected abuse in a long-term care facility pursuant to this subparagraph, the local law enforcement agency may coordinate efforts



**Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve  
Welfare and Institutions Code Sections 15630-15632 (Continued)**

with the local ombudsman to provide the most immediate and appropriate response warranted to investigate the mandated report. The local ombudsman and local law enforcement agencies may collaborate to develop protocols to implement this subparagraph.

(B) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other law, the department may implement subparagraph (A), in whole or in part, by means of all-county letters, provider bulletins, or other similar instructions without taking regulatory action.

(C) If the suspected or alleged abuse is abuse other than physical abuse, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, a telephone report and a written report shall be made to the local ombudsman or the local law enforcement agency.

(D) With regard to abuse reported pursuant to subparagraphs (A) and (C), the local ombudsman and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency or pursuant to a report required to be made pursuant to clause (v), in which case these actions shall be taken immediately, do all of the following:

(i) Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code, [see footnote <sup>1</sup>].

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day program, as defined in paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code.

(iii) Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(v) Report all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.

(E) If the suspected or alleged abuse occurred in a state mental hospital or a state developmental center, the report shall be made to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local law enforcement agency.

(i) Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(ii) Mandated reporters of the State Department of Developmental Services shall immediately report suspected abuse to the Office of Protective Services or to the local law enforcement agency.

(F) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to

**Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve  
Welfare and Institutions Code Sections 15630-15632 (Continued)**

paragraph (1). For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(B) This subdivision shall not be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse if he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident if all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) 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.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph 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.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident if all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Public Health determines, upon approval by the Bureau of Medi-Cal

**Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve  
Welfare and Institutions Code Sections 15630-15632 (Continued)**

Fraud and Elder Abuse and the state long-term care ombudsman, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of State Hospitals or the State Department of Developmental Services or to a local law enforcement agency. Except in an emergency, the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) If two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and there is agreement among them, the telephone report or Internet report, as authorized by Section 15658, may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(e) A telephone report or Internet report, as authorized by Section 15658, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

**Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve  
Welfare and Institutions Code Sections 15630-15632 (Continued)**

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.

(h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, 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, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, 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. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 discovers the offense.

(i) For purposes of this section, "dependent adult" shall have the same meaning as in Section 15610.23.

**15630.1.** (a) As used in this section, "mandated reporter of suspected financial abuse of an elder or dependent adult" means all officers and employees of financial institutions.

(b) As used in this section, the term "financial institution" means any of the following:

(1) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

(2) An institution-affiliated party, as defined in Section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).

(3) A federal credit union or state credit union, as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. Sec. 1752), including, but not limited to, an institution-affiliated party of a credit union, as defined in Section 206(r) of the Federal Credit Union Act (12 U.S.C. Sec. 1786(r)).

(c) As used in this section, "financial abuse" has the same meaning as in Section 15610.30.

(d) (1) Any mandated reporter of suspected financial abuse of an elder or dependent adult who has direct contact with the elder or dependent adult or who reviews or approves the elder or

**Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve  
Welfare and Institutions Code Sections 15630-15632 (Continued)**

dependent adult's financial documents, records, or transactions, in connection with providing financial services with respect to an elder or dependent adult, and who, within the scope of his or her employment or professional practice, has observed or has knowledge of an incident, that is directly related to the transaction or matter that is within that scope of employment or professional practice, that reasonably appears to be financial abuse, or who reasonably suspects that abuse, based solely on the information before him or her at the time of reviewing or approving the document, record, or transaction in the case of mandated reporters who do not have direct contact with the elder or dependent adult, shall report the known or suspected instance of financial abuse by telephone or through a confidential Internet reporting tool, as authorized pursuant to Section 15658, immediately, or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days to the local adult protective services agency or the local law enforcement agency.

(2) When two or more mandated reporters jointly have knowledge or reasonably suspect that financial abuse of an elder or a dependent adult for which the report is mandated has occurred, and when there is an agreement among them, the telephone report or Internet report, as authorized by Section 15658, may be made by a member of the reporting team who is selected by mutual agreement. A single report may be made and signed by the selected member of the reporting team. Any member of the team who has knowledge that the member designated to report has failed to do so shall thereafter make that report.

(3) If the mandated reporter knows that the elder or dependent adult resides in a long-term care facility, as defined in § 15610.47, the report shall be made to the local ombudsman or local law enforcement agency.

(e) An allegation by the elder or dependent adult, or any other person, that financial abuse has occurred is not sufficient to trigger the reporting requirement under this section if both of the following conditions are met:

(1) The mandated reporter of suspected financial abuse of an elder or dependent adult is aware of no other corroborating or independent evidence of the alleged financial abuse of an elder or dependent adult. The mandated reporter of suspected financial abuse of an elder or dependent adult is not required to investigate any accusations.

(2) In the exercise of his or her professional judgment, the mandated reporter of suspected financial abuse of an elder or dependent adult reasonably believes that financial abuse of an elder or dependent adult did not occur.

(f) Failure to report financial abuse under this section shall be subject to a civil penalty not exceeding one thousand dollars (\$1,000) or if the failure to report is willful, a civil penalty not exceeding five thousand dollars (\$5,000), which shall be paid by the financial institution that is the employer of the mandated reporter to the party bringing the action. Subdivision (h) of Section 15630 shall not apply to violations of this section.

(g) (1) The civil penalty provided for in subdivision (f) shall be recovered only in a civil action brought against the financial institution by the Attorney General, district attorney, or county counsel. No action shall be brought under this section by any person other than the Attorney General, district attorney, or county counsel. Multiple actions for the civil penalty may not be brought for the same violation.

**Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve  
Welfare and Institutions Code Sections 15630-15632 (Continued)**

(2) Nothing in the Financial Elder Abuse Reporting Act of 2005 shall be construed to limit, expand, or otherwise modify any civil liability or remedy that may exist under this or any other law.

(h) As used in this section, "suspected financial abuse of an elder or dependent adult" occurs when a person who is required to report under subdivision (a) observes or has knowledge of behavior or unusual circumstances or transactions, or a pattern of behavior or unusual circumstances or transactions, that would lead an individual with like training or experience, based on the same facts, to form a reasonable belief that an elder or dependent adult is the victim of financial abuse as defined in Section 15610.30.

(i) Reports of suspected financial abuse of an elder or dependent adult made by an employee or officer of a financial institution pursuant to this section are covered under subdivision (b) of Section 47 of the Civil Code.

**15631.** (a) Any person who is not a mandated reporter under § 15630, who knows, or reasonably suspects, that an elder or a dependent adult has been the victim of abuse may report that abuse to a long-term care ombudsman program or local law enforcement agency, or both the long-term care ombudsman program and local law enforcement agency when the abuse is alleged to have occurred in a long-term care facility.

(b) Any person who is not a mandated reporter under Section 15630, who knows, or reasonably suspects, that an elder or a dependent adult has been the victim of abuse in any place other than a long-term care facility may report the abuse to the county adult protective services agency or local law enforcement agency.

**15632.** (a) In any court proceeding or administrative hearing, neither the physician-patient privilege nor the psychotherapist-patient privilege applies to the specific information reported pursuant to this chapter.

(b) Nothing in this chapter shall be interpreted as requiring an attorney to violate his or her oath and duties pursuant to Section 6067 or subdivision (e) of Section 6068 of the Business and Professions Code, and Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

<sup>1</sup> State of California Health and Safety Code Section 1418.

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.

**Zero Tolerance Policy Regarding Abuse and Neglect of Those We Serve  
Welfare and Institutions Code Sections 15630-15632 (Continued)**

(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, 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.