

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



February 28, 2000

ALL COUNTY LETTER NO: 00-16

TO: ALL COUNTY WELFARE DIRECTORS
ADULT PROTECTIVE SERVICES (APS)
PROGRAM MANAGERS

SUBJECT: JURISDICTION

REFERENCE: All-County Letter No. 99-16
All-County Letter No. 99-53

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

The purpose of this All-County Letter (ACL) is to provide further information and procedures for county Adult Protective Services (APS) agencies regarding APS' authority to refer, cross-report and investigate known or suspected abuse of an elder or dependent adult. This ACL is in addition to, not in place of, the implementation instructions previously issued in ACLs No. 99-16 and 99-53.

Attachment A expands on the previous ACLs to discuss the investigative responsibilities of APS, the long-term care ombudsman and licensing agencies. Attachment B provides, in general, the referral, cross-reporting and investigative responsibilities of APS and other public agencies. Attachment C is a list, by licensing agency, of the various types of licensed facilities and services.

If you have any questions regarding this letter, you may contact the Adult Protective Services Bureau at (916) 229-0323.

Sincerely,

***Original Document Signed By
Donna L. Mandelstam on 2/28/00***

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division

ATTACHMENT A

ACCEPTING REPORTS OF KNOWN OR SUSPECTED ABUSE

APS shall accept and investigate telephoned or written reports of known or suspected abuse of an elder or dependent adult that occur in the county served by APS, except as specified in statute.

- APS is not precluded from investigating in conjunction with another public agency, or with APS in another county or state when specific allegations in the abuse investigation fall within APS' jurisdiction.
 - EXAMPLE: Client resides in a long-term care facility. The long-term care ombudsman (LTCO) receives, and cross-reports to APS, a complaint alleging physical abuse at the hands of facility personnel. The complainant also alleges family members withheld food and necessary medication from the client during a recent home visit. The alleged physical abuse in the facility is investigated by the LTCO, and the neglect by family members away from the facility is investigated by APS.
- APS shall coordinate joint investigations with other agencies to maximize resources and avoid duplication of effort.

When an APS investigation uncovers abuse allegations that fall within the jurisdiction of another public agency, or APS in another county or state, APS shall cross report, by telephone or fax, to the appropriate agency immediately or as soon as possible.

- A written report shall be sent within two working days.
- APS shall coordinate joint investigations with other agencies to maximize resources and avoid duplication of effort.

Situations that are within APS' jurisdiction to investigate include, but are not limited to:

- Elder's or dependent adult's own home, including supportive living arrangements monitored by the regional center. APS shall cross report incidents of abuse to the regional center. The APS investigation may be conducted in conjunction with the regional center.
- Private residence that is exempt from licensure, including a family home vendORIZED by a regional center. APS shall cross report incidents of abuse to the regional center. The APS investigation may be conducted in conjunction with the regional center.
- Group living arrangement that is exempt from licensure, including hotels, homeless shelters, HUD regulated affordable senior housing.

APS shall investigate when a conservatee does not reside in a long-term care facility, state hospital or developmental center.

When the alleged perpetrator is a public or private conservator, APS shall cross report the known or suspected abuse immediately, by telephone or fax, to the court with jurisdiction over the conservatorship.

APS shall coordinate the investigation with the court to maximize resources and avoid duplication of effort.

Except for unlicensed community care facilities, APS shall investigate known or suspected abuse that occurs in an unlicensed facility that is operating in violation of the law.

- APS shall report unlicensed operation to the licensing agency for investigation.
- APS shall coordinate the investigation with the licensing agency to maximize resources and avoid duplication of effort.
- APS shall refer reports of known or suspected abuse that occur in unlicensed community care facilities to the long-term care ombudsman. An unlicensed community care facility is considered a “long-term care facility” as defined in Welfare and Institutions Code Section 15610.47.
 - Community care facility means adult residential facility, adult day care facility, adult day support center, social rehabilitation facility.

APS shall investigate known or suspected abuse that occurs in facilities that are not “long-term care facilities” (as defined in Welfare and Institutions Code Section 15610.47) in conjunction with licensing agencies as specified in IV.4.

REFERRING REPORTS OF KNOWN OR SUSPECTED ABUSE

The law requires APS to refer telephoned reports of abuse that occurred in a long-term care facility, state hospital or developmental center to other agencies. However, APS may accept a telephoned report of known or suspected abuse of an elder or dependent adult for the sole purpose of referring the abuse report under the following circumstances:

- The caller is not a mandated reporter.
- It is reasonable to believe the caller will not follow through on the referral.
 - EXAMPLE: The caller is an employee of a long-term care facility, and is afraid to report observed abuse to the facility operator or the licensing agency. The caller is reluctant to accept the telephone number of the LTCO.

APS shall immediately, or as soon as possible, refer the abuse report to the appropriate agency by telephone or fax. APS shall not open a case.

LONG-TERM CARE OMBUDSMAN

The LTCO may request assistance from APS, law enforcement or licensing agencies during or subsequent to the LTCO investigation. Any assistance provided does not reduce the LTCO’s responsibilities in abuse cases.

LICENSING AGENCIES

The term licensing agency shall include, but is not limited to, the California Department of Social Services, Community Care Licensing Division (CCLD), the Department of Alcohol and Drug Programs (DADP), and the Department of Health Services (DHS). These agencies have the statutory authority to investigate abuse that occurs under the following circumstances:

- Abuse occurred in a licensed facility.
- Abuse occurred during an absence from the facility, when facility personnel were responsible for providing care and supervision during the absence.
- The alleged perpetrator is affiliated with the facility.
- It is undetermined if the abuse occurred in the facility or during an absence from the facility when facility personnel were providing care and supervision*
- It is undetermined if the perpetrator is affiliated with the facility*
 - *The abuse shall be presumed to have occurred in the facility, or during an absence from the facility when facility personnel were responsible for providing care and supervision, absent a determination to the contrary. It shall be presumed the perpetrator is affiliated with the facility, absent a determination to the contrary.

Licensing agencies are responsible for investigating complaints alleging unlicensed operation in violation of the law. The licensing agencies determine if a license is required, or if the facility is exempt from licensure. As stated in section I.4, APS shall investigate abuse that occurs in unlicensed facilities.

Not all facilities licensed by CCLD, DADP and DHS are long-term care facilities. For example, alcoholism or drug abuse recovery or treatment facilities and acute psychiatric hospitals are not included in the definition of long-term care facility. Please see Attachment C for a list of licensed facility types.

When abuse occurs in a licensed facility that is not a long-term care facility, APS and the licensing agency both have investigative responsibilities. Hence, APS shall investigate reported abuse in conjunction with the licensing agency as appropriate.

When investigating abuse as specified in 2 and 4, APS shall coordinate the investigation with the licensing agency to maximize resources and avoid duplication of effort. During the course of the investigation, APS and the licensing agency may determine that APS shall be the primary investigator.

In addition to contacting licensing agencies, APS shall cross-report suspected criminal activity to law enforcement. This ensures the probability of a criminal investigation.

ATTACHMENT B

APS JURISDICTION	APS CROSS REPORTING RESPONSIBILITIES	APS INVESTIGATIVE RESPONSIBILITIES
<p>Elder's or dependent adult's own home.</p> <ul style="list-style-type: none"> Includes supported living arrangement monitored by a regional center (W&I 4689), to provide an array of services and supports to enable adults with developmental disabilities to reside in his/her own home. <p>Home of elder's or dependent adult's relative.</p> <p>Private residence that is exempt from licensure by CCLD (H&S 1505; 1569.145), DHS, and DADP, irrespective of the provision of care and supervision to elders or dependent adults.</p> <ul style="list-style-type: none"> Includes "family home" vendorized by a regional center (W&I 4689.1), that is the family residence of the family home provider for no more than two adults with developmental disabilities. The "family home" is akin to adult foster care. <p>Group living arrangement that is exempt from licensure by CCLD (H&S 1505; 1569.145), DHS and DADP; <u>OR</u>, does not provide care and supervision or supportive services. The arrangements include but are not limited to:</p> <ul style="list-style-type: none"> Hotel, homeless shelter Recovery house HUD regulated affordable senior housing Church affiliated facility that depends on prayer or spiritual means for healing <p>Situations other than long-term care facilities, state hospitals, or developmental centers.</p> <p>Known or suspected abuse that occurs in unlicensed facilities that are operating in violation of the law</p> <p>Includes but is not limited to unlicensed:</p> <ul style="list-style-type: none"> Residential Care Facilities for the Chronically Ill Residential Care Facilities for the Elderly Alcoholism or Drug Abuse Recovery Facilities Health Facilities Adult Day Health Care Facilities <p>When the elder or dependent adult is under conservatorship and one of the situations listed above applies</p>	<p><u>Law Enforcement</u> (May include military police and tribal law enforcement):</p> <p>Upon receipt of initial report of suspected criminal activity, cross-report to law enforcement by telephone or fax, immediately, or as soon as possible, except reports of suspected financial abuse [W&I 15640(a)(1)].</p> <ul style="list-style-type: none"> Transmit written report within two working days of receipt of initial report. <p>After the initial investigation, report to law enforcement by telephone or fax, suspected financial abuse when there is reasonable suspicion of criminal activity [W&I 15640(a)(1)].</p> <ul style="list-style-type: none"> Transmit written report within two working days of the telephoned or faxed report. <p><u>Investigative Agency (Professional Licensing Agency, Regional Center)</u></p> <p>Immediately, or as soon as possible, cross report suspected abuse to the appropriate investigative agency by telephone or fax, [W&I 15640(a)(1)].</p> <ul style="list-style-type: none"> Transmit written report within two working days of receipt of initial report. <p>Includes reporting abuse by an individual licensed pursuant to the Business and Professions Code.</p> <p>Immediately or as soon as possible, report unlicensed operation in violation of the law to the appropriate licensing agency by telephone or fax.</p> <p>Immediately or as soon as possible, report suspected abuse by a private or public conservator to the court with jurisdiction over the conservatorship. APS may also report abuse perpetrated by others.</p>	<p>Investigate alleged abuse that occurs outside long term care facilities, unless another agency is responsible for the investigation [W&I 15650(b)].</p> <p>24-hour, 7-day week, in-person response for intake and/or intervention [W&I 15763(a)].</p> <p>Immediate face-to-face response to reports of immediate life threat, or imminent danger, or crisis in an existing case (Imminent danger means a substantial probability of imminent or immediate risk of death or serious physical harm).</p> <ul style="list-style-type: none"> Immediate in-person response, when requested by local law enforcement, to reports of imminent danger or life-threatening abuse. <p>As soon as possible, up to 10 calendar days, response to other reports of abuse [W&I 15763(b)].</p> <p>Immediately or as soon as possible, report abuse committed by a health practitioner to the professional licensing agency [W&I 15640(b)].</p> <p>Report investigative findings to the referring or reporting agency [W&I 15640(f)].</p>

OTHER AGENCIES' JURISDICTION (*Except as specified in "Investigative Responsibilities" column)	APS REFERRAL RESPONSIBILITIES [NOT CROSS REPORTING] *APS may accept a telephone report and not open a case, solely to refer the abuse report on behalf of the caller.	INVESTIGATIVE RESPONSIBILITIES
<p>Licensed long-term health care facility [H&S 1418]</p> <p>Licensed or <u>unlicensed</u> community care facility [H&S 1502(a)]</p> <ul style="list-style-type: none"> • Adult Day Care Facility • Adult Day Support Center • Adult Residential Facility • Social Rehabilitation Facility <p>Licensed residential care facility for the elderly [H&S 1569.2]</p> <p>Swing bed in acute care facility [W&I 15610.47(c)]</p> <p>Licensed adult day health care [H&S 1570.7]</p>	<p>Immediately refer any <i>telephoned</i> reports of suspected abuse in a long-term care facility to the long-term care ombudsman or local law enforcement [W&I 15640(a)(2)].</p> <p>Immediately transmit any <i>written</i> reports of suspected abuse in a long-term care facility to the long-term care ombudsman [W&I 15640(a)(2)].</p> <p>As soon as possible, cross report by telephone or fax, suspected abuse in a long-term care facility to the licensing agency [W&I 15640(e)].</p>	<p>Long-Term Care Ombudsman (LTCO) [W&I 15650]</p> <p>Licensing Agency (CCLD, DHS)</p> <ul style="list-style-type: none"> • NOTE: The LTCO investigation does not abrogate the investigative authority of licensing agencies. The LTCO investigation does not supplant an investigation conducted by a licensing agency. <p>Does not preclude APS from investigating in conjunction with the LTCO or licensing agency when specific allegations are within APS' jurisdiction. (Example: Abuse occurs when the client is away from the facility and care and supervision is not provided by the facility.)</p>
<p>State Hospital</p>	<p>Immediately refer any telephoned reports of suspected abuse in a state hospital to the DMH or local law enforcement [W&I 15630(b)(1)(B);(c)(2)].</p>	<p>Department of Mental Health and Department of Health Services.</p> <p>Does not preclude APS from investigating in conjunction with the licensing agency when specific allegations are within APS' jurisdiction.</p>
<p>Developmental Center</p>	<p>Immediately refer any telephoned reports of suspected abuse in a developmental center to the DDS or local law enforcement [W&I 15630(b)(1)(B);(c)(2)].</p> <p>Immediately transmit any written reports of suspected abuse in a developmental center to the DDS [W&I 15630(b)(1)(B);(c)(2)].</p>	<p>Department of Developmental Services and Department of Health Services.</p> <p>Does not preclude APS from investigating in conjunction with the licensing agency when specific allegations are within APS' jurisdiction.</p>

OTHER AGENCIES' JURISDICTION (*Except as specified in "Investigative Responsibilities" column)	APS REFERRAL RESPONSIBILITIES [NOT CROSS REPORTING] *APS may accept a telephone report and not open a case, solely to refer the abuse report on behalf of the caller.	INVESTIGATIVE RESPONSIBILITIES
Elder or dependent adult resides in another county or out of state.	Refer any telephoned reports of suspected abuse out of county or out of state to the appropriate APS agency. Transmit any written reports of suspected abuse out of county or out of state to the appropriate county APS agency. Follow-up to confirm receipt of report.	Does not preclude APS from investigating in conjunction with another APS agency when specific allegations are within APS' jurisdiction.
Operation of an unlicensed facility in violation of the law.	Licensing Agency	DADP, CCLD, DHS.

APS INVESTIGATIONS IN CONJUNCTION WITH OTHER AGENCIES	APS CROSS-REPORTING/REFERRAL RESPONSIBILITIES	INVESTIGATIVE AGENCY
<p>ABUSE THAT OCCURS OUTSIDE OF LONG-TERM CARE FACILITIES (AS DEFINED), STATE HOSPITALS, DEVELOPMENTAL CENTERS AND A LICENSING AGENCY HAS THE AUTHORITY TO INVESTIGATE</p> <p>Health facilities licensed by DHS, other than long term health care facilities, including but not limited to:</p> <ul style="list-style-type: none"> • Acute care hospital • Acute psychiatric hospital • Psychiatric health facility • Special hospital • Chemical dependency recovery hospital 	<p><u>Licensing Agency and Law Enforcement</u></p> <p>Immediately, or as soon as possible, cross-report or refer the report to the licensing agency (DHS or DMH) or law enforcement by telephone or fax [W&I 15640(a)(1)].</p> <ul style="list-style-type: none"> • Transmit written report within two working days of receipt of initial report. 	<p>DHS or DMH [W&I 15650(b)].</p> <p>APS shall investigate in conjunction with the licensing agency.</p>
<p>Facilities licensed by CCLD or DADP, other than long term care facilities:</p> <ul style="list-style-type: none"> • Alcoholism or drug abuse recovery or treatment facility H&S 11834.02 • Residential care facilities for the chronically ill H&S 1568.01 	<p><u>Licensing Agency and Law Enforcement</u></p> <p>Immediately, or as soon as possible, cross-report or refer the report to the appropriate investigative agency by telephone or fax [W&I 15640(a)(1)].</p> <p>Transmit written report within two working days of receipt of initial report.</p>	<p>DADP or CCLD [W&I 15650(b)].</p> <p>APS shall investigate in conjunction with the licensing agency.</p>

ATTACHMENT C

DEPARTMENT OF HEALTH SERVICES (Licensing and Investigative Responsibilities)

Long-Term Care Facilities (as defined in W&I Code Section 15610.47)

[Abuse reported to the LTCO, law enforcement and DHS for investigation]

Skilled Nursing Facilities (SNF) Nursing Facilities

Congregate Living Health Facilities Respite Care Facilities Intermediate Care Facilities (ICF)

ICFs for the Developmentally Disabled

ICFs for the Developmentally Disabled-Habilitative ICFs for the Developmentally Disabled-Nursing

Distinct parts of a General Acute Hospital (that provide ICF or SNF services) Distinct parts of Acute Psychiatric Hospitals (that provide ICF or SNF services)

Not Included in the Definition of Long-Term Care Facilities

[Abuse reported to law enforcement, APS and DHS for investigation]

General Acute Care Hospital Acute Psychiatric Hospital Specialty Hospital

Chemical Dependency Recovery Hospitals Chemical Dependency Recovery Services

Clinics (including community, primary care and specialty clinics) Home Health Agencies

Adult Day Health Care Centers Referral Agencies

Hospice Agencies

Physical or Occupational Therapists in Independent Practice Comprehensive Outpatient

Rehabilitation Facilities

End State Renal Dialysis Clinics Ambulatory Surgery Centers

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS (Licensing and Investigative Responsibilities)

Not Included in the Definition of Long-Term Care Facilities (as defined in W&I Code Section 15610.47) *[Abuse reported to law enforcement, APS and DADP for investigation]*

Alcoholism or Drug Abuse Recovery or Treatment Facility

DEPARTMENT OF MENTAL HEALTH (Licensing and Investigative Responsibilities)

Not Included in the Definition of Long-Term Care Facilities (as defined in W&I Code Section 15610.47) *[Abuse reported to law enforcement, APS and DMH for investigation]*

Psychiatric Health Facilities

COMMUNITY CARE LICENSING DIVISION (Licensing and Investigative Responsibilities)

Long-Term Care Facilities (as defined in W&I Code Section 15610.47)

[Abuse reported to the LTCO, law enforcement and CCLD for investigation]

COMMUNITY CARE FACILITIES

Adult Residential Facilities Adult Day Care Facilities Adult Day Support Centers Social Rehabilitation Facilities

Residential Care Facilities for the Elderly

Not Included in the Definition of Long-Term Care Facilities

[Abuse reported to law enforcement, APS and CCLD for investigation]

Residential Care Facilities for the Chronically Ill