



MANDATORY REPORTING REQUIREMENTS & PERFORMANCE ISSUES

CHILD ABUSE OR NEGLECT

Penal Code section 11166 requires certain individuals, including licensed vocational nurses (LVNs) and psychiatric technicians (PTs) and other health care practitioners, to report suspected instances of child abuse or neglect.

Specifically, Penal Code section 11166 requires that any mandatory reporter, **including a licensed vocational nurse or psychiatric technician**, who has knowledge of, or observes, a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse or neglect **to report the known or suspected instance of child abuse or neglect immediately, or as soon as practically possible, by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.**

A report of suspected child abuse or neglect must be made to the police department or sheriff's department, not including a school district police or security department, county probation department (if it has been designated by the county to receive mandated reports), or the county welfare department.

"Child abuse or neglect" includes a physical injury inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Penal Code section 11165.1, neglect as defined in Penal Code section 11165.2, willful cruelty or unjustifiable punishment as defined in Penal Code section 11165.3, and unlawful corporal punishment or injury as defined in Penal Code section 11165.4. It includes child abuse or neglect in out-of-home care.

Additionally, any mandatory reporter who has knowledge of or reasonably suspects that unjustifiable mental suffering has been inflicted upon a child or that his or her emotional well being is endangered in any other way may make a report.

Failure to comply with the requirements of Penal Code section 11166 is a misdemeanor, punishable by up to six months in a county jail, by a fine of one thousand dollars (\$1,000), or by both the imprisonment and the fine. Failure to make a child abuse or neglect report as required constitutes unprofessional conduct within the meaning of Business and Professions Code sections 2878(a) and 4521(a) pursuant to Title 16, California Code of Regulations sections 2520.1 (vocational nurses) and 2577.2 (psychiatric technicians).

ELDER ABUSE AND DEPENDENT ADULT ABUSE

Section 15630 of the Welfare and Institutions Code requires LVNs and PTs to report any known or suspected instance of elder or dependent adult abuse.

Specifically, Welfare and Institutions Code section 15630 requires that 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, abandonment, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation, financial abuse, or neglect, or reasonably suspects that abuse shall report the known or suspected instance of abuse by telephone immediately or as soon as practically possible, and by written report sent within two working days, as follows:

- (A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsman or the local law enforcement agency.
- (B) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report shall be made to designated investigators of the State Department of Mental Health or the State Department of Developmental Services or to the local law enforcement agency.
- (C) 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.

Failure to make an elder physical abuse or dependent adult physical abuse report as required constitutes unprofessional conduct within the meaning of Business and Professions Code sections 2878(a) and 4521(a), pursuant to Title 16, California Code of Regulations sections 2520.2, 2520.3, 2577.3 and 2577.4.

PERFORMANCE REQUIREMENT

Pursuant to Business and Professions Code (B&P) sections 2878(a) and 4521(a), LVNs and PTs must safeguard patient's/client's health and safety by actions which include but are not limited to reporting to the Board instances of unprofessional conduct by a licensee. The Board has adopted Title 16, California Code of Regulations sections 2518.6 and 2576.6, which increase safeguards to the health, safety, and welfare of California consumers by delineating standards that are expected of its licensees. Failure to report instances of such unprofessional conduct by an LVN or PT itself constitutes unprofessional conduct within the meaning of Business and Professions Code sections 2878(a) and 4521(a).

CONSCIENTIOUS INFECTION CONTROL

Pursuant to Business & Professions Code sections 2878(l) and 4521(n) the Board may revoke a license for the knowing failure to protect patients by failing to follow infection control guidelines of the Board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee.

Licensees are expected to practice professionally including compliance with the guidelines and standards for universal infection control when caring for patients. The purpose of these statutes is to prevent the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. Knowing failure to comply with guidelines for universal precautions may result in disciplinary action against your license.

If you are unclear regarding how to prevent blood-borne pathogen transmission in your specific health care setting, consult with your facility's management, policies and procedures or infection control personnel.