



April 15, 2004

WHITE PAPER ALERT

FAQ – April 2004

Prout • LeVangie

2150 River Plaza Drive, Suite 420
Sacramento, California 95833

t. 916.443.4849

f. 916.923.2151

e. Michael.levangie@proutlaw.com

**CONFIDENTIAL COMMUNICATION
NOT FOR DISSEMINATION**

Medical / Legal Q&A:

FAILURE TO REPORT SUSPECTED ELDER ABUSE

Q: Does a physician's failure to report known or suspected elder abuse violate the Elder Abuse laws?

A: Almost always. If you have a physician-patient relationship, you are a mandatory reporter. Mandatory reporters must report suspected elder abuse. Also, it is clear that certain other physicians (medical directors) will be viewed as mandatory reporters, depending on the specific circumstances. Exactly how or when a physician may cross the line remains somewhat unclear.

For patient care facilities, the answer is clear. Long-term care facilities, such as nursing homes, must report all incidents of suspected elder abuse, including physical or financial abuse and neglect.¹ A physician who assumes the role of nursing home Medical Director probably shares the facility's duty to report suspected elder abuse.

Any person who qualifies as a mandatory reporter must report suspected elder abuse.² Mandatory reporters include individuals who assume full or intermittent responsibility for the care or custody of an elder or dependent adult, or "any elder or dependent adult care custodian, health practitioner, or employee" of a protective services agency or local law enforcement agency. The term "health practitioner" has been defined to include licensed physicians, and others.³

Until the requirements of the Elder Abuse laws are clarified, physicians are well advised to assume that any known or suspected elder abuse coming to their attention must be reported to the local ombudsman or law enforcement agency, immediately by telephone, and in writing, within two working days.⁴ The good news is that reporters of suspected elder abuse are immune from civil or criminal liability for those reports.⁵

¹ Cal. Health & Safety Code § 1418.91.

² Cal. Welfare & Institutions Code § 15630.

³ Cal. Welfare & Institutions Code § 15610.37.

⁴ Cal. Welfare & Institutions Code § 15630(b)(1).

⁵ Cal. Welfare & Institutions Code § 15634.