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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98] (*Division 9 added by Stats. 1965, Ch. 1784.)*

PART 3. AID AND MEDICAL ASSISTANCE [11000 - 15771] (*Part 3 added by Stats. 1965, Ch. 1784.)*

CHAPTER 11. Elder Abuse and Dependent Adult Civil Protection Act [15600 - 15675] (*Heading of Chapter 11 amended by Stats. 1991, Ch. 774, Sec. 1.)*

ARTICLE 2. Definitions [15610 - 15610.70] (*Article 2 repealed and added by Stats. 1994, Ch. 594, Sec. 3.)*

15610. The definitions contained in this article shall govern the construction of this chapter, unless the context requires otherwise.
(*Repealed and added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.*)

15610.02. (a) The Legislature finds and declares all of the following:

(1) The adult protective services program (program), established by the Legislature as a statewide program in 1998, is a critical component of the state's safety net for vulnerable adults.

(2) The population served by the county-run, state-overseen program has grown and changed significantly since the program's inception and will continue to do so at a rapid pace, given the increasing number of older adults in California. California's over-65 years of age population is expected to be 87 percent higher in 2030 than in 2012, an increase of more than 4,000,000 people. The population over 85 years of age will increase at an even faster rate, with 489 percent growth between 2010 and 2060.

(3) The increasing population of older adults often has more complex needs, including persons with cognitive impairments and a growing number of those experiencing homelessness. Research indicates that approximately 50 percent of homeless individuals are over 50 years of age, and one-half of those individuals became homeless after 50 years of age.

(b) In order to address the safety and well-being of the growing number of diverse older adults who will need adult protective services, it is the intent of the Legislature to enhance the program in a number of ways, including enabling the program to provide longer term case management for those with more complex cases, expanding and making more flexible the Home Safe Program to aid clients facing homelessness, and encouraging the use of collaborative, multidisciplinary best practices across the state, including financial abuse specialist teams and forensic centers. It is further the intent of the Legislature to expand the age of clients served under the program in order to intervene earlier with aging adults before their situations reach a crisis point.

(*Added by Stats. 2021, Ch. 85, Sec. 62. (AB 135) Effective July 16, 2021.*)

15610.05. "Abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

(*Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.*)

15610.06. "Abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

(*Added by Stats. 1997, Ch. 663, Sec. 2. Effective January 1, 1998.*)

15610.07. (a) "Abuse of an elder or a dependent adult" means any of the following:

(1) Physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering.

(2) The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

(3) Financial abuse, as defined in Section 15610.30.

(b) This section shall become operative on July 1, 2016.

(Repealed (in Sec. 1) and added by Stats. 2015, Ch. 285, Sec. 2. (SB 196) Effective January 1, 2016. Section operative July 1, 2016, by its own provisions.)

15610.10. "Adult protective services" means those activities performed on behalf of elders and dependent adults who have come to the attention of the adult protective services agency due to potential abuse or neglect.

(Amended by Stats. 2021, Ch. 85, Sec. 63. (AB 135) Effective July 16, 2021.)

15610.13. "Adult protective services agency" means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.15. "Division" means the Division of Medi-Cal Fraud and Elder Abuse within the office of the Attorney General.

(Amended by Stats. 2021, Ch. 554, Sec. 13. (SB 823) Effective January 1, 2022.)

15610.17. "Care custodian" means an administrator or an employee of any of the following public or private facilities or agencies, or persons providing care or services for elders or dependent adults, including members of the support staff and maintenance staff:

(a) Twenty-four-hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(b) Clinics.

(c) Home health agencies.

(d) Agencies providing publicly funded in-home supportive services, nutrition services, or other home and community-based support services.

(e) Adult day health care centers and adult day care.

(f) Secondary schools that serve 18- to 22-year-old dependent adults and postsecondary educational institutions that serve dependent adults or elders.

(g) Independent living centers.

(h) Camps.

(i) Alzheimer's Disease day care resource centers.

(j) Community care facilities, as defined in Section 1502 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(k) Respite care facilities.

(l) Foster homes.

(m) Vocational rehabilitation facilities and work activity centers.

(n) Designated area agencies on aging.

(o) Regional centers for persons with developmental disabilities.

(p) State Department of Social Services and State Department of Health Services licensing divisions.

(q) County welfare departments.

(r) Offices of patients' rights advocates and clients' rights advocates, including attorneys.

(s) The office of the long-term care ombudsman.

(t) Offices of public conservators, public guardians, and court investigators.

(u) Any protection or advocacy agency or entity that is designated by the Governor to fulfill the requirements and assurances of the following:

(1) The federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, for protection and advocacy of the rights of persons with developmental disabilities.

(2) The Protection and Advocacy for the Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with mental illness.

(v) Humane societies and animal control agencies.

(w) Fire departments.

(x) Offices of environmental health and building code enforcement.

(y) Any other protective, public, sectarian, mental health, or private assistance or advocacy agency or person providing health services or social services to elders or dependent adults.

(Amended by Stats. 2002, Ch. 54, Sec. 2. Effective January 1, 2003.)

15610.19. "Clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, synagogue, temple, mosque, or recognized religious denomination or organization. "Clergy member" does not include unpaid volunteers whose principal occupation or vocation does not involve active or ordained ministry in a church, synagogue, temple, mosque, or recognized religious denomination or organization, and who periodically visit elder or dependent adults on behalf of that church, synagogue, temple, mosque, or recognized religious denomination or organization.

(Added by Stats. 2002, Ch. 54, Sec. 3. Effective January 1, 2003.)

15610.20. "Clients' rights advocate" means the individual or individuals assigned by a regional center or state hospital developmental center to be responsible for clients' rights assurance for persons with developmental disabilities.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.23. (a) "Dependent adult" means a person, regardless of whether the person lives independently, between the ages of 18 and 64 years who resides in this state and who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age.

(b) "Dependent adult" includes any person between the ages of 18 and 64 years who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(Amended by Stats. 2018, Ch. 70, Sec. 5. (AB 1934) Effective January 1, 2019.)

15610.25. "Developmentally disabled person" means a person with a developmental disability specified by or as described in subdivision (a) of Section 4512.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.27. "Elder" means any person residing in this state, 65 years of age or older.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.30. (a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:

(1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

(2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

(3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

(d) For purposes of this section, "representative" means a person or entity that is either of the following:

(1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.

(2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

(Amended by Stats. 2013, Ch. 668, Sec. 2. (AB 140) Effective January 1, 2014.)

15610.35. "Goods and services necessary to avoid physical harm or mental suffering" include, but are not limited to, all of the following:

(a) The provision of medical care for physical and mental health needs.

(b) Assistance in personal hygiene.

(c) Adequate clothing.

(d) Adequately heated and ventilated shelter.

(e) Protection from health and safety hazards.

(f) Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment.

(g) Transportation and assistance necessary to secure any of the needs set forth in subdivisions (a) to (f), inclusive.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.37. "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, registered nurse, dental hygienist, licensed clinical social worker or associate clinical social worker, marriage and family therapist, licensed professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, an unlicensed marriage and family therapist intern registered under Section 4980.44 of the Business and Professions Code, a clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code, a clinical counselor intern registered under Section 4999.42 of the Business and Professions Code, a state or county public health or social service employee who treats an elder or a dependent adult for any condition, a coroner, or a substance use disorder counselor. As used in this section, a "substance use disorder counselor" is a person providing counseling services in an alcoholism or drug abuse recovery and treatment program licensed, certified, or funded under Part 2 (commencing with Section 11760) of Division 10.5 of the Health and Safety Code.

(Amended by Stats. 2017, Ch. 407, Sec. 1. (AB 575) Effective January 1, 2018.)

15610.39. "Imminent danger" means a substantial probability that an elder or dependent adult is in imminent or immediate risk of death or serious physical harm, through either his or her own action or inaction, or as a result of the action or inaction of another person.

(Added by Stats. 2002, Ch. 54, Sec. 6. Effective January 1, 2003.)

15610.40. "Investigation" means that activity undertaken to determine the validity of a report of elder or dependent adult abuse.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.43. (a) "Isolation" means any of the following:

(1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.

(2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.

(3) False imprisonment, as defined in Section 236 of the Penal Code.

(4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safety.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.45. “Local law enforcement agency” means a city police or county sheriff’s department, or a county probation department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.47. “Long-term care facility” means any of the following:

(a) Any long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(b) Any community care facility, as defined in paragraphs (1) and (2) of subdivision (a) of Section 1502 of the Health and Safety Code, whether licensed or unlicensed.

(c) Any swing bed in an acute care facility, or any extended care facility.

(d) Any adult day health care facility as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(e) Any residential care facility for the elderly as defined in Section 1569.2 of the Health and Safety Code.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.50. “Long-term care ombudsman” means the State Long-Term Care Ombudsman, local ombudsman coordinators, and other persons currently certified as ombudsmen by the Department of Aging as described in Chapter 11 (commencing with Section 9700) of Division 8.5.

(Amended by Stats. 2002, Ch. 54, Sec. 7. Effective January 1, 2003.)

15610.53. “Mental suffering” means fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by forms of intimidating behavior, threats, harassment, or by deceptive acts performed or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress of the elder or dependent adult.

(Amended by Stats. 2000, Ch. 559, Sec. 3. Effective January 1, 2001.)

15610.55. (a) “Multidisciplinary personnel team” means any team of two or more persons who are trained in the prevention, identification, management, or treatment of abuse of elderly or dependent adults and who are qualified to provide a broad range of services related to abuse of elderly or dependent adults.

(b) A multidisciplinary personnel team may include, but need not be limited to, any of the following:

(1) Psychiatrists, psychologists, or other trained counseling personnel.

(2) Police officers or other law enforcement agents, including district attorneys.

(3) Health practitioners, as defined in Section 15610.37.

(4) Social workers with experience or training in prevention of abuse of elderly or dependent adults.

(5) Public guardians, public conservators, or public administrators.

(6) The local long-term care ombudsman.

(7) Child welfare services personnel.

(8) Representatives of a health plan.

(9) Housing representatives.

(10) County counsel.

(11) A person with expertise in finance or accounting.

(Amended by Stats. 2021, Ch. 85, Sec. 64. (AB 135) Effective July 16, 2021.)

15610.57. (a) "Neglect" means either of the following:

(1) The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.

(2) The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.

(2) Failure to provide medical care for physical and mental health needs. A person shall not be deemed neglected or abused for the sole reason that the person voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition or dehydration.

(5) Substantial inability or failure of an elder or dependent adult to manage their own finances.

(6) Failure of an elder or dependent adult to satisfy any of the needs specified in paragraphs (1) to (5), inclusive, for themselves as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

(c) Neglect includes being homeless if the elder or dependent adult is also unable to meet any of the needs specified in paragraphs (1) to (5), inclusive, of subdivision (b).

(Amended by Stats. 2021, Ch. 85, Sec. 65. (AB 135) Effective July 16, 2021.)

15610.60. "Patients' rights advocate" means a person who has no direct or indirect clinical or administrative responsibility for the patient, and who is responsible for ensuring that laws, regulations, and policies on the rights of the patient are observed.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.63. "Physical abuse" means any of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code, or former Section 262 of the Penal Code.

(3) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) Incest, as defined in Section 285 of the Penal Code.

(5) Sodomy, as defined in Section 286 of the Penal Code.

(6) Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.

(7) Sexual penetration, as defined in Section 289 of the Penal Code.

(8) Lewd or lascivious acts, as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

(1) For punishment.

(2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.

(3) For any purpose not authorized by the physician and surgeon.

(Amended by Stats. 2022, Ch. 197, Sec. 39. (SB 1493) Effective January 1, 2023.)

15610.65. "Reasonable suspicion" means an objectively reasonable suspicion that a person would entertain, based upon facts that could cause a reasonable person in a like position, drawing when appropriate upon his or her training and experience, to suspect abuse.

(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)

15610.67. "Serious bodily injury" means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.

(Added by Stats. 2012, Ch. 659, Sec. 1. (AB 40) Effective January 1, 2013.)

15610.70. (a) "Undue influence" means excessive persuasion that causes another person to act or refrain from acting by overcoming that person's free will and results in inequity. In determining whether a result was produced by undue influence, all of the following shall be considered:

(1) The vulnerability of the victim. Evidence of vulnerability may include, but is not limited to, incapacity, illness, disability, injury, age, education, impaired cognitive function, emotional distress, isolation, or dependency, and whether the influencer knew or should have known of the alleged victim's vulnerability.

(2) The influencer's apparent authority. Evidence of apparent authority may include, but is not limited to, status as a fiduciary, family member, care provider, health care professional, legal professional, spiritual adviser, expert, or other qualification.

(3) The actions or tactics used by the influencer. Evidence of actions or tactics used may include, but is not limited to, all of the following:

(A) Controlling necessities of life, medication, the victim's interactions with others, access to information, or sleep.

(B) Use of affection, intimidation, or coercion.

(C) Initiation of changes in personal or property rights, use of haste or secrecy in effecting those changes, effecting changes at inappropriate times and places, and claims of expertise in effecting changes.

(4) The equity of the result. Evidence of the equity of the result may include, but is not limited to, the economic consequences to the victim, any divergence from the victim's prior intent or course of conduct or dealing, the relationship of the value conveyed to the value of any services or consideration received, or the appropriateness of the change in light of the length and nature of the relationship.

(b) Evidence of an inequitable result, without more, is not sufficient to prove undue influence.

(Added by Stats. 2013, Ch. 668, Sec. 3. (AB 140) Effective January 1, 2014.)