

## **Laws and Regulations 6 Hours**

Eric Brotman/Vivian Regalado

### **Safeguarding Cash Resources Personal Property and Valuables (80026)**

Consumer cash resources includes any kind of asset

Primary concern is personal and incidental funds from SSI

Licensee can refuse to accept responsibility for managing funds.

Personal and Incidental funds associated with Supplemental Security Income benefits are protected Welfare Institutions.

Misuse of Personal and Incidental money is a cause for license revocation

### **Accounting Ledger 80026**

Date of Transaction

Transaction Description

Account Received

Amount Spent and Withdrawn

Balance of Funds

Signature of Cash Record

Supporting receipts and invoices

*See page 9 of Guide to Safeguarding Resident Cash Resources for ledger and examples*

<http://www.psi-ceu.com/wp-content/uploads/2017/12/Guide-To-Safeguarding-Cash-Resources.pdf>

### **Authorized Representative 80026**

Person responsibility for managing consumer funds.

Parent family conservator or authorized representative

### **Surety Bond 80025**

Insurance against loss or theft of client property.

Handout: Affidavit Regarding Client/Resident Cash Resources

<http://www.cdss.ca.gov/cdssweb/entres/forms/English/LIC400.pdf>

**Handout:** "A Guide to Safeguarding Resident/Client Cash Resources." CCL, 2013

<http://www.psi-ceu.com/wp-content/uploads/2017/12/Guide-To-Safeguarding-Cash-Resources.pdf>

### **Requirements 80026**

Cannot become a conservator for client

Cannot have Power of Attorney over consumer

Cannot be joint tenant on bank account

Cannot commingle consumer resources with facility funds

Small amounts of money may be loaned cannot come from other consumer accounts

Negative balance is considered a loan.

P&I fund are not a basic service

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**Handout:** Record Of Client's/Resident's Safeguarded Cash Resources LIC 405  
<http://www.cdss.ca.gov/cdssweb/entres/forms/English/LIC405.pdf>

**Handout:** "Far Northern Regional Center Consumer Cash Resources Handbook for Residential, Adult Day and ICF Service Providers and Service Coordinators."  
[http://www.farnorthernrc.org/wp-content/uploads/2011/09/FNRC\\_Cash\\_Resources\\_Handbook.pdf](http://www.farnorthernrc.org/wp-content/uploads/2011/09/FNRC_Cash_Resources_Handbook.pdf)

### **Power of Attorney**

Representation and power to manage financial affairs  
Individual may still make all decisions.

**Handout and Source:** Power of Attorney Sacramento Public Library  
Authorize Someone to Act on Your Behalf  
<https://saclaw.org/wp-content/uploads/lrg-power-of-attorney.pdf>

### **SSI Representative Payee Limits**

What is representative payee.  
Required when due to mental capacity unable to manage finances  
Rarely the facility operator identified as payee  
payee needed physical or mental disability  
meet needs of recipient - food and shelter  
record and reporting  
limits: commingle or sign docs or act as representative  
other limits: spend money on items other than basics or food.

**Handout and Source Public Benefits for People with Disabilities  
Disability Rights California SSI Benefits Aug 2016**  
<http://www.disabilityrightsca.org/pubs/501401.pdf>

**Handout:** When People Need Help Managing Their Money Social Security  
<https://www.ssa.gov/payee/>

### **Deficiencies in Compliance (80053)**

Handout: Facility Evaluation Report LIC 809  
<http://www.cdss.ca.gov/cdssweb/entres/forms/English/LIC809.pdf>  
Description of deficiency and specific regulation  
Correction Plan  
Appeal Rights (within 15 days)  
Follow UP visit to determine compliance

### **Deficiency**

Deficiency factually describe where it occurred and how the licensee noncompliant with statute or regulations

### **Type A Deficiency**

Violation of the regulations and/or H&SC have direct and immediate reisk to healty, safety or personal rights of clients in care.

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## **Type B Deficiency**

Deficiencies are violations are a risk to health safety of personal rights such as a record keeping violation that impacts services to meet client needs.

## **Appeal Process**

15 Days

**Handout:** Quarterly Insider: Deficiencies, Civil Penalties and Appeals CCL  
<http://cclid.ca.gov/res/pdf/ASCFALL2016.pdf>

**Case Study:** Client falls out of plastic chair while sanding wood. Chair breaks into pieces under weight of client (275lbs). Bottom of chair says weight limit is 250 lbs. Client fractures ankle and spends 3 months in skilled nursing. What kind of deficiency?

**Handout:** Monetary Penalties  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/death-cleared-meds.pdf>

## **Complaints Generate Inspections**

### **Handout: Complaint Poster**

<http://www.psi-ceu.com/wp-content/uploads/2017/12/lr-complaint-poster.pdf>

CCL required to investigate all complaints no matter the veracity of the complaint. Most complaints (in my experience) are generated by families and staff.

### **Case Study:**

35-year-old male consumer at ARF from developmental center. Moderate to profound ID with odd jumping and food seeking behaviors. History of aggression when immediate needs not met. Mother insists consumer should return to Camp Pendleton where he is an officer in the Marines. Mother calls licensing to report that staff are not heating up his lunch and lost him on transport to program. Develop more detail of story. All complaints. Numerous SIRs and meetings with senior DPSS investigators.

### **Discussion:**

Licensing is obligated to investigate all complaints. The DPSS worker who takes the call does not evaluate the veracity of the claim. A LPA is sent to the facility to investigate. In this case the mother made repeated reports of both physical abuse and violation of personal rights that had no basis in fact. There are not protections in place to protect the licensee from false accusations. The moral: Carefully assess new client for history of false accusations. Meet with the family and determine if they can function normally and in cooperation with the facility.

And of course maintain good documentation. In this example I filed an APS report that the mother was interfering with the client's right to receive care.

### **Case Study #2**

21-year-old Hispanic female with autism no language. Happy well-adjusted and makes friends at day program. Client happy and skipping in parking lot. Falls down and very slight scratch on knee. On return home mother calls Police and files complaint with CCL.

### **Discussion:**

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In this case the family was quick to assume that the program was to blame. The situation could have easily been prevented by calling the mother immediately after the event occurred. The mother had already expressed concerns that her daughter was learning too many new skills too fast. Hispanic families may sometimes value family interdependent to the exclusion of achievement and an independence. This value may be magnified with adult children with developmental disability. An additional precaution would have been to regularly communicate with the mother about her daughter's status.

**Handout: Inspections and Audits Prepared by Eric Brotman**

<http://www.psi-ceu.com/wp-content/uploads/2017/12/Inspections-and-Audits-eb.pdf>

**Handout:** "Most Common Deficiencies For All Visit Types in 2016." CCL Quality Assurance, Advocacy and Technical Support Bureau

<http://www.cdss.ca.gov/Portals/9/ARF%20All%20Visits%20Most%20common%20deficiencies-2016.pdf?ver=2017-03-17-123740-417>

**25 Handouts:** Sample CCL Inspection Reports Downloaded from Search Facility

<https://secure.dss.ca.gov/CareFacilitySearch/DownloadData>

**Class Exercise (if time permits):** Reviews reports and summarizes salient issue in class. Discuss how to avoid citations.

<http://www.psi-ceu.com/wp-content/uploads/2017/12/no-disaster-plan.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/food-storage-old-ipp.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/update-forms.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/toxins-pi.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/no-deficiency3.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/no-deficiency-2.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/death.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/no-deficiency.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/new-administrator-fa.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/no-citation-compliance.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/bed-bugs.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/fist-aid-man-buildings-deficiency.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/first-aid-deficiency.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/death-cleared-meds.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/buildings-toxins.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/medication-client-record.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/buildings-hazard.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/toilet-not-flush.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/deficiency-cleared.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/insects.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/criminal-record.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/no-deficiency4.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/client-records.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/no-disaster-plan.pdf>  
<http://www.psi-ceu.com/wp-content/uploads/2017/12/disaster-forms.pdf>

**Handout:** Neighborhood Complaint Policy

<http://www.psi-ceu.com/wp-content/uploads/2017/12/neighborhood-compliant-procedures.pdf>

Discuss what else can administrator add to policy to avoid complaints.

### **Operating Without A License 80005**

An unlicensed facility represents itself as providing care and supervision to clients who need assistance with: activities of daily living, bathing, toileting, dressing and medication.

A serious problem in places like downtown LA.

Operator identifies homeless mentally ill who have Medicare/Social Security

Operator becomes payee and sets up ARF.

Penalty is \$200.00 per day if license application not submitted in 15 days.

**Handout:** Unlicensed Facility Fact Sheet for Placement Agencies

<http://wiseandhealthyaging.org/cms/pdf/InfoForPlacementAgency-566.pdf>

**Handout:** Civil Penalty Assessment (unlicensed facility)

<http://www.cdss.ca.gov/cdssweb/entres/forms/English/LIC421A.PDF>

**Handout:** City of Los Angeles Report on State Licensed Community Care Facilities

[http://clkrep.lacity.org/onlinedocs/2014/14-0118-s1\\_rpt\\_plan\\_1-31-2014.pdf](http://clkrep.lacity.org/onlinedocs/2014/14-0118-s1_rpt_plan_1-31-2014.pdf)

Nice analysis of different types of facilities and numbers in City of Los Angeles. Also includes discussion of unlicensed facilities.

### **Case Study**

*Started day program in hospital. Exempt from license. Moved to residential home across street. Cited by licensing operating without a license.*

### **Advertising Facility License Number 80001**

Facility license number disclose in public advertisements or correspondence

Internet, newspaper or magazine, consumer report, announcement of intent to commence business, yellow pages, professional or service directory, and radio and television.

### **Waivers Exceptions and Exemptions 80024**

*Source and Handout: Waivers, Exceptions and Exemptions. CCL Self-Assessment Guide*

<http://www.cafcc.org/k%20WaiversExceptionsExemptions.pdf>

### **Waiver to specific regulation on facility wide basis. Not tied to individuals**

*Example: Regulations do not allow facilities to prevent clients from leaving premise or lock doors.*

*With permission From Licensing*

*May lock doors at night for protection of residents*

*Barring windows for protection residents*

### **Exceptions 80001, 80024**

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Request to make exception to regulation for specific staff or client based on unique needs of individual

ARF for clients age 18 -59. To retain client at age 60 obtain an exception

Request for Waiver or Exception in Writing to LPA – 30 days to respond

**Exemptions (see Management of Staff) HSC 1568.09**

Criminal Record Clearance

**Personal Rights and Admission Agreement 85068**

Reference to facility ensure that no client, in the exercise of his/her personal rights, infringes upon the personal rights of any other client.

**Handout:** Rights Under the Lanterman Act

<http://www.disabilityrightsca.org/pubs/506301Ch01.pdf>

**Handout:** Rights of Individuals with Developmental Disability. DDS

[http://www.dds.ca.gov/ConsumerCorner/docs/DD\\_Rights\\_Poster\\_Eng\\_Sp.pdf](http://www.dds.ca.gov/ConsumerCorner/docs/DD_Rights_Poster_Eng_Sp.pdf)

**Handout:** LIC 613 for Personal Rights Adult Residential Care Facilities

<http://www.cdss.ca.gov/cdssweb/entres/forms/English/LIC613.PDF>

**Discipline Policies**

**License Application LIC 281 Part B**

**Discipline Policies**

<http://www.psi-ceu.com/wp-content/uploads/2018/02/B8-Discipline.pdf>

**Informs the applicant for licensure 80072**

To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with the daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.

**Prone Containment is Violation of Personal Rights**

Prone Containment is where client is being restrained face down on the ground. This may causes asphyxiation, injury and death. Prone containment and similar techniques are no to be used as a restraint to contain a client in an emergency situation.

**The lethal hazard of prone restraint: positional asphyxiation**

Disability Rights California

<http://www.disabilityrightsca.org/pubs/701801.pdf>

**Handout:** Communication styles and attitudes that violate the dignity and privacy of the client as well as representing care that is not humane

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<http://www.psi-ceu.com/wp-content/uploads/2017/12/Communication-Personal-Rights-Dignitt.pdf>

**Class Exercise:** Discuss communication styles and ask students to provide examples. Identify which personal rights are being violated.

**Review each personal right from LIC 613**

Discuss examples of how each personal rights may be violated.

**For example, Personal Right #2:** Furniture that is in disrepair or dirty. Bed bugs. Note violations discussed earlier.

**Class Exercise:** Students generate examples of how one client exercising his or right can infringe on The short list of examples to be used as a starting point.

Sexual Activity in the presence of other resident  
Playing Loud Music  
Using other resident's things without asking  
One residents ongoing temper tantrums

**House Rules vs Values**

Most homes develop a set of rules that communicate the general polices and expectations for living in the facility. See admission section (sample admission agreement). These rules cover basic routines and usually include:

Visitation  
Signing in and Out  
No cooking in rooms  
Unlimited access to telephone

Often applicants unknowingly create rules that violate the personal rights of residents. For example an applicant my want to include a rule that clients must be respectful and use good manners when interacting with others. We cannot legislate or control people's behavior. These may be IPP issues.

Regional Center representatives often suggest replacing the word rules with values. By doing so the licensee moves away from a position of authority and enforcement to an attitude that respect the dignity of the individual.

Regional Center based on philosophy of normalization and refer to as "Values"  
What is the difference?  
How can House Rules violate personal rights?  
Violation of house rules may be used as cause for eviction.

**Class Exercise** Students break into groups of three to four and create set of at least 10 house rules. Present to class.

**Handout:** Sample House Rules

<http://www.psi-ceu.com/wp-content/uploads/2017/12/House-Rules.pdf>

### **Resident Council Meetings 85080**

Provide assistance

Notify residents if cannot read notice meeting times and recommendations

At least half each meeting without presence of staff

Encouraged but not required

May include family

Make recommendations to facility

### **Right to Express Sexuality**

Sexual Bill of Rights Produced by People First of SLO

[https://www.youtube.com/watch?v=zX8z\\_5kXLGo](https://www.youtube.com/watch?v=zX8z_5kXLGo)

### **Case Study:**

Sally 24-year-old young woman with mild interlocutional disability tells a male staff person that she never had sex and very much wants to. She also says her dream is to have a baby. She asks the staff person if he will teach her about sex. She also mentions she has boyfriend who she met at her day program who wants to marry her.

**Discussion:** It is normal for clients to inquire and ask questions about sex. Historically families with children who have disability often told their children to not think about sex, marriage or romance of any kind. Families communicated this message to protect their children. This attitude carries the risk of the child learning to hide normal feelings associated with sexuality. The girl is flirting with a staff person hoping to cross a boundary. This becomes an ideal moment to treat her like an adult with dignity and respect. It is a good time to tell her sexual feelings are normal and that her interest is good. She could be offered information on sexuality and at best get enrolled in a sexuality class. Most regional centers provide intimacy classes for consumers.

**Two negative outcomes:** The male staff person accepts her request and forms a sexual relationship with her. Another negative outcome would be to tell the girl to not talk about sex because it is inappropriate. *Both would violate her personal rights.*

### **Case Study**

A 23-year-old female with autism and cerebral palsy and no language lives at an ARF. The mother informs the administrator that her daughter masturbates too much when she visits. She insists that the staff dress her in a bathing suit to restrict her from touching herself.

**Discussion:** This case illustrates how easily a client's personal rights can be violated. The best intervention is to regularly communicate with mother on the daughter's status in the care home. Often clients are more independent and successful when they are separate from their parents. On return to home they may be infantilized. The mother would learn that at the care home her daughter is engaged in many fun and stimulating activities at night e.g. playing board games with other residents. The girl does not engage in any excessive masturbation at the care home. The mother learns that her daughter's masturbation at home is related to boredom. *Forcing*

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*her to wear a bathing suit that restricts her freedom violates the girl's personal rights*

### **Case Study**

A 23-year-old male resident has formed a sexual romantic relationship with a 45-year-old man who he met at the day program. He reports that once the day program is over they meet at the park and have sex. He says he is very happy in the relationship. The 45-year-old man has a history of sexual abuse toward young males.

**Discussion:** This is not viewed as a violation of personal rights. The young man is having consensual sex. He is able to communicate clearly. If the parents believe their son is in danger of being abused they would need to become the conservator of their son and appeal in court to have power to control his relationships with others.

### **Case Study**

A 37-year-old female resident who is both schizophrenic and autistic suffers from delusions that the devil made her female and she wants to cut off her breasts. When she is more lucid she plays with a doll that soothes her. She is now 15 weeks pregnant and talks of little else. She can't wait to have a baby girl, so her doll will have a sister.

**Discussion:** DPSS may become involved in this situation. DPSS may decide that the mother is not fit to take care of her child at birth. DPSS may intervene by making the child a ward of the court. Women cannot be forced to have an abortion. The woman in this case may decide she wants an abortion. If an interested party petitions the court and become her conservator it is possible but unlikely that a judge grant the power to force an abortion

**CA Probate 2355.** Medical treatment of conservatee adjudicated to lack capacity to make health care decisions

(a) If the conservatee has been adjudicated to lack the capacity to make health care decisions, the conservator has the exclusive authority to make health care decisions for the conservatee that the conservator in good faith based on medical advice determines to be necessary.

### **Class Discussion**

What are the personal rights issues in this case?

What are the legal issues?

Medical issues?

Education and Information?

Do intellectually disabled people have the right to marry and have children?

### **Egress Systems and Personal Rights 80077.3 HIS 1531.1**

*Egress: ingress, egress, and regress* are the **rights** of a person to enter, leave, and return to property, respectively. For Developmentally Disabled client who lack hazard awareness or impulse control.

### **Case Study:**

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25-year-old male consumer with autism has no language and if left unattended would wander aimlessly out the door and onto the street.

### **Case Study**

An ARF accepts a 53-year-old male with Down Syndrome. He is suffering from the later stages of dementia and easily gets lost. When reminded where he is he apologizes and says he will do better. The man leaves the facility at night thinking the front door was the bathroom. He is picked up by the police 24 hours later. The other residents in the home are safety trained in the community are independent.

### **Discussion**

People who have cognitive deficits that put them in danger still have their civil and personal rights protected. Both case studies above suggest the need for an egress system.

*If redirecting clients is not sufficient to protect the client an egress system may be employed.*  
[Review Sample Egress Policy](#)

### **Egress system with time delay 80077.3**

Precludes exit for no more than 30 seconds.

Staff have 30 seconds to redirect client.

Without egress system would require more restrictive placement

Must be approved by Fire Inspector

Staff trained in use.

Plan of operation filed with CCL for egress device

Not a substitute for staff

### **Egress system deactivates in conditions:**

Fire

Loss of Power

Panic Bar

IPP must show person lacks hazard awareness or impulse control

### **Personal Right Not to be placed in any restraining device. 80072**

Postural Support under conditions:

Appliances, braces, spring releases, soft ties to achieve popper body position.

Increase mobility and independence not restrict

Prevent falling out of chair bed etc.

Prescribed by MD for weakened body part or correction

A written order from MD for postural support required

Fastened for quick release

*Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a client's hands or feet.*

### **Mobility an Bed Rails 80072**

Bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed.

*Bed rails that extend the entire length of the bed are prohibited except for clients who are*

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currently receiving hospice care and have a hospice care plan that specifies the need for full bed rails.

**Protective devices for that do restrict mobility or not restraining devices (self-injury)**

Helmets, Knee and Elbow Pads

**Buildings and Grounds 85087**

**Handout:** Buildings and Grounds Prepared by Eric Brotman PHD

<http://www.psi-ceu.com/wp-content/uploads/2017/12/lr-buildings-and-grounds.pdf>

Review detail in handout with attention to earlier CCL evaluation reports.

**Abuse Reporting: Who Is a Mandated Reporter**

Who are mandated reporters

Full or intermittent responsibility for elder or dependent adult

All staff from outside agencies

*Welfare and Institutions Code Section 15630*

Definition of Care Custodian

Exceptions For Physicians, Nurse and Psychotherapist

**Handout and Source:** “Your Legal Duty: Reporting Elder and Adult Dependent Abuse.” *California Attorney General’s Crime Office and State of California Department of Justice-Office of the Attorney General*, 2017

[oag.ca.gov/sites/all/files/agweb/pdfs/bmfea/yld\\_text.pdf](http://oag.ca.gov/sites/all/files/agweb/pdfs/bmfea/yld_text.pdf)

**Reporting Crimes Against Disabled**

Observes in the scope of employment.

*Welfare and Institutions Code Section 15630*

Knows about abuse

Told by others or suspects.

Witnesses

Reasonably suspects

Receives information

No requirement to investigate

Reporting is individual duty

Cannot give to another person to report

Elder and Dependent Abuse is a crime

Penalties for abuse

Felony or Misdemeanor

Additional Penalty of three years if over 70

**Physical Abuse** W&I 15610.63

Assault

Battery

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Assault with a deadly weapon or force likely to produce great bodily injury.  
Unreasonable physical constraint, or continual deprivation of food or water.  
Sexual battery  
Rape  
Incest  
Sodomy  
Oral Copulation  
Penetration of a genital or anal opening by a foreign object.  
Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:  
Examples of abuse  
Indicators of Abuse  
Accidental vs Unknown Bruising

“An Investigation Using Hidden Surveillance Cameras Inside a Long Island Nursing Home Has Led to Criminal Charges.” *YouTube*, uploaded by AP Archive, 31 Jul. 2015,  
[www.youtube.com/watch?v=1b7g1TsZ3Ko](http://www.youtube.com/watch?v=1b7g1TsZ3Ko)

### **Characteristics of Abusive Caregiver**

Common Characteristics  
Low IQ  
Mental illness  
Need to control  
History of Abuse  
Profiles  
Assessing the Caregiver  
Stress  
Fatigue  
Batterers  
Munchausen Syndrome  
Assessing the Caregiver

**Handout and Source:** “Zero Tolerance Classroom Participant’s Guide.” *Agency for Persons with Disabilities*, 31 Aug. 2009,  
[apdcare.org/training/docs/zero-tolerance-participants-guide.pdf](http://apdcare.org/training/docs/zero-tolerance-participants-guide.pdf)

### **How to Report**

All mandated reporters required to report  
2013 Amended timelines for serious bodily injury  
Law Enforcement contact and coordination  
Adult Protective Services  
Long Term Care Ombudsman  
Bureau of Medical Fraud  
Los Angeles County  
SOC 341 Reporting Form  
The Victim  
Reporting Party  
Confidentiality of Mandated Reporter  
Incident Information  
Types of Abuse  
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Observations  
Family or Others  
Financial Abuse  
Collateral Contacts  
Telephone  
Written Report  
Other Agency Reporting  
Regional Center

### **Failure to Report Penalties**

Failure to report misdemeanor crime  
Prison time and fine  
Failure to report physical abuse that results in death  
Employee Liability  
Confidentiality rights  
Agencies that receive report  
Violation of confidentiality provisions

### **Sources: Failure to Report Penalties**

“Your Legal Duty: Reporting Elder and Adult Dependent Abuse.” *California Attorney General’s Crime Office and State of California Department of Justice-Office of the Attorney General*, 2017, [oag.ca.gov/sites/all/files/agweb/pdfs/bmfea/yld\\_text.pdf](http://oag.ca.gov/sites/all/files/agweb/pdfs/bmfea/yld_text.pdf)

### **Abuse of the Developmentally Disabled**

More susceptible to abuse  
Easy targets  
Limited Communication  
Not Understand the abuse  
Unable to report  
Longer Periods  
Same Person  
No Access to Justice System  
Perceived as weak  
Segregated Environment  
Fear of being believed  
Higher rates of Abuse  
Population  
Stopping Abuse video for consumers

**Video 2.32 Minutes:** “Signs and Symptoms of Abuse.” *YouTube*, uploaded by Ohio Department of Developmental Disabilities, 6 Feb. 2017, [www.youtube.com/watch?time\\_continue=1&v=cjlcakW7YPI](http://www.youtube.com/watch?time_continue=1&v=cjlcakW7YPI)

**Source:** “Abuse and Exploitation of People with Developmental Disabilities.” *Disability Justice*, 2017, <http://disabilityjustice.org/justice-denied/abuse-and-exploitation/>

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**Video: 15.58 minutes** “Stopping the Abuse of People with Learning Disabilities.” *YouTube*, uploaded by Inspired Services, 4 Oct. 2013, [www.youtube.com/watch?v=P0N1H8nY9Ws](http://www.youtube.com/watch?v=P0N1H8nY9Ws)

Abuse Project  
34% report Sexual Abuse  
Limited Understanding  
Not aware that its Illegal  
Dependent on Other to perform tasks  
Lack of knowledge on Rights and Abuse  
Culture of Compliance  
Unable to refuse  
Training does not decrease instances  
Training increases reports  
Learn vocabulary to describe physical experiences  
Consent and control

### **Sources**

“Developmental Disabilities and Sexual Assault.” *Connecticut Alliance to End Sexual Violence*, 2017, [endsexualviolencect.org/resources/get-the-facts/developmental-disabilities-and-sexual-assault/](http://endsexualviolencect.org/resources/get-the-facts/developmental-disabilities-and-sexual-assault/)

“Sexual Assault of Individuals with Developmental Disabilities.” *Disability Rights Ohio*, Apr. 2015, [www.disabilityrightsohio.org/assets/documents/dro\\_sexual\\_abuse\\_combined\\_report.pdf](http://www.disabilityrightsohio.org/assets/documents/dro_sexual_abuse_combined_report.pdf)

Stromsness, M.M. “Sexually Abused Women with Mental Retardation: Hidden Victims, Absent Resources.” *Women & Therapy*, vol. 66, no. 4, 1993, pp. 139-152.

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“The 2012 National Survey of Abuse of People with Disabilities.” *Disability and Abuse Project*, 2012, [disability-abuse.com/survey/index.htm](http://disability-abuse.com/survey/index.htm)

**Video: 5.51 minutes** “Violence Against Women with Disabilities.” *YouTube*, uploaded by WVD Channel, February 27, 2012. <https://www.youtube.com/watch?v=EovgP4YXjL8>

### **Reducing The Risk of Abuse Developmentally Disabled**

Consumer Education best prevention  
Sexual education and intimacy  
Good touch and bad touch

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Understanding relationships  
Self Protection  
Monitoring and unannounced visits  
Educating consumers on their rights  
Modification of communication devices

## Sources

“Zero Tolerance Classroom Participant’s Guide.” *Agency for Persons with Disabilities*, 31 Aug. 2009,  
[apdcares.org/training/docs/zero-tolerance-participants-guide.pdf](http://apdcares.org/training/docs/zero-tolerance-participants-guide.pdf)

“Abuse Prevention Strategies.” *Disabled Persons Protection Commission*, 2017,  
[www.mass.gov/dppc/abuse-prevention/abuse-prevention-strategies.html](http://www.mass.gov/dppc/abuse-prevention/abuse-prevention-strategies.html)

## Obligation and Duty to Protect Privacy of Client Medical Records Health Insurance Portability and Accountability Act of 1996

Notification Rules

Client has right to not have records revealed without permission.

HIPPA - Security of records and transmission

ARF not a covered entity

We do hold medical records that are protected.

Most Regional centers view providers as covered entities and strictly enforce.

## Handout: HIPPA Basics For Providers Department of Health Services

<https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/HIPAAPrivacyandSecurity.pdf>

Health Insurance Portability and Accountability Act (HIPAA) Privacy, Security, and Breach  
Notification Rules

## Conservatorship

**Handout:** Duties of Conservatorship Disability Rights

<http://www.disabilityrightsca.org/pubs/551401.pdf>

**Handout:** Limited Conservatorship

<http://www.occourts.org/self-help/probate/conservatorship/limited.html#8>

## LPS conservatorship has the following powers:

Decide where the DD adult will live (but, NOT in a locked facility).

Look at the DD’s adult confidential records and papers.

Sign a contract for the DD adult.

Give or withhold consent for most medical treatment (NOT sterilization and certain other procedures).

Make decisions about the DD adult’s education and vocational training.

Place the DD adult at a state hospital for the developmentally disabled Give or withhold consent to the DD adult’s marriage.

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Control the DD adult's social and sexual contacts and relationships.  
Manage the DD adult's financial affairs

### **AB 937 Conservatee Rights**

Passed in 2013 addressed misconception that conservators have absolute control

"to completely isolate conservatee[s] from the outside world. No visitors, no phone calls, no mail from life partner, family, friends, neighbors, clergy, and /or advocates."

AB 937 clarified that conservatorship does not extend to the personal rights of the conservatee

**AB 937:** [http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_0901-0950/ab\\_937\\_cfa\\_20130506\\_100823\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0901-0950/ab_937_cfa_20130506_100823_asm_comm.html)

**Video: 14.46 minutes:** AB937 & Conservatee Rights: Senate Judiciary Committee 6/11/13  
<https://www.youtube.com/watch?v=oHShtBZv3dM>

### **State Fire Code Regulations**

#### **Fire Safety Inspections of Care Facilities HSC 13235- 13235**

Occupancy  
Exit Access for Non-Ambulatory  
Intervening Rooms  
Sprinklers - non-Ambulatory  
Smoke Alarms - Hard Wired  
Fire Extinguisher  
Alterations must have approval

#### **Licensed Residential Care Facilities Not Including Day Care PowerPoint**

State Fire Marshal, Residential Care Facility Advisory Committee

<http://osfm.fire.ca.gov/advisorycommittees/pdf/rcfac/fire%20service%20rcf%20training%20class.pdf>

Licensed Care Facilities in Los Angeles

LA City Clerk

[http://clkrep.lacity.org/onlinedocs/2014/14-0118-s1\\_rpt\\_plan\\_1-31-2014.pdf](http://clkrep.lacity.org/onlinedocs/2014/14-0118-s1_rpt_plan_1-31-2014.pdf)

#### ***Disaster and Mass Casualty Plan 80023***

*Evacuation Plan - Emergency Disaster Plan*

*Staff understand responsibility's*

*Plan current and available*

*First Aid training current*

*Staff trained to assist clients with special needs such as oxygen*

*Know which clients need more assistance.*

*Review plan with new hires*

*Know relocation sites*

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*Staff trained in First Aid and how to deal with injuries*  
*Maintain smoke alarms and carbon monoxide*  
*Disaster training through Red Cross*  
*Where are your emergency supplies*  
*If necessary staff know how to turn off water, gas and electric*  
*Plan for transport of medications and storage and devices that require electricity*  
*Conduct disaster drills every six months and document*  
*Disaster plan and Facility Sketch posted on all floors (must show exits)*  
*Disaster drills records available for inspection*

### **Transportation Planning in Disaster**

*Maps travel bags and emergency supplies*  
*Track media internet social media for update for disaster*

**Handout and Source:** Self-Assessment Guide Emergency and Disaster Preparedness. CCL DPSS [https://caassistedliving.org/pdf/resources/dss\\_disaster\\_preparedness.pdf](https://caassistedliving.org/pdf/resources/dss_disaster_preparedness.pdf)

**Handout and Source:** Emergency Disaster Plan for Adult Residential Facilities LIC 610D Current <http://www.cdss.ca.gov/cdssweb/entres/forms/English/LIC610D.PDF>

**AB 236:** *Requires any residential or day care facility to have at least one working carbon monoxide detector* Carbon Monoxide  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB2386&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB2386&search_keywords=)

**Handout and Source:** Standards For Residential Care Facilities California Fire Code (CFC); California Building Code (CBC); California Health & Safety Code; Title 19, California Code of Regulations (CCR)  
<http://www.unidocs.org/fire/un-077.pdf>

**Video: 4.52 minutes:** Are Sprinklers Necessary. NBC Video Report  
<https://www.nbcbayarea.com/investigations/Safety-Measure-Not-Required-in-Thousands-of-Homes-for-Elderly-Disabled-210004611.html>

### **Group Discussion Practice Questions**

Students are highly motivated to study practice questions. Practice questions are reviewed as a catalyst to learn both the content and intent of the regulations. The practice questions each have the regulation number and subsection from Title 22. The discussion is prefaced with the premise that the it is more important to understand the why of the answer than the what.

112 Practice Question

Laws and Regs

<http://www.psi-ceu.com/wp-content/uploads/2017/12/laws-regs-questions.pdf>

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