

Reporting Suspected Crimes Under the Federal Elder Justice Act

<i>Date Implemented:</i>	6/15/2023	<i>Date Reviewed/ Revised:</i>		<i>Reviewed By:</i>	Emery Dumas, LNHA, CHC, Corporate Compliance Officer
--------------------------	-----------	--------------------------------	--	---------------------	--

POLICY: Residents have the right to be free from abuse, neglect, and misappropriation of property. To further protect those rights, Congress has enacted the Elder Justice Act (the “EJA”), which sets forth certain reporting requirements. Therefore, it is the policy of this facility to: (a) notify “covered individuals” (as that term is defined under the EJA) of their reporting obligations under the EJA; and (b) report crimes as required by the EJA.

Definitions

“Covered Individual” means each individual who is an owner, operator, employee, manager, agent, or contractor of a long-term care facility.

“Law enforcement entity” means a police department or sheriff department of a political subdivision.

“Owner or Operator” means the individual(s) or entity(ies) which own the license of the facility, OR the entity which manages the facility on behalf of the owner.

“Political subdivision” means a city, county, township or village.

“Secretary” means the Secretary of the U.S. Department of Health and Human Services. Acting as their agent is the Michigan Department of Licensing and Regulatory Affairs (LARA)/Bureau of Health Systems

"Serious bodily injury" means injury involving extreme physical pain or the protracted impairment of a function of a bodily member, organ, or mental faculty; or requiring medical intervention such as surgery, hospitalization, or physical rehabilitation. In addition, "serious bodily injury" is deemed to have occurred if the offense involved conduct constituting criminal sexual abuse.

Obligation of the Owner or Operator

The EJA requires that the owner or operator of a long-term care facility that receives federal funds to annually determine whether the facility received at least \$10,000 in federal funds the preceding year.

Reporting Obligation of the Covered Individual: Please note that these reporting requirements are in addition to those required by state law and those required by Medicare and Medicaid certification.

The EJA requires:

Each covered individual shall report to the Michigan Department of Licensing and Regulatory Affairs (LARA)/Bureau of Health Systems (acting as the agent for the Secretary of the U.S. Department of Health and Human Services) and 1 or more law enforcement entities for the political subdivision in which the facility is located any reasonable suspicion of a crime (as defined by the law of the applicable political subdivision) against any individual who is a resident of, or is receiving care from, the facility.

Timing

If the events that cause the suspicion—

result in serious bodily injury, the individual shall report the suspicion immediately, but not later than 2 hours after forming the suspicion; and

do not result in serious bodily injury, the individual shall report the suspicion not later than 24 hours after forming the suspicion.

Posting Requirements

The facility will post conspicuously in an appropriate location a sign specifying the rights of employees under the EJA. Such sign shall include a statement that an employee may file a complaint with the Secretary against a long-term care facility that violates the provisions of this subsection and information with respect to the manner of filing such a complaint. The sign should be posted in the same area that the facility posts other required employee signs, such as wage/hour and OSHA posters. To be posted where facility routinely post other required state and federal employee signs Size and type requirements for the sign should be no less than the minimums required for the other required employment-related signs.

PROCEDURE:

1. If the Owner or Operator determines that the facility received at least \$10,000 in federal funds, the Owner or Operator shall annually notify each Covered Individual of that individual's obligation to comply with the EJA's reporting requirements. (See Covered Individual Annual Notification Form)
2. The Covered Individual should make the report in writing to the facility, within the designated time frames above, and should do so, if possible, in writing.
3. Upon receiving the report from the Covered Individual, the facility assumes the responsibility for reporting the matter to the required authorities. The facility should immediately report the matter to the Michigan Department of Licensing and Regulatory Affairs (LARA)/Bureau of Health Systems, acting as the agent for the Secretary of the U.S. Department of Health and Human Services.
4. The report should specifically state that the facility is reporting the matter on behalf of the Covered Individual, as well as on the facility's own behalf.
5. The facility should also immediately report the matter to local law enforcement, again specifically stating that the facility is reporting the matter on behalf of the Covered Individual, as well as on the facility's own behalf. The facility should keep a record of this report (for example, a fax transmission receipt, e-mail receipt, and/or copy of the e-mail).