

# Social Work Conference Call Meeting Summary January 4, 2012

**Facilitator:** Paige Hector, LMSW with CARES

*Conference calls are regularly scheduled meetings on the first Wednesday of each month at 12:30 PM MOUNTAIN TIME. Call 1-888-482-3813 and enter the pass code of 3813 to join in!*

*This information is not intended to constitute legal advice and should not be relied upon in lieu of consultation with appropriate legal advisors. The information is for informative or educational purposes only.*

## **Topics Discussed:**

Guest Speaker Brian de Vries, Ph.D., Professor, Gerontology Program  
San Francisco State University

Below is an interpretive summary of the incredible amount of information that Dr. de Vries shared with the call participants. Should anyone have questions, please send them to Paige Hector at [paigehector@gmail.com](mailto:paigehector@gmail.com) to be passed on to Dr. de Vries.

## **Summary of Call:**

- Question: Do Lesbian Gay Bisexual Transgender (LGBT) persons age differently? Experiences encountered are comparable but there are distinct differences: LGBT men have higher rates of cancer and LGBT women have more reproductive conditions.
- The transgender cohort is now coming of age and we are beginning to see the result of the introduction of hormones and how it impacts the aging process.
- For LGBT persons, the biggest difference is the stigma attached to this population. This older cohort came of age when “coming out” was not acceptable and was viewed as a mental illness, immoral, and unethical. But now, identification with LGBT is more acceptable and people talk more openly about it. However, this may still be difficult for the older cohort, esp. when talking to people from the medical community, an environment that previously saw them as ill.
- LGBT persons have much higher rates of depression than the general population of comparable ages.
- Higher rate of alcohol, smoking and obesity among older lesbians.
- Higher rates of some drug use/abuse with older gay men.
- Consequences for health in later life include significant cost as older LGBT persons may have remained hidden and were not fully authentic with their medical providers.
- Stigma that is felt by LGBT people is rational. There is now more research on attitudes of health care providers. Research published in the Journal of the American Medical Association (JAMA) showed anti-gay bias was over 50% by medical providers.
- Research shows that 38% of LGBT persons do not disclose orientation to medical providers. When they do disclose they have a poor experience and may choose to not seek medical attention or delay in seeking care.
- Discrimination can include physical and verbal abuse and refusal to touch LGBT persons.
- Half of direct care of staff (in facilities) was condemning or intolerant of LGBT persons.
- There is very little programming and provision of services available for LGBT persons.

- LGBT persons residing in the LTC setting may limit friends from visiting and experience more isolation as a result.
- Intake forms don't ask about sexual orientation – questions are asked to determine if the individual is married (divorced, etc) and whether he/she has children. The assumption is that the person is heterosexual until proven otherwise. However, it is not as simple as asking if the person identifies as an LGBT person. Most likely, the interviewer would not get an honest response.
- The experience of the LGBT person in the LTC setting can significantly impact their biopsychosocial-spiritual well-being.
- What is much more important and significant to the LGBT person is to make the LTC setting a safe place. Provide evidence that staff make honest effort every day to welcome ALL persons (not just in terms of sexual orientation). Does staff frame issues in such a way that connotes acceptance of diversity, i.e. gay-pride month of June and even more subtle cues?
- Authentic acceptance of all persons is the goal.
- Other issues to be considered are how staff addresses discrimination and stigma from other residents and how accepted LGBT staff is in the facility.

### THIS ENDS THE SUMMARY

Dr. de Vries sent this list of resources:

- The National Resource Center on LGBT Aging: <http://www.lgbtagingcenter.org/>
- Improving the Lives of LGBT Older Adults, [http://sageusa.org/resources/resource\\_view.cfm?resource=183](http://sageusa.org/resources/resource_view.cfm?resource=183)
- The LGBT Aging Interest Group of the American Society on Aging: <http://www.asaging.org/ain>
- The Institute on Medicine released a comprehensive report last year summarizing the state of the field of LGBT health research; the entire book can be downloaded for free at: [http://www.nap.edu/catalog.php?record\\_id=13128](http://www.nap.edu/catalog.php?record_id=13128) (The book is called The Health of Lesbian, Gay, Bisexual and Transgender People: Building a Foundation for Better Understanding. Aging is only one component of this, although the book adopts a life-span perspective.)
- We also wrote a couple of popular reports on LGBT boomers that can be downloaded for free, the most recent of which (2010) can be found at: <http://www.metlife.com/assets/cao/mmi/publications/studies/2010/mmi-still-out-still-aging.pdf>
- Movie recommendations: Ten More Good Years (a documentary), <http://www.tenmoregoodyears.com> and Gen Silent: [http://stumaddux.com/GEN\\_SILENT.html](http://stumaddux.com/GEN_SILENT.html)

### **Other topics on the call:**

- Criminal reporting is now mandated in long-term care facilities. In addition to reporting to the usual agencies, e.g. DHS, Ombudsman, etc, individuals in the facility are mandated to report suspicion of a crime to local law enforcement. The following pages are resources provided by the Arizona Health Care Association (AHCA) for use by facilities. (For an email version of the documents, please contact Paige Hector at [paigehector@gmail.com](mailto:paigehector@gmail.com)). Sylvia Balistreri at AHCA welcomes input from facilities regarding this topic (and others too!). She is on a committee to help address the complexities and challenges of criminal reporting. Her contact information is below.

Sylvia Balistreri  
 Director of Quality & Regulatory Services  
 Arizona Health Care Association  
 602-265-5331  
[Sylviab@azhca.org](mailto:Sylviab@azhca.org)

## Draft Template Policy & Procedure

[NOTE: This template has **not** been approved by CMS or any other federal/state agency or law enforcement office and is provided to assist facilities respond to the new Elder Justice Act (EJA) about staff requirements to report a suspicion of a crime. Facilities **MUST** modify this template policy & procedure to comply with their local and state reporting laws about suspected crimes and to be consistent with the facilities other policies & procedures. ]

### **POLICY & PROCEDURE FOR REPORTING SUSPECTED CRIMES UNDER THE FEDERAL ELDER JUSTICE ACT**

#### POLICY:

It is [FACILITY NAME] policy to comply with the Elder Justice Act (EJA) about reporting a reasonable suspicion of a crime under Section 1150B of the Social Security Act, as established by the Patient Protection and Affordable Care Act (ACA), § 6703(b)(3). Specifically, it is [FACILITY NAME] policy to:

- a. annually notify all “*covered individuals*” (as that term is defined under the EJA) of their reporting obligations under the EJA to report a suspicion of a crime to the state survey agency (SSA) and *local law enforcement* for the *political subdivision* in which [FACILITY NAME] is located;
- b. refrain from *retaliating against any employee* who reports a suspicion of a crime against an individual receiving care in [FACILITY NAME];
- c. post a notice in a conspicuous location that informs all “*covered individuals*” of
  - o their reporting obligation under the EJA to report a suspicion of a crime to the SSA and *local law enforcement*; and
  - o their right to file a complaint with the state survey agency if they feel the [FACILITY NAME] has *retaliated against an employee* who reported a suspected crime under this statute;
- d. refrain from employing any individual who has been prohibited from working in a long term care facility because of failure to report a suspicion of a crime against a resident of a long term care facility; and
- e. [NOTE: Facilities are not required to report to either SSA or *local law enforcement* under this act; only individuals are required to report. However, facilities may be required to report certain incidents under other Federal, state or local laws and regulations such as reporting to SSA abuse, *neglect* or misappropriation of resident property. OPTIONAL: Facilities may choose but are not required under this act to adopt a policy that it will report a suspected crime against a resident to the SSA and one or more *local law enforcement* entities for the *political subdivision* in which the facility is located.]

#### Statutory and CMS Policy References

- §1150B of the Social Security Act, as established by §6703(b)(3) of the Patient Protection and Affordable Care Act of 2010; and
- CMS S&C: 11-30-NH.

Definitions (from CMS S&C: 11-30-NH):

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

“*Suspicion of a Crime*” is defined by law of the applicable *political subdivision* where a LTC facility is located. Applicable facilities must coordinate with their state and *local law enforcement* entities to determine what actions are considered crimes within their *political subdivision*.

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

“*Local law enforcement*” means the full range of potential responders to elder abuse, *neglect*, and exploitation including: police, sheriffs, detectives, public safety officers, corrections personnel, prosecutors, medical examiners, investigators, and coroners.

“*Neglect*” is the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder or *self-neglect*.

“*Self-Neglect*” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including obtaining essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, or general safety; or managing one’s own financial affairs.

“*Serious bodily injury*” is an injury involving extreme physical pain; involving substantial risk of death; involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or requiring medical intervention such as surgery, hospitalization, or physical rehabilitation. In the case of “criminal sexual abuse” which is defined as serious bodily injury/harm shall be considered to have occurred if the conduct causing the injury is relating to aggravated sexual abuse or relating to sexual abuse.

“*Retaliate against an employee*” is when the employer discharges, demotes, suspends, threatens, harasses, or denies a promotion or any other employment-related benefit to an employee, or in any other manner discriminates against an employee within the terms and conditions of employment because the employee has met their obligation to report a suspicion of a crime.

PROCEDURE:

A. Staff Reporting Requirements

1. When staff ( “staff” herein refers to *covered individuals*) suspect a crime has occurred against a resident at [FACILITY NAME], they must report the incident to SSA and *local law enforcement*.
2. Staff must report a *suspicion of a crime* to the state survey agency and at least one *local law enforcement* entity within a designated time frame by e-mail, fax or telephone. The individual does not need to determine which *local law enforcement* entity to report a suspicion of crime; but, must report to at least one *local law enforcement* entity. This will meet the individual’s obligation to report.
3. Staff can use the facility form to report a *suspicion of a crime*. There is no requirement to use the form.
4. Staff can either report the same incident as a single complaint or multiple individuals may file a single report that includes information about the suspected crime from each staff person using the facility form.

5. If, after a report is made regarding a particular incident, the original report may be supplemented by additional staff who become aware of the same incident. The supplemental information may be added to the form and must include the name of the additional staff along with the date and time of their awareness of such incident or suspicion of a crime. However, in no way will a single or multiple person report preclude an individual from reporting separately. Either an individual or joint report will meet the individual's obligation to report.
6. If the reportable event results in *serious bodily injury*, the staff member shall report the suspicion immediately, but not later than 2 hours after forming the suspicion.
7. If the reportable event does not result in *serious bodily injury*, the staff member shall report the suspicion not later than 24 hours after forming the suspicion.
8. Failure to report in the required time frames may result in disciplinary action, including up to termination.
9. Staff must report the suspicion of an incident to the <insert appropriate person> [Note: facilities should determine the appropriate person within the facility for reporting a suspicion of a crime such as the staff's supervisor, Director of Nursing (DON) or administrator].

#### B. Staff Notification

1. Staff (i.e., "*covered individual*") will annually receive a copy of their obligation to comply with the law and these policies and procedures.
2. [Note: facilities need to determine how they will provide and document that they provided notification annually to all *covered individuals*]
3. All new staff, as part of their orientation to work at the facility, shall receive a copy of their obligation to comply with the law and this policy and procedure.

#### C. Posting Requirements

1. [FACILITY NAME] will post conspicuously in an appropriate location a sign specifying the rights of employees under the EJA. This sign shall include both
  - a. the reporting requirements of each staff member; and
  - b. a statement that an employee may file a complaint with the state survey agency against a long-term care facility that *retaliates against an employee* for filing, and information how to file such a complaint to the SSA.
2. The sign should be posted in the same area that [FACILITY NAME] posts other required employee signs, such as wage/hour and OSHA posters. These are found in [list the location in the facility].
3. Size and type requirements for the sign should be no less than the minimums required for the other required employment-related signs.

#### D. Facility Reporting [OPTIONAL]

[NOTE: Facility reporting is optional and not required as part of this EJA act; only individuals are required to report suspicion of a crime. However, Federal, state or local laws may require facility reporting. For example, Federal regulations require facilities to report abuse, *neglect* or misappropriation of resident property to the SSA.]

1. OPTIONAL: [FACILITY NAME] will file a report to SSA and *local law enforcement* using the attached form when becoming aware of a suspicion of a crime.
2. OPTIONAL: [FACILITY NAME] on behalf of staff will file a report to SSA and *local law enforcement* using the attached form when staff becomes aware of a suspicion of a crime.
3. OPTIONAL [FACILITY NAME] shall keep a record of these reports.

**FACILITY SUSPECTED CRIME REPORT UNDER ELDER JUSTICE ACT**  
**Draft AHCA Template**

**INSTRUCTIONS:** Submit this completed form to local law enforcement and your state survey agency by fax or email within **2 hours** (if there is serious bodily injury) or **24 hours** (if there is not serious bodily injury) of forming a reasonable suspicion that a crime may have been committed against any individual who is a resident of, or is receiving care from [FACILITY NAME].

**[FACILITY NAME] CONTACT:**

[ADMINISTRATOR] \_\_\_\_\_  
 [ADDRESS] \_\_\_\_\_  
 [PHONE] \_\_\_\_\_  
 [FAX] \_\_\_\_\_  
 [EMAIL] \_\_\_\_\_

Reported to State Survey Agency? Yes  No   
 Date Reported: / / Time: \_\_\_\_\_

[STATE SURVEY AGENCY] CONTACT:  
 [ADDRESS] \_\_\_\_\_  
 \_\_\_\_\_  
 [PHONE] \_\_\_\_\_  
 [FAX] \_\_\_\_\_  
 [EMAIL] \_\_\_\_\_

Reported to the Local Law Enforcement? Yes   
 No   
 Date Reported: / / Time: \_\_\_\_\_

[LOCAL LAW ENFORCEMENT] CONTACT:  
 [ADDRESS] \_\_\_\_\_  
 \_\_\_\_\_  
 [PHONE] \_\_\_\_\_  
 [FAX] \_\_\_\_\_  
 [EMAIL] \_\_\_\_\_

**SUMMARY OF SUSPECTED CRIME INVOLVING [RESIDENT NAME] and [DATE OF BIRTH], as well as a brief description of the location of the incident and, if available, the names of any individuals involved in the suspected crime. (Attach additional sheets if necessary. No. of pages attached \_\_\_)**

**Was there serious bodily injury? No \_\_\_ YES \_\_\_ (must be reported within 2 hours)**

**INDIVIDUAL[S] REPORTING**

THIS REPORT IS MADE BY THE FACILITY ON BEHALF OF ALL COVERED INDIVIDUALS LIST BELOW.

Name:	Date/time individual became aware of suspected crime
1.	Date: / / Time: _____
2.	Date: / / Time: _____
3.	Date: / / Time: _____
4.	Date: / / Time: _____
5.	Date: / / Time: _____
6.	Date: / / Time: _____

7.	Date: / / Time:_____
8.	Date: / / Time:_____

NOTE: This report is required by law where a suspicion of crime has occurred and is in no way an admission by the person[s] submitting the report that a crime has actually occurred.

**Social Work Conference Call**  
**Meeting Summary**  
**February 1, 2012**

**Facilitator:** Paige Hector, LMSW with CARES

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**Topics Discussed:**

- Area Agency on Aging now offers a service called the Community Transition Service for people who have been in a nursing facility greater than 60 days and are being discharged. Short term assistance is provided for basic living expenses, household items, moving expenses, small appliances, security deposits, etc. The application process can be started within 30 days prior to the date of discharge or up to 90 days after discharge. Thank you Jill Preston for sending the information below regarding this new program.
  - The Community Based Care Transitions Program (CCTP) goals are; to reduce hospital readmissions, test sustainable funding streams for care transition services, maintain or improve quality of care, and document measureable savings to the Medicare program. The demonstration will be conducted under the authority of section 3026 of the Affordable Care Act of 2010.
  - The Community-Based Care Transitions Program is an initiative of the Partnership for Patients, a new public-private partnership created by the new health care law. Partnership for Patients is designed to help improve the quality, safety, and affordability of health care for beneficiaries of Medicare, Medicaid and the Children's Health Insurance Program. The Partnership's two goals are to reduce harm in hospital settings by 40 percent and to reduce hospital readmissions by 20 percent over a three-year period. By forming partnerships with hospitals and other health care providers, community organizations will help beneficiaries stay in contact with their doctors and ensure proper post-acute care steps are being followed.
  - The Region One Agency on Aging serves Maricopa County in Arizona, in partnership with John C. Lincoln North Mountain Hospital; West Valley Hospital; Scottsdale Healthcare Osborn Medical Center; John C. Lincoln Deer Valley Hospital; APIPA, a Medicaid Acute Care Plan that serves dually-enrolled Medicare fee-for-service beneficiaries, and Sunwest Pharmacy
  
- SCAN program contract eliminated the LTC component and all members will be auto-reassigned to one of the other three program contractors in Maricopa County. By February 10<sup>th</sup>, all members will receive a letter regarding the reassignment. By February 27<sup>th</sup>, they will be notified of the actual reassignment. Then, between March 1<sup>st</sup> and March 30<sup>th</sup>, they can change to a different contractor if so desired. Problems may be anticipated in situations where a facility only accepts the SCAN contract. If a resident is reassigned to another contractor that is not accepted in the facility, the social worker must advocate for changing the assignment and prevent the resident from being transferred to a different facility. It is recommended that the social worker communicate and work closely with the facility SCAN case manager to ensure a smooth transition for everyone.