

**Subject: Elder Justice Act**

**Policy/Procedure No.:**

**Distribution:**

**Effective Date:**

**Prepared By:**

### **POLICY STATEMENT**

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 US Department of Health and Human Services.

“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:**

- 1) Each covered individual shall report to the MDCH Complaint Investigation Unit and one (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.

- 2) Timing: If the events that cause the suspicion-
  - a. Results in serious bodily injury, the individual shall report the suspicion immediately, but not later than two (2) hours after forming the suspicion:  
and
  - b. Do not result in serious bodily injury, the individual shall report the suspicion not later than 24 hours after forming the suspicion.

**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.
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 following the facility's policy for reporting abuse, neglect, and misappropriation as well as unusual occurrences.
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 MDCH, at the following address/number:

Michigan Department of Community Health  
Bureau of Health Systems  
Division of Operations, Complaint Investigation Unit  
P.O. Box 30664  
Lansing, MI 48909

Phone: (517) 241-4712

Fax: (517) 241-0093

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. The form to be used is attached to this policy.

4. 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 form to be used is attached to this policy. The facility should keep a record of this report (for example, a fax transmission receipt, email receipt, and/or copy of the email).

**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. These are found in Employee Entrance. Size and type requirements for the sign should be no less than the minimums required for the other required employment-related signs.

Note: Policies, procedures and protocols are developed to address usual and customary events. No policy, procedure or protocol can cover every possible situation or circumstance. As a result, deviations from this policy may occur based on unique or unusual circumstances.