

LUTHERAN SOCIAL MINISTRIES OF NEW JERSEY

EFFECTIVE DATE: 05/01/13

REVISION DATE: 6/22/16

REVISION NUMBER: 1

POLICY NUMBER: ADM-6

POLICY TITLE: Elder Justice Act (EJA) Policy

SCOPE: Lutheran Social Ministries of NJ - Skilled Nursing Facilities

PURPOSE: The purpose of this policy is to outline how Lutheran Social Ministries of New Jersey (LSMNJ) facility will comply with legal requirements under the Elder Justice Act (EJA) which requires that LSMNJ facility notify certain individuals of their duty to report crimes to NJ Department of Health and Senior Services and to the local law enforcement.

POLICY: 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. For purposes of reporting to the Secretary, the State Survey Agency stands in the shoes of the Secretary.

"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.

Procedures:

A. Determination of Applicability (Receipt of \$10,000 in Federal Funds)

At the end of each calendar year, the Administrator shall make a determination of whether this policy shall continue to be applicable in the coming year. If the Administrator makes a determination that this policy is no longer applicable, then he or she shall take reasonable steps to notify EMPLOYEES of that determination. Unless affirmatively notified of the policy's inapplicability, all EMPLOYEES should assume that the policy continues to be applicable to them.

B. Notification of Duty to Report

Steps will be taken to ensure that EMPLOYEES are notified annually of their duties to report under the EJA. Those steps may include, but are not necessarily limited to, the following:

1. Inclusion of duty to report requirements in the employee handbook.
2. Conspicuously post EJA Reporting Requirement sign in the same area that the facility posts other required employee signs, such as wage/hour and OSHA posters.
3. In-service education/New Hire orientation.
4. Provision a notification letter explaining the duty to report.

5. Placing a notification provision in a service contract.
6. Inclusion in orientation packets for service providers/agency staff.

C. Reporting by EMPLOYEES

1. *What?* EMPLOYEES are required to report to the state survey agency and local law enforcement any reasonable suspicion of a crime against any individual who is a resident of, or receiving care in, the skilled nursing care facility of Lutheran Social Ministries of New Jersey. If more than one EMPLOYEE has a reasonable suspicion of a crime, each individual is obligated to file the report.
2. *When?* The timeframe in which EMPLOYEES must make reports is dependent upon whether the person receiving care was seriously injured.
 - (a) Serious Bodily Injury – within 2 hours. If the person receiving care incurred serious bodily injury, then a EMPLOYEE is required to report the suspicion immediately, but no later than two (2) hours after forming the suspicion.
 - (b) No Serious Bodily Injury – within 24 hours. If the person receiving care did not incur serious bodily injury, then a EMPLOYEE is required to report the suspicion no later than twenty four (24) hours after forming the suspicion.
3. *How?* The EMPLOYEE must make the report to the NJ Department of Health and Senior Services Complaint Reporting and local law enforcement within the designated time frames above. The EMPLOYEE may make the EJA report by e-mail, fax or telephone. This will fulfill the EMPLOYEE'S obligation to report.

NJ Department of Health and Senior Services Complaint Reporting
Phone: 1-800-792-9770
Local Law Enforcement

 - (a) The EMPLOYEE should keep a record of this report (for example, a fax transmission receipt, e-mail receipt, and/or copy of the e-mail).

If the incident is also an event that involves potential abuse, neglect or misappropriation, the EMPLOYEE must also report to the EMPLOYEE'S supervisor according to LSMNJ's abuse and neglect prevention policy. This is a separate reporting obligation from that imposed by the EJA. Failure to report an allegation of abuse, neglect or misappropriation may result in disciplinary action up to, and including, termination.

D. Penalties for Failure to Report Suspected Crime

If an EMPLOYEE does not report as required by the EJA and as defined in this policy, they may be subject to civil money penalties of not more than \$200,000. They may also be subject to exclusion from participation in any Federal health care program. If the EMPLOYEE does not report and the non-reporting exacerbates the harm to the victim of the crime or results in harm to another individual, then they may be subject to civil money penalty of not more than \$300,000 and may be excluded from participation in any Federal health care program.

E. Non-Retaliation

LSMNJ shall not discharge, demote, suspend, threaten, harass, or deny promotion or other employment-related benefit to an employee or in any other manner discriminate against an employee in the terms and conditions of employment because of the employee's lawful reporting done by the employee or file a complaint or report to a state licensing disciplinary board because of lawful acts done by the employee. An individual has the right to file a complaint with the NJ Department of Health and Senior Services Complaint Reporting if they feel LSMNJ has retaliated against an employee or individual who reported a suspected crime under the EJA. Complaints can be filed with:

NJ Department of Health and Senior Services Complaint Reporting by calling 1-800-792-9770.

F. Other Obligations of Organization

LSMNJ shall comply with all other state and federal reporting requirements relating to reporting allegations of abuse, neglect and misappropriation of property.

PREPARED BY: Peace Church Compliance Program

REVIEWED BY: Corporate Compliance Committee

6/22/16

APPROVED BY:
Name/Title:

Colleen P. Frankenfield
Colleen P. Frankenfield, President & CEO

8/1/16
DATE