



**CHIA**

— AHIMA Affiliate

California Health  
Information Association

# *Release of Information in California:*

## **Elder, Dependent Adult and Child Abuse**

SAMPLE

*E-book Series, 5 of 12*

*The Release of Information (ROI) in California is a series of 12 E-books that will help you navigate and understand the complex state and federal laws, as well as best practices related to managing and releasing protected health information. The ROI E-book series contains content that falls under HIPAA, federal regulations, and is specific to California state laws.*

Copyright © California Health Information Association  
All Rights Reserved.

*Release of Information in California: E-book Series* is published by California Health Information Association (CHIA), an American Health Information Management Association (AHIMA) affiliate

Printed in the United States of America

Copyright © California Health Information Association.

All rights reserved.

*No part of this E-book may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical photocopying, recording, or otherwise (with the exception of the forms, tables and appendices), without the prior written approval of the publisher. It is the intent of CHIA to strictly enforce this copyright.*

This E-book is designed to produce accurate and authoritative information with regard to the subject matter covered. It is sold with the understanding that CHIA is not engaged in rendering legal service. This E-book should not be viewed as legal advice or take the place of advice provided by a health care provider's legal counsel. If legal or other expert assistance is required, the services of a competent professional person should be sought. If there are differences of opinion, or where the law is unclear, a provider should consult its own legal counsel.

SAMPLE

California Health Information Association  
1915 North Fine Avenue, Suite 104  
Fresno, California 93727-1565  
T: (559) 251-5038  
F: (559) 251-5836  
E-mail: [Info@CaliforniaHIA.org](mailto:Info@CaliforniaHIA.org)

**For more information, visit [www.CaliforniaHIA.org](http://www.CaliforniaHIA.org)**

# Table Of Contents

Acknowledgments .....	II
ROI E-book Series .....	III
Forward... ..	IV
Introduction.....	1
Elder or dependent adult abuse.....	1
Child abuse .....	1
Release of information from elder an dependent adult abuse records .....	2
Reporting requirements .....	2
Mandated reporters .....	2
Clergy exception .....	2
Mandated reporting .....	3
Mandatory reporting authorities and timelines .....	3
Non-mandated reporting.....	4
Contents of report .....	4
Telephone report .....	5
Written report .....	5
Notification to patient .....	5
Release of report contents .....	5
Release of information pursuant to child abuse allegations .....	8
Reporting requirements .....	8
Release of Information Legal Citations .....	11
Penal Code Section 11167(b) .....	11
Penal Code Section 11167(c) .....	11
Release of records .....	11
Penal Code Section 11166(g) .....	11
HIPAA Accounting of Disclosures .....	12
Self-Assessment Quiz.....	13

# Acknowledgements

The California Health Information Association (CHIA) Board of Directors extends its appreciation for the development of this E-book to:

## Instructors

**Carol Wilhelm, MPH, RHIA**, is a health care consultant providing services in acute and ambulatory care settings and to managed care organizations. She is an instructor in a health information technology program and has also taught at California state universities. Carol has held positions in both on-site hospital management and as an assistant vice president of a major health care corporation. She received her Masters' degree in Public Health from UCLA. She is active in several professional associations and advisory councils including AHIMA and CHIA.

**Donna Paine** has served the HIM community in various capacities since April, 1979. Spending her entire career specifically in the area of release of information, Ms. Paine has held different posts within three nationally-based corporations. In all three companies, she served as a vice president. Since 1999, Ms. Paine has been the owner and President of Trackstar Release of Information Services. Working within Southern California, she considers herself fortunate to work with colleagues she has known for many, many years. Education in California, Ms. Paine holds a Bachelor of Science degree in Business Administration.

The CHIA Board of Directors also extends their appreciation to the CHIA Online Education Committee who has secured and reviewed these e-books over the years, volunteering their time, effort and input as they reviewed drafts of the e-books as an editorial board. And special thanks to Gayle Old-Smith, RHIA, CHIA Copy Editor, who spent many hours diligently reviewing this E-book.

## Release of Information in California E-book Series

The Release of Information (ROI) in California is a series of 12 E-books that will help you navigate and understand the complex state and federal laws, as well as best practices related to managing and releasing protected health information. The ROI E-book series contains content that falls under HIPAA, federal regulations, and is specific to California state laws.



Each ROI E-book includes an overview of the topic and extensive references. **Self Assessment Quizzes** are designed in multiple-choice and true/false format, and assess your understanding of the subject matter. A link to the Quiz is provided with each purchased E-book, and corrected answers will be displayed so you can receive automatic feedback.



Upon completion of the Self Assessment Quiz, a **Certificate of Completion (CEU)** will be made available to download and print. You will not be able to access the Certificate after exiting the Quiz, so be sure to download it immediately and retain as evidence of the earned continuing education.

Product Code	Release of Information in California:	CEU's Offered
E-book 001	Introduction **	Two
E-book 002	General Releases	Two
E-book 003	Medical Records and the Court System	Three
E-book 004	Workers Compensation	Three
E-book 005	Elder, Dependent Adult and Child Abuse	Two
E-book 006	Coroner's Office	Two
E-book 007	Public Health Agencies	Two
E-book 008	Business Associates	Two
E-book 009	Government Agencies	Two
E-book 010	Inmates	Two
E-book 011	Law Enforcement	Two
E-book 012	Special Health Records	Two

\*\* CHIA recommends you read the *Release of Information in California: Introduction* E-book first. This E-book is offered at no charge and includes the "Glossary of Terms" that is used in all subsequent ROI E-books.

### Additional CHIA Resources

To view sample pages or purchase these E-books, or to view more details about CHIA's publications and Webinar Replays, visit [www.CaliforniaHIA.org/Resources](http://www.CaliforniaHIA.org/Resources)

## Forward

*The purpose of this E-book is to provide accurate and authoritative information on proper and adequate disclosure of health information. The California Health Information Association (CHIA) is not engaged in rendering legal services, and providing legal advice is beyond the scope and intent of the E-books.*

### **Release of Information in California: Elder, Dependent Adult and Child Abuse**

This E-book will help you to understand when and to whom patient records can be released with and without authorization.

#### **Student Learning Outcomes and Objectives**

Upon completion of the CHIA *Release of Information in California: Elder, Dependent Adult and Child Abuse* E-book, students will be able to:

- Articulate the importance of releasing patient-specific health information according to current laws and regulations
- List criteria that permit the release of child, dependent adult and elder abuse patient-specific health information according to current laws and regulations
- Define the mandated reporting circumstances and requirements for child abuse allegations
- Appropriately respond to requests for the release of medical records pursuant to child abuse allegations by referencing the correct California Penal Code sections.
- Understand and appreciate the complexities and responsibilities inherent to releasing protected health information to internal and external requestors
- Differentiate between the different state of California and federal laws regulating release of patient-specific information and apply them appropriately in all situations.
- Understand the release of information with and without authorization to/for: Patients, patient's family, minors, deceased patients, and/or the patient's legal representative.

# Release of Information in California: Elder, Dependent Adult and Child Abuse

## Introduction

### Elder or dependent adult abuse

Abuse of an elder or a dependent adult includes:

- Physical abuse.
- Neglect.
- Financial abuse.
- Abandonment.
- Isolation.
- Abduction or other treatment resulting in physical harm, pain, or mental suffering.
- Deprivation by a care custodian of goods or services necessary to avoid physical harm or mental suffering.

Dependent adults are persons between ages 18 and 64 with physical or mental limitations such as physical or developmental disabilities or age-diminished physical or mental abilities. The law also expressly states that any person between the ages of 18 and 64 who is admitted as an inpatient in an acute care hospital or other 24-hour health facility is a dependent adult. [See Health and Safety Code Section 1250, 1250.2 and 1250.3; Welfare and Institutions Code Sections 15610.23 and 15610.27].

Elders are persons 65 years of age or older.

### Child Abuse

According to Penal Code Section 11165.6, “child abuse or neglect” includes the following:

- A physical injury or death that is inflicted by other than accidental means on a child by another person;
- Sexual abuse;
- Neglect;
- Willful harming or injuring of a child or endangering of the person or health of a child;
- Unlawful corporal punishment or injury; and,
- Abuse or neglect in out-of-home care

## Release of information from elder and dependent adult abuse records

### Reporting requirements

The Elder Abuse and Dependent Adult Civil Protection Act [California Welfare and Institutions Code Sections 15600-15659] impose mandatory reporting requirements for abuse of elders and dependent adults. The reporting requirements for elders and dependent adults are identical.

Abuse of an elder or dependent adult is a criminal act.

### Mandated reporters

Certain categories of persons, referred to as “mandated reporters,” are required to report any suspected abuse, as defined, of elders or dependent adults [California Welfare and Institutions Code, Sections 15630-15632]. Persons required to report elder or dependent adult abuse are:

- Elder or dependent adult “care custodians,” which include an administrator or an employee of any specified public or private facilities or agencies, or persons providing care or services to elders or dependent adults, including members of support staff and maintenance staff. Any employee of a hospital is a care custodian.
- Health practitioner, that includes a physician, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker or associate clinical social worker, associate clinical marriage and family therapist, any other person who is currently licensed under Business and Professions Code Section 500 et seq.
- Clergy members with exception.
- Employees of a county adult protective services agency or local law enforcement agency.
- Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not that person receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults.
- Beginning January 2007, employees of financial institutions are mandated to report financial abuse.

### Clergy exception

A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent abuse during a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who in the course of the discipline or practice of his or her church, denomination or organization is