



**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

*"Touching Lives Every Day"*

## ***COMPLIANCE ALERT 10-34***

### ***Elder Justice Act of 2009 Changes Reporting Requirements for "Reasonable Suspicion" of LTC Resident Abuse***

The Patient Protection and Affordable Care Act (PPACA) signed into law on March 23, 2010, contains the "Elder Justice Act of 2009" (EJA). By amending the Social Security Act, the EJA adds elder justice provisions and specific long term care (LTC) provider requirements to prevent and prosecute elder abuse, neglect, and exploitation. **The key change is that Section 6703(b)(3) of PPACA requires that any reasonable suspicion of a "crime" (as defined by law) that results in "serious bodily injury" to any LTC resident be reported within two (2) hours to the Department of Health and Human Services Secretary and to one or more local law enforcement entities. In addition, reports to the Secretary and law enforcement must be made within 24 hours of "forming a suspicion" if no serious bodily injury has occurred.**

Penalties: Serious monetary penalties and possible exclusion from Federal health care programs may ensue for failure to report a suspected crime. If the failure to report results in further injury to the victim or results in harm to another individual, the potential penalty increases to \$300,000. "Crime" is defined by the appropriate local/state political jurisdiction. The new law expands the already-existing reporting requirement to include reporting for "reasonable suspicion" of a crime.

The EJA also forbids the retaliation, discrimination, and/or filing or complaint/report against an employee who makes a report or causes a report to be made in compliance with this law. The HHS will be promulgating the specific format, forms, and posted signage required to notify employees of their rights under the reporting requirements.

Action Needed: All HHSC facilities should review policies and procedures to ensure that employees and other required reporters are clear on their responsibilities and requirements for reporting under this law. In addition, employees should be educated as to their avenues for obligatory reporting.

Source: Section 6703(b)(3) PPACA

Social Security Act: Section 1105B