

# **Mandatory Reporter**

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## **Reporting Abuse and Neglect**

If someone is being hurt or is in danger right now, call 911 immediately.

Report abuse and neglect if you believe abuse or neglect may be occurring contact the Department of Human Services office in your area or your local law enforcement. If you are unsure who to contact call DHS.

Most people call because of concern about the welfare of an individual either in their own home, a relative home or as a resident of a care facility. You do not have to determine if abuse or neglect actually occurred before you call.

Everyone should report abuse

We all have a responsibility to protect those who cannot protect themselves. Law requires mandatory reporting by certain people.

## **Reporting Abuse and Neglect of Adults with Developmental Disabilities**

If you believe abuse is occurring, immediately contact your county developmental disability program.

You may also report abuse to Department of Human Services (DHS).

In an emergency contact your local law enforcement agency.

## **Mandatory Reporters**

To prevent abuse and safeguard the welfare of adults with developmental disabilities, the legislature determined it was necessary and in the public interest to require mandatory abuse reporting for certain private and public officials. They include:

- Physician, naturopathic, physician, osteopathic physician, psychologist, chiropractor or podiatric physician and surgeon, including any intern or resident
- Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service
- Employee of the Department of Human Services, county health department, community mental health and developmental disabilities program or private agency contracting with a public body to provide any community mental health service
- Peace officer
- Member of the clergy
- Licensed clinical social worker
- Physical, speech or occupational therapist
- Information and referral, outreach or crisis worker
- Attorney

- Any public official who comes in contact with adults in the performance of the official's duties.

When acting in an official capacity, mandatory reporters must report instances, when the reporter has reasonable cause to believe abuse has occurred, to the community program or a local law enforcement agency.

### **What happens to an abuse report**

Within 24 hours of receiving a report of alleged abuse, we take these steps:

- Investigate the nature and cause of the alleged abuse
- Determine if protective services are needed
- Provide protective services as needed

If there is reason to believe a crime has been committed, law enforcement will be notified.

### **State investigation of alleged abuse**

The Department of Human Services, Office of Adult Abuse Prevention and Investigations conducts abuse and neglect investigations in all state-operated programs for adults with developmental disabilities.

If determined necessary or appropriate, DHS, Office of Adult Abuse Prevention and Investigations may conduct an investigation itself rather than allow the community program to investigate the alleged abuse or in addition to the investigation by the community program. Under such circumstances, the community program must receive authorization from The Office

of Adult Abuse Prevention and Investigations before conducting any separate investigation.

Confidentiality of the reporters name and identity is highly protected

State law protects the confidentiality of all individuals reporting abuse. Your identity may only be disclosed under specific legal exceptions such as by order of a judge or if required to perform the investigation by a law enforcement agency. You are not required to give your name if you wish to remain anonymous.

Adult abuse reporting law affords protection for any individual who reports suspected abuse in good faith. Anyone reporting adult abuse with reasonable grounds is immune from civil liability.

DHS and local aging and disability offices provide protective services and investigate reports of suspected abuse. These agencies will determine whether or not abuse or neglect occurred and work with law enforcement when a potential crime may have occurred.

### **Watch for signs**

Abuse of older adults aged 65 and older and adults with developmental or physical disabilities under the age of 65 can include:

- Physical harm or injury
- Failure to provide basic care
- Abandonment by the caregiver
- Verbal/emotional abuse

- Financial exploitation
- Unwanted sexual contact
- Involuntary seclusion
- Wrongful restraint

In addition, in the senior population self-neglect is where individuals lack the ability to care for themselves, which can also lead to harm.

### **Abuse can happen anywhere**

Abuse can happen wherever someone lives, such as a person's own home or the home of family or friends. It can also occur in a professional care setting such as a nursing facility, a residential care facility, an assisted living facility, an adult foster home, a retirement home or a room-and-board home.

Adult abuse is expected to increase

### **Physical abuse**

Indicators that may be warning signs of physical abuse:

- Cuts, lacerations, punctures, wounds.
- Bruises, welts, discolorations, grip marks.
- Any unexplained injury that doesn't fit with the given explanation of the injury.
- Any injury incompatible with the person's history of unexplained injuries.

- Any injury which has not been properly cared for (sometimes injuries are hidden on areas of the body normally covered by clothing).
- Poor skin condition or poor skin hygiene.
- Dehydration and/or malnourishment without illness-related cause.
- Unexplained loss of weight.
- Burns, possibly caused by cigarettes, caustics, acids or friction from ropes or chains.
- Soiled clothing or bed linens.

If you believe an older adult or an adult with physical disability is being subjected to physical abuse, contact your local DHS or AAA office. If you believe an adult with a developmental disability is being physically abused contact your local community developmental disability office. If you believe an assault or crime has been committed, call your local law enforcement. If an injury needs medical attention, get immediate medical help or call 911.

## **Neglect**

Indicators that may be warning signs of neglect:

- The person being cared for is not given the opportunity to speak for themselves without the presence of the caregiver.
- The caregiver has an attitude of indifference or anger toward the person they are caring for.
- Family members of the caregiver blame the person being cared for (frequently related to incontinence).

- The caregiver exhibits aggressive behavior, including threats, insults or harassment toward the person being cared for.
- The caregiver has problems with drugs or alcohol.
- The caregiver exhibits inappropriate displays of affection towards the person being cared for.
- The caregiver isolates family members from the person being cared for.
- The caregiver is unwilling to work with other care providers on a care plan for the person being cared for.
- Dirt, fecal/urine smell or other health and safety hazards in adult's living environment.
- Leaving an adult in an unsafe or isolated place.
- Rashes, sores, lice on the adult.
- Malnourishment or dehydration and/or sudden weight loss.
- Untreated medical condition.

If you believe an older adult or an adult with physical disability is being subjected to neglect, contact your local DHS or AAA office. If you believe an adult with a developmental disability is being neglected contact your local community developmental disability office. If they are non-responsive or seriously injured, get medical help or call 911.

## **Abandonment**

Indicators that may be warning signs of abandonment:

- The desertion at a shopping center or other public location.

- A person's own report of being abandoned.

If you believe an older adult or an adult with physical disability is being subjected to abandonment and contact your local DHS or AAA office. If you believe an adult with a developmental disability is being subject to abandonment contact your local community developmental disability office. If they need immediate medical care, call 911.

### **Verbal or emotional abuse**

Indicators that may be warning signs of verbal or emotional abuse:

- Humiliating, insulting, or threatening language directed at the person.
- Being emotionally upset or agitated;
- Being extremely withdrawn and non communicative or non responsive;
- Unusual behavior usually attributed to dementia e.g., sucking, biting, rocking); and
- An adult's report of being verbally or emotionally mistreated.

If you believe an adult with a developmental disability is being verbally or emotionally abused contact your local community developmental disability office. If you believe an older adult or an adult with physical disability is being subjected to significant emotional or verbal abuse, contact your local DHS or AAA office.

### **Financial exploitation**

Indicators that may be warning signs of financial exploitation:

- Unusual or inappropriate activity surrounding investment properties or in bank accounts, including the use of ATM cards, to make large or repeated withdrawals.
- Signatures on checks, etc. that do not resemble the person's signature, or signatures when the person cannot write.
- Power of attorney given, or recent changes in or creation of a will or trust, when the person is incapable of making such decisions.
- Unpaid bills, overdue rent, utility shut-off notices.
- Excessive spending by a caregiver on himself for new clothing, jewelry, automobiles.
- Lack of spending on the care of the person, including personal grooming items.
- Missing personal belongings, such as art, silverware or jewelry.
- Recent sale of assets and properties.

If you believe an adult with a developmental disability is being financially exploited contact your local community developmental disability office. If you believe an older adult or an adult with physical disability is being subjected to financial exploitation, contact your local DHS or AAA office. If you believe a crime has been committed, call your local law enforcement agency.

## **Sexual abuse**

Indicators that may be warning signs of sexual abuse:

- Unexplained vaginal or anal bleeding.

- Torn or bloody underwear.
- Bruised breasts.
- Venereal diseases or vaginal infections.
- Sudden changes in the emotional or psychological state of the person.

If you believe an older adult or an adult with physical disability someone is being subjected to sexual abuse, contact your local DHS or AAA office. If you believe an adult with a developmental disability is being sexually abused contact your local community developmental disability office. If you believe a sexual crime has been committed, call your local law enforcement. If you suspect rape or an examination is needed, get medical immediate help or call 911.

### **Involuntary seclusion**

Indicators that may be warning signs of involuntary seclusion:

- An adult's report of not being allowed to see or talk with people reasonably would see or talk too.
- Kept away from where others can go.
- Not allowed to use the telephone.
- Not allowed to receive or send mail.

If you believe an adult with a developmental disability is being subjected to involuntary seclusion contact your local community developmental disability office. If you believe older adult or an adult with physical disability is being subjected to involuntary seclusion, contact your local DHS or AAA office.

## **Wrongful restraint**

Indicators that may mean warning signs of physical or chemical restraint:

- Being sedated;
- Going to bed at an usually early time or uncharacteristically early bedtime;
- Bruises or remarks on both wrists, both ankles, or a strip-like mark or bruise across the chest, and
- An adult's report of an adult's report of tied up or sedated or not allowed to move.

If you believe older adult or an adult with physical disability is being subjected to wrongful restraint, contact your local DHS or AAA office. If you believe an adult with a developmental disability is subjected to wrongful restraint contact your local community developmental disability office.

## **Definitions of Abuse and Neglect**

Elder abuse is a growing problem. While we don't know all of the details about why abuse occurs or how to stop its spread, we do know that help is available for victims. Concerned people, like you, can spot the warning signs of a possible problem, and make a call for help if an elder is in need of assistance.

## **Definitions of Abuse for Adults and Children**

- (1) Adult with a developmental disability

- (2) Abuse of a Child residing in”
  - (i) Homes or facilities licensed to provide 24-hour residential services for children with developmental disabilities; or
  - (ii) Agencies licensed or certified by the division to provide proctor foster care for children with developmental disabilities.
- (3) Abuse of an Adult with a mental illness residing in:
  - (i) Adult foster home, or
  - (ii) Residential treatment facility, or
  - (iii) Residential treatment home.

**Definitions of the different types of abuse and neglect as defined by law:**

- Physical abuse
- Neglect
- Self neglect
- Abandonment
- Verbal or emotional abuse
- Financial exploitation
- Sexual abuse
- Involuntary seclusion
- Wrongful restraint

**Physical abuse**

Means the use of physical force that may result in bodily injury, physical pain, or impairment.

Physical abuse is any physical injury to an adult caused by other than accidental means.

Conduct that may be considered physical abuse includes but is not limited to: (i) Acts of violence such as striking (with or without an object), hitting, beating, punching, shoving, shaking, kicking, pinching, choking, or burning; or (ii) The use of force-feeding or physical punishment.

Physical abuse is presumed to cause physical injury, including pain, to adults in a coma or adults otherwise incapable of expressing injury or pain.

## **Neglect**

Neglect means the failure to provide basic necessary care or services when such failure may lead to physical or emotional harm or serious loss of personal dignity.

Neglect means active or passive failure to provide the care, supervision, or services necessary to maintain the physical health and emotional well-being of an adult that creates a risk of serious harm or results in physical harm, significant emotional harm or unreasonable discomfort, or serious loss of personal dignity.

The expectation for care, supervision, or services may exist as a result of an assumed responsibility or a legal or contractual agreement, including but not limited to where an individual has a fiduciary responsibility to assure the continuation of necessary care.

Failure of an individual who is responsible to provide care or services to make a reasonable effort to protect an adult from abuse.

An elderly person who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall, for this reason alone, not be considered subjected to abuse by reason of neglect as defined in these rules.

### **Self neglect**

Self neglect is the inability of a person to understand the consequences of his or her actions or inaction when that inability leads to or may lead to harm or endangerment to self or others.

### **Abandonment**

Abandonment is desertion or willfully leaving an adult alone by a caregiver that would place the adult in serious risk of harm. It is a specific form of neglect.

### **Verbal or emotional abuse**

Verbal or emotional abuse is the intentional infliction of anguish, distress or intimidation through verbal or non-verbal acts or denial of personal rights.

Verbal or emotional abuse includes threatening significant physical harm or threatening or causing significant emotional harm to an adult through the use of: derogatory or inappropriate

names, insults, verbal assaults, profanity, or ridicule; or harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

Conduct that may be considered verbal or emotional abuse includes but is not limited to the use of oral, written, or gestured communication that is directed to an adult or within their hearing distance, regardless of their ability to comprehend.

The emotional harm that may result from verbal or emotional abuse includes but is not limited to anguish, distress, fear, unreasonable emotional discomfort, loss of personal dignity, or loss of autonomy.

### **Financial exploitation**

Financial exploitation is the illegal or improper use, by means including but not limited to deceit, theft, coercion, fraud, or undue influence, of an adult's resources (including medications).

The Attorney General's office also has a consumer hotline for financial fraud issues.

Financial exploitation means wrongfully taking, by means including but not limited to deceit, trickery, subterfuge, coercion, harassment, duress, fraud, or undue influence, the assets, funds, property, or medications belonging to or intended for the use of an adult;

Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out;

Misappropriating or misusing any money from any account held jointly or singly by an adult; or

Failing to use income or assets of an adult for the benefit, support, and maintenance of the adult.

## **Sexual abuse**

Sexual abuse is non-consensual sexual contact, sexual harassment, inappropriate sexual comments, and threats. These activities are considered non-consensual if the person does not make, or is incapable of making an informed choice.

Sexual abuse is sexual contact with a non-consenting adult or with an adult considered incapable of consenting to a sexual act. Consent, for purposes of this definition, means a voluntary agreement or concurrence of wills. Mere failure to object does not, in and of itself, constitute an expression of consent; further, sexual abuse is:

Sexual harassment or sexual exploitation of an adult or inappropriately exposing an adult to, or making an adult the subject of, sexually explicit material or language;

Any sexual contact between an employee or volunteer of a facility or caregiver and an adult served by the facility or caregiver, unless a pre-existing relationship existed. Sexual abuse does not include consensual sexual contact between an adult and a caregiver who is the spouse or domestic partner of the adult;

Any sexual contact that is achieved through force, trickery, threat, or coercion

## **Involuntary seclusion**

Involuntary seclusion means confinement, restriction, or isolation of an adult for the convenience of a caregiver or to discipline the adult.

Involuntary seclusion may include: Confinement or restriction of an adult to his or her room or a specific area; or placing restrictions on an adult's ability to associate, interact, or communicate with other individuals.

In a facility, emergency or short-term, monitored separation from other residents may be permitted if used for a limited period of time when: used as part of the care plan after other interventions have been attempted; used as a de-escalating intervention until the facility can evaluate the behavior and develop care plan interventions to meet the resident's needs; or the resident needs to be secluded from certain areas of the facility when their presence in that specified area would pose a risk to health or safety.

### **Wrongful restraint**

Wrongful restraint means the use of physical (i.e. tying, holding) or chemical (i.e. sedation) means to limit the movement of an adult for the convenience or discipline of the caregiver.

A wrongful use of a physical or chemical restraint includes situations where: (i) A licensed health professional has not conducted a thorough assessment prior to implementing a licensed physician's prescription for restraint; (ii) Less restrictive alternatives have not been evaluated prior to the use of the restraint; or (iii) The restraint is used for convenience or discipline.

Physical restraints may be permitted if used when a resident's actions present an imminent danger to self or others and only until immediate action is taken by medical, emergency, or police personnel.

## **Abuse and Neglect Resources**

- National Center on Elder Abuse (NCEA)

The National Center on Elder Abuse (NCEA) serves as a national resource center dedicated to the prevention of elder mistreatment. Find FAQs, Help Hotline, ElderCare Locator and more.

- National Committee for the Prevention of Elder Abuse (NCPEA)

The NCPEA is one of three partners that make up the National Center on Elder Abuse, funded by Congress to serve as the nation's clearinghouse on information and materials on abuse and neglect.

- Videos to order

Videos in VHS format are available to order. Topics include abuse and financial exploitation of older persons and persons with disabilities. They illustrate specific scenarios and provide information for prevention and response.

- The Community Abuse Rule: A Training for Families Receiving Services (Video)

A training for Families Receiving Services, an abuse prevention and educational tool for families with adult children with intellectual and/or developmental disabilities.

## References

Childhelp - 'Childhelp exists to meet the physical, emotional, educational and spiritual needs of abused, neglected and at-risk children. We focus our efforts on advocacy, prevention, treatment and community outreach.'

NYS OCFS New York State Mandated Reporter Summary Guide - 'Mandated Reporter Information - NYS OCFS Child Abuse Prevention Summary Guide for Mandated Reporters in New York State'

New York State Mandated Reporter Training

LADCSS.org - 'APS (adult protective services) Mandated Reporters: The following information applies to Mandated Reporters, who are required by law to report elder/dependent adult abuse', Los Angeles County, California Department of Community and Senior Services

Illinois Online Mandated Reporter Training - Illinois Department of Children and Family Services online Mandated Reporter Training

Maine Mandated Reporter Training - Mandated Reporter training in Maine

Mandated Reporter video and online training resource - 'Recognizing and Reporting Child Abuse and Child Sexual Abuse'