



pennsylvania

DEPARTMENT OF HUMAN SERVICES

SUBJECT: Mandatory reporting requirements regarding abuse, neglect, exploitation or abandonment of adults covered by the Adult Protective Services Act of 2010

TO: Employees and administrators of facilities as defined by the Adult Protective Services Act (Act 70 of 2010). Refer to the definition section of this document to review the definition of an *employee, administrator and facility*.

FROM: Bureau of Human Services Licensing, Division of Adult Protective Services

PURPOSE

To notify employees and administrators of facilities (including an organization or group of people that uses public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting) of the mandatory reporting requirements set forth in the Adult Protective Services (APS) Act. Forms and instructions are available on the Department's website at www.dhs.pa.gov under Report Abuse>Adult Protective Services.

BACKGROUND

In 2010, the APS Act was implemented to provide for the protection of abused, neglected, exploited or abandoned adults. The APS Act protects residents of this Commonwealth between 18 and 59 years of age who have a physical or mental impairment that substantially limits one or more major life activities. This notice applies to individuals falling within this population only.

IMMEDIATE ACTION

An administrator or employee of a facility who observes suspected abuse, neglect, exploitation or abandonment or has reasonable cause to suspect that abuse or neglect has occurred will immediately assure the recipient's health and safety. After assisting the recipient, an employee or administrator will follow the reporting requirements set forth in the APS Act.

REPORTING REQUIREMENTS

A. General Requirements

1. An administrator or employee who has reasonable cause to suspect that a recipient is a victim of abuse, neglect, exploitation or abandonment will immediately make an oral report to the statewide Protective Services Hotline by calling **1-800-490-8505**. Once the report is made it will be referred to the APS agency (Liberty Healthcare). Please note this hotline should only be used for reporting abuse, neglect, exploitation and abandonment. Any questions should be emailed to RA-PWAPSQuestions@pa.gov or please call 717-783-3670. Any questions requiring immediate attention outside of regular business hours should be directed to Liberty Healthcare's on call staff at **1-888-243-6561**. Please note this number should only be used for emergency situations requiring immediate attention.



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2. Within 48 hours of making the oral report to the hotline, the administrator or employee will fax a written report to **484-434-1590** or email the report to Liberty Healthcare at: mandatoryron@libertyhealth.com. The written report can be one of the following:
 - The mandatory reporting form found on the Department's website at www.dhs.pa.gov under Report Abuse>Adult Protective Services;
 - An administrator or employee of a nursing facility, licensed by Department of Health, may submit a PB-22 form; or
 - An administrator or employee may submit a Home and Community Services Information System (HCSIS) incident report (Printable Summary) or an Enterprise Incident Management (EIM) report.
3. An administrator or employee of a facility will continue to follow all other required reporting and incident management regulations, policies, and procedures.

B. Additional Reporting Requirements as required by the Adult Protective Services Law

In addition to the general reporting requirements in section A, an administrator or employee who has reasonable cause to suspect that a recipient is the victim of sexual abuse, serious injury, serious bodily injury or that a death is suspicious, will also:

1. Immediately make an oral report to law enforcement officials. An employee will also immediately notify the facility administrator or a designee following a report to law enforcement officials, unless such notification would jeopardize the investigation or subject the recipient to further risk.
2. Immediately make an oral report to the Department of Human Services/Adult Protective Services Division by calling the mandatory abuse reporting line at **717-265-7887 and selecting option #3**. Provide the following information:
 - a. The caller's name (please spell the name) and telephone number
 - b. The name of the facility
 - c. The alleged victim's name (please spell the victim's name)
 - d. The alleged victim's date of birth
 - e. The type(s) of alleged abuse or neglect (please provide only the type of abuse or neglect, the specific details are not needed for this additional reporting step)
 - f. The date and time of the oral report to law enforcement officials.
3. Within 48 hours of making the oral report to law enforcement, the administrator or employee will send a written report to law enforcement. The written report can be one of the following:
 - The mandatory reporting form found on the Department's website at www.dhs.pa.gov under Report Abuse>Adult Protective Services;
 - An administrator or employee of a nursing facility, licensed by Department of Health, may submit a PB-22 form; or



- An administrator or employee may submit a Home and Community Services Information System (HCSIS) incident report (Printable Summary) or an Enterprise Incident Management (EIM) report.

QUESTIONS AND ADDITIONAL INFORMATION

Questions or requests for additional information regarding the Adult Protective Services program can be sent to the following email address: RA-PWAPSQuestions@pa.gov, or please call **717-783-3670**.

ADULT PROTECTIVE SERVICES ACT DEFINITIONS

Abandonment – The desertion of an adult by a caregiver.

Abuse – The occurrence of one or more of the following acts: (1) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish. (2) The willful deprivation by a caregiver of goods or services which are necessary to maintain physical or mental health. (3) Sexual harassment, rape or abuse as the term is defined in 23 Pa.C.S. § 6102 (relating to definitions). The term does not include environmental factors which are beyond the control of an adult or a caregiver, including, but not limited to, inadequate housing, furnishings, income, clothing or medical care.

Administrator – The person responsible for the administration of a facility. The term also includes a person responsible for employment decisions or an independent contractor.

Adult – A resident of this Commonwealth between 18 and 59 years of age who has a physical or mental impairment that substantially limits one or more major life activities.

Agency – A local contracted provider of protective services.

Department – The Department of Human Services.

Employee – An individual who is employed by a facility. The term includes: (1) Contract employees who have direct contact with residents or unsupervised access to their personal living quarters. (2) Persons employed or contracted to provide care to an adult for monetary consideration in the adult's place of residence.

Exploitation – An act or course of conduct by a caregiver or other person against an adult or an adult's resources, without the informed consent of the adult or with consent obtained through misrepresentation, coercion or threats of force that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the adult.

Facility – The term includes, but is not limited to:

- Assisted Living Residence
- Domiciliary Care Home
- Home Health Care Agency or Home Care Agency
- Intermediate Care Facility for people with intellectual disability or with other related conditions
- Long-Term Care Nursing Facility
- Older Adult Daily Living Center
- Personal Care Home
- Residential Treatment Facility
- **An organization or group of people that uses public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting**

Neglect – The failure to provide for oneself or the failure of a caregiver to provide goods, care or services essential to avoid a clear and serious threat to the physical or mental health of an adult. The term does not include environmental factors that are beyond the control of an adult or the caregiver, including, but not limited to, inadequate housing, furnishings, income, clothing or medical care.

Recipient – An adult who receives care, services or treatment in or from a facility.

Serious Bodily Injury – Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

Serious Injury – An injury that causes a person severe pain; or significantly impairs a person’s physical functioning, either temporarily or permanently.

Sexual Abuse – Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault or incest.

Rape: A person commits rape when he or she engages in sexual intercourse with a complainant: (1) by forcible compulsion; (2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4) where the person has substantially impaired the complainant’s power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5) who suffers from a mental disability which renders the complainant incapable of consent; (6) who is less than 13 years of age.

Involuntary Deviate Sexual Intercourse: A person commits involuntary deviate sexual intercourse when he or she engages in deviate sexual intercourse with a complainant: (1) by forcible compulsion [forcible compulsion includes but is not limited to compulsion resulting in another person’s death, whether the death occurred before, during or after sexual intercourse]; (2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4) where the person has substantially impaired the complainant’s



power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5) who suffers from a mental disability which renders him or her incapable of consent; (6) who is less than 13 years of age, or (7) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

Sexual Assault: Except as provided under the definitions relating to Rape and Involuntary Deviate Sexual Intercourse, a person commits sexual assault when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

Statutory Sexual Assault: Except as provided under the definition of Rape, a person commits statutory sexual assault when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is four or more years older than the complainant and the complainant and the person are not married to each other.

Aggravated Indecent Assault: Except as provided under the definitions relating to Rape, Statutory Sexual Assault, Involuntary Deviate Sexual Intercourse, and Sexual Assault, a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical hygienic or law enforcement procedures commits aggravated indecent assault if: (1) the person does so without the complainant's consent; (2) the person does so by forcible compulsion; (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring; (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing without the knowledge of the complainant, drugs, intoxicants or other means for the purposes of preventing resistance; (6) the complainant suffers from a mental disability which renders him or her incapable of consent; (7) the complainant is less than 13 years of age; or (8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

Incest: A person commits incest if he or she knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood. The relationships referred to include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

Sexual Harassment – Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. **NOTE: Sexual harassment is an abuse that requires reporting to the protective services hotline; however, the APS Act makes a distinction between sexual harassment and sexual abuse—sexual abuse is considered one of the 4 serious and requires additional reporting steps to the Department of Human Services/Adult Protective Services Division and local law enforcement (see Section B beginning on page 2).**