MANDATORY REPORTING OF SUSPECTED ELDER ABUSE

WHAT SERVICE PROVIDERS NEED TO KNOW

WHO MUST REPORT

Mandatory reporting is required for anyone who provides services (whether paid or unpaid) to at-risk elders and at-risk adults with IDD.

At-risk elder : Any person 70 years of age or older.

At-risk adults with IDD: An individual 18 years of age or older who is susceptible to mistreatment or self-neglect because the individual is unable to perform or obtain services necessary for his or her health, safety, or welfare, or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs.

WHAT MUST BE REPORTED

These service providers are required to report abuse or exploitation that they have observed, or *have reasonable cause to believe* has occurred, or that they *believe* is at imminent risk of occurring.

Abuse

- Non-accidental infliction of bodily injury or death
- Unreasonable confinement or restraint
- Caretaker neglect
- Unlawful sexual conduct or contact

Exploitation

An act or omission that:

- Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk adult of the use, benefit, or possession of any thing of value; or
- Employs the services of a third party for the profit or advantage of the person or another person to the detriment of the at-risk adult; or
- Forces, compels, coerces, or entices an at-risk adult to perform services for the profit or advantage of the person or another person against the will of the at-risk adult; or
- Misuses the property of an at-risk adult in a manner that adversely affects the at-risk adult's ability to receive health care or health-care benefits or to pay bills for basic needs or obligations.

HOW TO MAKE A REPORT

Any person who is required to report must do so **within 24 hours** after making the observation or discovery of the abuse. **The report should be made to the police department or sheriff's office in the county where the abuse took place.** Reporting to Adult Protective Services or other agencies does not meet the statutory requirement for reporting by a mandatory reporter.

The reporter does not need to investigate the abuse. You do not need to be certain of the at-risk adult's age or that the adult has an intellectual and developmental disability. When reporting abuse or exploitation of an at-risk adult, the person making the report should have as much of the following information ready as possible:

- Name, age, and address of the at-risk adult;
- Name and contact information of the at-risk adult's caretaker, if any;
- The age, if known, of the at-risk adult;
- The nature and extent of the at-risk adult's injury, if any;
- Name or description of the person who is potentially inflicting the abuse;
- The nature and extent of the condition that will reasonably result in mistreatment or self-neglect;

If the person who discovers or observes the abuse knows that someone else has already reported the same abuse or exploitation to police, that person is not required to report his or her observations.

The mandatory reporting requirement does not apply in cases where the reporter believes the abuse has been caused by self-neglect. Self-neglect is defined as an act or failure to act whereby an at-risk adult endangers his or her own health, safety, welfare, or life by not seeking or obtaining services necessary to meet his or her essential human needs.

WHAT HAPPENS NEXT?

Within 24 hours of receiving a report of abuse or exploitation of an at-risk adult, the law enforcement agency must notify the Adult Protective Services (APS) department of the county where the at-risk adult's residence is located or where the abuse or exploitation occurred. The law enforcement agency will also notify the District Attorney of the report to APS, complete a criminal investigation when appropriate, and provide a summary report of the investigation.

IMMUNITY

If the report is made in good faith, there is immunity from suit and liability for damages in civil actions and criminal prosecution. If the reporter is the perpetrator, then immunity does not apply.

PENALTY FOR FAILING TO REPORT

If a person willfully violates the statute and fails to report, he or she can be charged with a Class 3 misdemeanor. This type of misdemeanor may result in a fine ranging anywhere from $50 to $750, or up to six months in the county jail, or both.

MANDATORY REPORTERS

Mandatory reporters have a vital role in helping to end elder abuse or exploitation and preventing further harm to vulnerable adults in our community. Mandatory reporters include:

- Health care providers, including emergency health care providers;
- Caregivers (including unpaid family members), staff members, employees, or consultants for a home care placement agency;
- Medical examiners and coroners;
- Nurses and nurse practitioners;
- Dental, vision, pharmacy, or chiropractic service providers;
- Psychologists and other mental health professionals;
- Social workers;
- Staff, consultants, or independent contractors of service agencies;
- Community-centered board staff;
- Court-appointed guardians and conservators;
- First responders, including fire protection personnel;
- Law enforcement officers and victim advocates;
- Persons performing case management or assistance services;
- Care facility staff members or consultants;
- Financial institution personnel; and
- Members of the clergy, under specific circumstances.

LEGAL DEFINITIONS

CARETAKER

Means a person who:

- Is responsible for the care of an at-risk adult as a result of a legal relationship; or
- Has assumed responsibility for the care of an at-risk adult; or
- Is paid to provide care, services, or oversight of services to an at-risk adult.

CARETAKER NEGLECT

When adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health or safety of the at-risk adult is not secured for an at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise, or a caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an at-risk adult.

- The withholding, withdrawing, or refusing of any medication, any medical procedure or device, or any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, **is not deemed caretaker neglect.**

CRIMINAL NEGLIGENCE

A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

SELF-NEGLECT

Means an act or failure to act whereby an at-risk adult substantially endangers his or her health, safety, welfare, or life by not seeking or obtaining services necessary to meet his or her essential human needs. Choice of lifestyle or living arrangements shall not, by itself, be evidence of self-neglect.

- Lifestyle choices alone do not indicate self-neglect. Additionally, refusing medical treatment, medications, or food and water in specific contexts, such as life-limiting illnesses, does not constitute self-neglect if done in accordance with medical directives or care plans.

UNDUE INFLUENCE

Means the use of influence to take advantage of an at-risk adult's vulnerable state of mind, neediness, pain, or emotional distress.