

Mandatory Reporting Requirements: The Elderly Colorado

Last Updated: April 2023

| Question | Answer |
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| Who is required to report? | <ul style="list-style-type: none"> • Any of the following, whether paid or unpaid, who observes the mistreatment of an at-risk elder or an at-risk adult with intellectual and developmental disability (IDD), or who has reasonable cause to believe that an at-risk elder or an at-risk adult with IDD has been mistreated or is at imminent risk of mistreatment shall report such fact: <ul style="list-style-type: none"> • Any person providing health care or health-care-related services, including general medical, surgical, or nursing services; medical, surgical, or nursing specialty services; dental services; vision services; pharmacy services; chiropractic services; naturopathic medicine services; or physical, occupational, musical, or other therapies; • Hospital and long-term care facility personnel engaged in the admission, care, or treatment of patients; • First responders, including emergency medical service providers, fire protection personnel, law enforcement officers, and persons employed by, contracting with, or volunteering with any law enforcement agency, including victim advocates; • Medical examiners and coroners; • Code enforcement officers; • Veterinarians; • Psychologists, addiction counselors, professional counselors, marriage and family therapists, and registered psychotherapists, as those persons are defined in article 245 of title 12; • Social workers, as defined in part 4 of article 245 of title 12; • Staff of case management agencies, as defined in section 25.5-6-1702; • Staff, consultants, or independent contractors of service agencies as defined in section 25.5-10-202(34), C.R.S.; • Staff or consultants for a licensed or unlicensed, certified or uncertified, care facility, agency, home, or governing board, including but not limited to long-term care facilities, home care agencies, or home health providers; • Staff of, or consultants for, a home care placement agency, as defined in section 25-27.5-102(5), C.R.S.; • Persons performing case management or assistant services for at-risk elders or at-risk adults with IDD; • Staff of county departments of human or social services; • Staff of the state departments of human services, public health and environment, or health care policy and financing; • Staff of senior congregate centers or senior research or outreach organizations; |

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| | <ul style="list-style-type: none"> • Staff, and staff of contracted providers, of area agencies on aging, except attorneys at law providing legal assistance to individuals pursuant to a contract with an area agency on aging, the staff of such attorneys at law, and the long-term care ombudsmen; • Employees, contractors, and volunteers operating specialized transportation services for at-risk elders and at-risk adults with IDD; • Court-appointed guardians and conservators; • Personnel at schools serving persons in preschool through twelfth grade; • Clergy members; except that the reporting requirement does not apply to a person who acquires reasonable cause to believe that an at-risk elder or an at-risk adult with IDD has been mistreated or has been exploited or is at imminent risk of mistreatment or exploitation during a communication about which the person may not be examined as a witness, unless the person also acquires such reasonable cause from a source other than such a communication; • Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions: <ul style="list-style-type: none"> • who directly observe in person the mistreatment of an at-risk elder or an at-risk adult with IDD; or • who have reasonable cause to believe that an at-risk elder has been mistreated or is at imminent risk of mistreatment; or • who have reasonable cause to believe that an at-risk adult with IDD has been mistreated or is at imminent risk of mistreatment by reason of actual knowledge of facts or circumstances indicating the mistreatment. |
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When is a report required and where does it go?

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| <p>When is a report required?</p> <ul style="list-style-type: none"> • A specified person who observes the mistreatment of an at-risk elder or an at-risk adult with IDD, or there is reasonable cause to believe that an at-risk elder or an at-risk adult with IDD has been mistreated or is at imminent risk of mistreatment, shall report such fact to a law enforcement agency. • A specified person who observes the mistreatment or self-neglect of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated or is self-neglecting and is at imminent risk of mistreatment or self-neglect <u>is urged</u> to report such fact to a county department not more than twenty-four hours after making the observation or discovery. • A specified person is <i>not</i> required to report the mistreatment of an at-risk elder or an at-risk adult with IDD if the person knows that another person has already reported to a law enforcement agency the same mistreatment that would have been the basis of the person's own report. <p>Where does it go?</p> <ul style="list-style-type: none"> • For at-risk elders and at-risk adults with IDD, reports shall be made to a law enforcement agency. • For at-risk adults, reports should be made to the county department. County intake numbers can be found at: https://www.ccerap.org/aps-intake-phone-numbers/ • Questions regarding reporting can be sent to: cdhs_aps_questions@state.co.us |
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What definitions are important to know?

- **“Abuse”** means any of the following acts or omissions committed against an at-risk person:
 - (a) The non-accidental infliction of bodily injury, serious bodily injury, or death;
 - (b) Confinement or restraint that is unreasonable under generally accepted caretaking standards; or
 - (c) Subjection to sexual conduct or contact classified as a crime under this title.
- **“Abuse”** means any of the following acts or omissions committed against a person with an intellectual and developmental disability:
 - (a) The nonaccidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;
 - (b) Confinement or restraint that is unreasonable under generally accepted caretaking standards; or
 - (c) Unlawful sexual behavior as defined in [section 16-22-102\(9\)](#).
- **“At-risk adult”** means any person who is seventy years of age or older or any person who is eighteen years of age or older and is a “person with a disability.”
- **“Person with a disability”** means any person who:
 - Is impaired because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision of both eyes to such a degree as to constitute virtual blindness;
 - Is unable to walk, see, hear, or speak;
 - Is unable to breathe without mechanical assistance;
 - Has an intellectual and developmental disability;
 - **“Intellectual and developmental disability”** means a disability that manifests before the person reaches 22 years of age, that constitutes a substantial disability to the affected person, and that is attributable to an intellectual and developmental disability or related conditions, including Prader-Willi syndrome, cerebral palsy, epilepsy, autism, or other neurological conditions when those conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability.
 - Has a mental health disorder;
 - **“Mental health disorder”** includes one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. An intellectual or developmental disability is insufficient to either justify or exclude a finding of a mental health disorder.
 - Is mentally impaired;
 - **“Mentally impaired”** means any behavioral, mental, or psychological disorder, such as an intellectual and developmental disability, organic brain syndrome, behavioral or mental health disorder, or specific learning disability.
 - Is blind;
 - **“Blind”** means any individual who has not more than ten percent visual acuity in the better eye with correction, or not more than 20/200 central visual acuity in the better eye with correction, or a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.
 - Is receiving care and treatment for a developmental disability.

- **“At-risk adult with IDD”** means a person who is eighteen years of age or older and is a person with an intellectual and developmental disability.
- **“At-risk elder”** means any person who is seventy years of age or older.
- **“At-risk person”** means an at-risk adult, an at-risk adult with IDD, an at-risk elder, or an at-risk juvenile.
- **“Caretaker neglect”** means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health and safety of a person with an intellectual and developmental disability is not secured for a person with an intellectual and developmental disability 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 with an intellectual and developmental disability.

Notwithstanding the provisions above, 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, and artificial nutrition and hydration, in accordance with any valid medical directive or order or as described in a palliative plan of care, is not deemed caretaker neglect.

“Medical directive or order” includes a medical durable power of attorney, a declaration as to medical treatment executed pursuant to [section 15-18-104, C.R.S.](#), a medical order for scope of treatment form, and a CPR directive.

- **“Developmental disability”** and **“Intellectual and developmental disability”** both mean a disability that manifests before the person reaches 22 years of age, that constitutes a substantial disability to the affected person, and that is attributable to an intellectual and developmental disability or related conditions, including Prader-Willi syndrome, cerebral palsy, epilepsy, autism, or other neurological conditions when the condition or conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability.
- **“Exploitation”** means an act or omission committed by a person who:
 - Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk person/person with an intellectual and developmental disability of the use, benefit, or possession of anything of value;
 - 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 person/person with an intellectual and developmental disability;
 - Forces, compels, coerces, or entices an at-risk person/person with an intellectual and developmental disability to perform services for the profit or advantage of the person or another person against the will of the at-risk person; or
 - Misuses the property of an at-risk person/person with an intellectual and developmental disability in a manner that adversely affects the at-risk person’s ability to receive health care or health care benefits or to pay bills for basic needs or obligations.
- **“IDD”** means intellectual and developmental disability.
- **“Mistreated”** or **“mistreatment”** means:
 - Abuse;

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| | <ul style="list-style-type: none"> • Caretaker neglect; or • Exploitation; • “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. Refusal of medical treatment, medications, devices, or procedures by an adult or on behalf of an adult by a duly authorized surrogate medical decision maker or in accordance with a valid medical directive or order, or as described in a palliative plan of care, shall not be deemed self-neglect. Refusal of food and water in the context of a life-limiting illness shall not, by itself, be evidence of self-neglect. As used in this subsection, “medical directive or order” includes, but is not limited to, a medical durable power of attorney, a declaration as to medical treatment, medical orders for scope of treatment form, and a CPR directive. • “Unlawful abandonment” means the intentional and unreasonable desertion of an at-risk person in a manner that endangers the safety of that person. |
| <p>What timing and procedural requirements apply to reports?</p> | <ul style="list-style-type: none"> • For reports involving at-risk elders and at-risk adults with IDD, reports shall be made not more than 24 hours after making the observation or discovery. |
| <p>What information must a report include?</p> | <p>For reports involving at-risk elders and at-risk adults with IDD.</p> <ul style="list-style-type: none"> • The name, age, address, and contact information of the at-risk elder or at-risk adult with IDD; • The name, age, address, and contact information of the person making the report; • The name, age, address, and contact information of the caretaker of the at-risk elder or at-risk adult with IDD, if any; • The name of the alleged perpetrator; • The nature and extent of any injury, whether physical or financial, to the at-risk elder or at-risk adult with IDD; • The nature and extent of the condition that required the report to be made; and • Any other pertinent information. |
| <p>Anything else I should know?</p> | <ul style="list-style-type: none"> • An identified person who knowingly makes a false report of mistreatment of an at-risk elder or an at-risk adult with IDD to a law enforcement agency commits a class 2 misdemeanor (subject to a maximum of \$750.00 fine, 120 days in prison, or both) and is liable for damages proximately caused thereby. • A person who willfully violates the reporting obligations commits a Class 2 misdemeanor and shall be punished and thus subject to a maximum of \$750.00 fine, 120 days in prison, or both. • In addition to those persons urged to report known or suspected mistreatment or self-neglect of an at-risk adult and circumstances or conditions that might reasonably result in mistreatment or self-neglect, any other person may report such known or suspected mistreatment or self-neglect and circumstances or conditions that might reasonably result in mistreatment or self-neglect of an at-risk adult to the local law enforcement agency or the county department. Upon receipt of such report, the |

receiving agency shall prepare a written report within forty-eight hours.

- Any person who knowingly commits caretaker neglect against an at-risk person or knowingly acts in a manner likely to be injurious to the physical or mental welfare of an at-risk person commits a class 1 misdemeanor.
- A person who unlawfully abandons an at-risk person commits a class 1 misdemeanor.
- A person commits false imprisonment of an at-risk person if without proper legal authority:
 - The person knowingly confines or detains an at-risk person in a locked or barricaded room or other space; and such confinement or detention was part of a continued pattern of cruel punishment or unreasonable isolation or confinement of the at-risk person; or
 - The person knowingly and unreasonably confines or detains an at-risk person by tying, caging, chaining, or otherwise using similar physical restraints to restrict the at-risk person's freedom of movement; or
 - The person knowingly and unreasonably confines or detains an at-risk person by means of force, threats, or intimidation designed to restrict the at-risk person's freedom of movement.
- Any person, except a perpetrator, complicitor, or coconspirator, who makes a report shall be immune from any civil or criminal liability on account of such report, testimony, or participation in making such report, so long as such action was taken in good faith and not in reckless disregard of the truth.

Statutory
citation(s):

Colo. Rev. Stat. §§ 18-1.3-501; 18-6.5-102, 18-6.5-108; 24-34-501; 25.5-10-202; 26-3.1-101;
26-3.1-102; 27-65-102.