

Mandatory Reporting Requirements: The Elderly Florida

Last Updated: March 2020

Question	Answer
Who is required to report?	<p>Any person, including, but not limited to, any:</p> <ul style="list-style-type: none"> • Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, paramedic, emergency medical technician, or hospital personnel engaged in the admission, examination, care, or treatment of vulnerable adults; • Health professional or mental health professional; • Practitioner who relies solely on spiritual means for healing; • Nursing home staff, assisted living facility staff, adult day care center staff, adult family-care home staff, social worker, or other professional adult care, residential, or institutional staff; • State, county, or municipal criminal justice employee or law enforcement officer; • An employee of the Department of Business and Professional Regulation conducting inspections of public lodging establishments; • A Florida advocacy council or Disability Rights Florida member or a representative of the State Long-Term Care Ombudsman Program; or • Bank, savings and loan, or credit union officer, trustee, or employee.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • When any person has knowledge or reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited. <p>Where does it go?</p> <ul style="list-style-type: none"> • Reports shall be made to the central abuse hotline on the single statewide toll-free telephone number (1-800-962-2873). • Reports may also be made online: https://reportabuse.dcf.state.fl.us/Adult/AdultForm.aspx • General information is available at: http://www.myflfamilies.com/service-programs/abuse-hotline/report-online. • Any person who has reasonable cause to suspect that a vulnerable adult died as a result of abuse, neglect, or exploitation shall immediately report the suspicion to the appropriate medical examiner, to the appropriate criminal justice agency, and to the department, notwithstanding the existence of a death certificate signed by a practicing physician

What definitions are important to know?

- **“Abuse”** means any willful or threatened act or omission by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult’s physical, mental, or emotional health. Abuse includes acts and omissions.
- **“Caregiver”** means a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a vulnerable adult on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person’s guardian that a caregiver role exists.
- **“Exploitation”** means a person who:
 - Stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or
 - Knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.

May include, but is not limited to:

- Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property;
 - Unauthorized taking of personal assets;
 - Misappropriation, misuse, or transfer of moneys belonging to a vulnerable adult from a personal or joint account; or
 - Intentional or negligent failure to effectively use a vulnerable adult’s income and assets for the necessities required for that person’s support and maintenance.
- **“False report”** means a report of abuse, neglect, or exploitation of a vulnerable adult to the central abuse hotline which is not true and is maliciously made for the purpose of:
 - Harassing, embarrassing, or harming another person;
 - Personal financial gain for the reporting person;
 - Acquiring custody of a vulnerable adult; or
 - Personal benefit for the reporting person in any other private dispute involving a vulnerable adult.
 - **“Neglect”** means the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult.
 - **“Neglect”** also means the failure of a caregiver or vulnerable adult to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. “Neglect” is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury or a substantial risk of death.

	<ul style="list-style-type: none"> • “Psychological injury” means an injury to the intellectual functioning or emotional state of a vulnerable adult as evidenced by an observable or measurable reduction in the vulnerable adult's ability to function within that person's customary range of performance and that person's behavior. • “Sexual abuse” means acts of a sexual nature committed in the presence of a vulnerable adult without that person's informed consent. <ul style="list-style-type: none"> • Includes, but is not limited to, sexual battery, fondling, exposure of a vulnerable adult's sexual organs, or the use of a vulnerable adult to solicit for or engage in prostitution or sexual performance. • Does not include any act intended for a valid medical purpose or any act that may reasonably be construed to be normal caregiving action or appropriate display of affection. • “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose. • “Vulnerable adult” means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. • “Vulnerable adult in need of services” means a vulnerable adult who has been determined by a protective investigator to be suffering from the ill effects of neglect not caused by a second party perpetrator and is in need of protective services or other services to prevent further harm.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Reports must be made immediately.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • Name, age, race, sex, physical description, and location of each victim alleged to have been abused, neglected, or exploited; • Names, addresses, and telephone numbers of the victim's family members; • Name, address, and telephone number of each alleged perpetrator; • Name, address, and telephone number of the caregiver of the victim, if different from the alleged perpetrator; • Name, address, and telephone number of the person reporting the alleged abuse, neglect, or exploitation; • Description of the physical or psychological injuries sustained; • Actions taken by the reporter, if any, such as notification of the criminal justice agency; and • Any other information available to the reporting person that may establish the cause of abuse, neglect, or exploitation that occurred or is occurring.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Any person who participates in making a report under this chapter or participates in a judicial proceeding resulting therefrom is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from any liability, civil or criminal, that otherwise might be incurred or imposed. • A resident or employee of a facility that serves vulnerable adults may not be subjected to reprisal or

- discharge because of the resident's or employee's actions in reporting abuse, neglect, or exploitation.
- Any person who makes a report under this chapter has a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of the reporting party's making the report.
 - Any detrimental change made in the residency or employment status of such a person, such as, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations, within 120 days after the report is made establishes a rebuttable presumption that the detrimental action was retaliatory.
 - Any person required to report who knowingly and willfully fails to report known or suspected abuse, neglect or exploitation of a vulnerable adult, or who knowingly or willfully prevents another from doing so, commits a misdemeanor in the second degree.
 - A person who knowingly and willfully makes a false report of abuse, neglect, or exploitation of a vulnerable adult, or a person who advises another to make a false report, commits a felony of the third degree, unless that person was acting in good faith.
 - Nothing in this chapter shall be construed to mean a person is abused, neglected, or in need of emergency or protective services for the sole reason that the person relies upon and is, therefore, being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a well-recognized church or religious denomination or organization; nor shall anything in such sections be construed to authorize, permit, or require any medical care or treatment in contravention of the stated or implied objection of such person.
 - Requirement to report is not eliminated in such cases

Statutory citation(s):

- Adult Protective Services Act, Fla. Stat. §§ 415.102, 415.1034, 415.1036, 415.111, 415.113.