

Mandatory Reporting Requirements: The Elderly Hawaii

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Question	Answer
Who is required to report?	<p>Any of the following persons, if they learn of the abuse in the performance of their professional or official duties:</p> <ul style="list-style-type: none"> • Any licensed or registered professional of the healing arts and any health-related occupation who examines, treats, or provides other professional or specialized services to a vulnerable adult, including physicians, physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals; • Employees or officers of any public or private agency or institution providing social, medical, hospital or mental health services, including financial assistance; • Employees or officers of any law enforcement agency, including the courts, police departments, correctional institutions, and parole or probation officers; • Employees or officers of any adult residential care home, adult day care center, or similar institution; • Medical examiners and coroners; and • Licensed social workers and non-licensed persons employed in a social worker position. • A financial institution whose employee or officer has direct contact with the elder or reviews or approves the elder's financial documents, records, or transactions, and within the scope of employment or professional practice: <ul style="list-style-type: none"> • Observes or has knowledge of an incident the officer or employee believes in good faith appears to be financial abuse; or • In the case of officers or employees who do not have direct contact with the elder, has a good faith suspicion that financial abuse has occurred or may be occurring, based solely on the information present at the time of reviewing or approving a document, record, or transaction.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • When a person required to report has knowledge of or reason to believe that a vulnerable adult has been abused or is in danger of abuse if immediate action is not taken. • When an officer or employee of a financial institution observes or has knowledge of or suspects, based on direct contact or a review of records, financial abuse that is directed towards, targets, or is committed against an elder. <p>Where does it go?</p> <ul style="list-style-type: none"> • An initial oral report must be made promptly to the Department of Human Services ("DHS") at 808-832-5115.

	<ul style="list-style-type: none"> • The oral report may be made by telephone to the applicable telephone number for each island: http://humanservices.hawaii.gov/ssd/home/adult-services/. • A written report to DHS is required as soon as possible following the oral report. <ul style="list-style-type: none"> • Instructions for the submission of such report on Form DHS 1640 may be found at: http://humanservices.hawaii.gov/ssd/home/adult-services/. • Suspected financial abuse shall be reported to the DHS (808-832-5115) and the appropriate county police department.
What definitions are important to know?	<ul style="list-style-type: none"> • “Abuse” means any of the following (separately or in combination): physical abuse, psychological abuse, sexual abuse, financial exploitation, caregiver neglect, or self-neglect (each of which has its own statutory definition). <ul style="list-style-type: none"> • “Abuse” does not include physical, psychological, or financial conditions that result when a vulnerable adult seeks, or when a caregiver provides or permits to be provided, treatment with the express consent of the vulnerable adult or in accordance with the vulnerable adult’s religious or spiritual practices. • “Caregiver” means any person who has knowingly and willingly assumed, on a part-time or full-time basis, the care, supervision or physical control of, or who has a legal contractual duty to care for, the health, safety and welfare of a vulnerable adult. • “Caregiver neglect” means the failure of a caregiver to exercise that degree of care for a vulnerable adult that a reasonable person with the responsibility of a caregiver would exercise within the scope of the caregiver’s assumed, legal or contractual duties, including but not limited to the failure to: <ul style="list-style-type: none"> • Assist with personal hygiene; • Protect the vulnerable adult from abandonment; • Provide, in a timely manner, necessary food, shelter, or clothing; • Provide, in a timely manner, necessary health care, access to health care, prescribed medication, psychological care, physical care, or supervision; • Protect the vulnerable adult from dangerous, harmful, or detrimental drugs, as defined in section 712-1240; provided that this paragraph shall not apply to drugs that are provided to the vulnerable adult pursuant to the direction or prescription of a practitioner, as defined in section 712-1240; • Protect the vulnerable adult from health and safety hazards; or • Protect the vulnerable adult from abuse by third parties. • “Elder” means a person who is 62 years of age or older. • “Financial abuse” means to wrongfully take, appropriate, obtain, or retain, or assist in taking, appropriating, obtaining or retaining, real or personal property of an elder by any means, including undue influence, or with intent to defraud the elder. • “Financial exploitation” means the wrongful taking, withholding, appropriation, or use of a vulnerable adult’s money, real property, or personal property, including but not limited to: <ul style="list-style-type: none"> • The breach of a fiduciary duty, such as the misuse of a power of attorney or the misuse of guardianship privileges, resulting in the unauthorized appropriation, sale, or transfer of property; • The unauthorized taking of personal assets;

	<ul style="list-style-type: none"> • The misappropriation or misuse of moneys belonging to the vulnerable adults from a personal or joint account; or • The failure to effectively use a vulnerable adult's income and assets for the necessities required for the vulnerable adult's support and maintenance, by a person with a duty to expend income and assets on behalf of the vulnerable adult for such purposes. <p>Financial exploitation may be accomplished through coercion, manipulation, threats, intimidation, misrepresentation, or exertion of undue influence.</p> <ul style="list-style-type: none"> • “Physical abuse” means (1) the non-accidental infliction of physical or bodily injury, pain, or impairment, including but not limited to hitting, slapping, causing burns or bruises, poisoning, or improper physical restraint; or (2) causing physical injuries that are not justifiably explained or where the history given for an injury is at variance with the degree or type of injury. • “Psychological abuse” means the infliction of mental or emotional distress by use of threats, insults, harassment, humiliation, provocation, intimidation, or other means that profoundly confuse or frighten a vulnerable adult. • “Self-neglect” means: <ul style="list-style-type: none"> • A vulnerable adult's inability or failure, due to physical or mental impairment, or both, to perform tasks essential to caring for oneself, including but not limited to: <ul style="list-style-type: none"> • Obtaining essential food, clothing, shelter, and medical care; • Obtaining goods and services reasonably necessary to maintain minimum standards of physical health, mental health, emotional well-being, and general safety; or • Management of one's financial assets and obligations to accomplish the activities in the two subsections above; and • The vulnerable adult appears to lack sufficient understanding or capacity to make or communicate responsible decisions and appears to be exposed to a situation or condition that poses an immediate risk of death or serious physical harm. • “Sexual abuse” means nonconsensual sexual contact or conduct caused by another person, including but not limited to: <ul style="list-style-type: none"> • Sexual assault, molestation, sexual fondling, incest, or prostitution; or • Pornographic photographing, filming, or depiction. • “Vulnerable adult” means a person 18 years of age or older who, because of mental, developmental, or physical impairment, is unable to: <ul style="list-style-type: none"> • Communicate or make responsible decisions to manage the person's own care or resources; • Carry out or arrange for essential activities of daily living; or • Protect oneself from abuse.
What timing and procedural requirements apply to reports?	<ul style="list-style-type: none"> • Oral report is to be made promptly. • Written report should follow oral report as soon as possible. • Suspected financial abuse shall be reported immediately or as soon as practicably possible.

What information must a report include?	<ul style="list-style-type: none"> • The name and address of the vulnerable adult; • The name and address of the party who is alleged to have committed or been responsible for the abuse; • The nature and the extent of the vulnerable adult's injury or harm; and • Any other information that the reporter believes may be helpful in establishing the cause of the abuse.
Anything else I should know?	<ul style="list-style-type: none"> • Any person may report an incident that the person has reason to believe involves abuse that came to the person's attention in a private or nonprofessional capacity. • Any person not required to report who has reason to believe that a vulnerable adult has incurred abuse or is in danger of abuse if immediate action is not taken may report the matter orally to the department. • No member of the clergy is required to report communications that are protected under Rule 506 of the Hawaii rules of evidence. <ul style="list-style-type: none"> • This rule privileges communications made to a member of the clergy in his or her capacity as a spiritual advisor. • Any person listed who is required to report, and who knowingly fails to report or who willfully prevents another person from reporting, shall be guilty of a petty misdemeanor. • Anyone participating in good faith in the making of a report of abuse of a vulnerable adult shall have immunity from liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such a report. • Any participant shall have the same immunity with respect to participation in any judicial proceeding resulting from that report. • A report made pursuant to this part, including the identity of the reporting person and all records of the report, shall be confidential.
Statutory citation(s):	<ul style="list-style-type: none"> • HRS §§ 346-222, 346-224, 346-225, 346-250, 412:3-114.5.