

Mandatory Reporting Requirements: The Elderly Maine

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Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any of the following persons, while <i>acting in a professional capacity</i>: <ul style="list-style-type: none"> • Allopathic or osteopathic physician; • Medical resident or intern; • Medical examiner; • Physician's assistant; • Dentist, dental hygienist, or dental assistant; • Chiropractor; • Podiatrist; • Registered or licensed practical nurse; • Certified nursing assistant; • Social worker; • Psychologist; • Pharmacist; • Physical therapist; • Speech therapist; • Occupational therapist; • Mental health professional; • Law enforcement official, corrections officer, or other person holding a certification from the Maine Criminal Justice Academy; • Emergency room personnel; • Ambulance attendant; • Emergency medical technician, or other licensed medical service provider; • Unlicensed assistive personnel; • A humane agent employed by the Department of Agriculture, Conservation and Forestry; • Member of the clergy acquiring the information as a result of clerical professional work (except for information learned through confidential communications); • Sexual assault counselors; • Family or domestic violence victim advocates; • Naturopathic doctor; • Respiratory therapist; • Court-appointed guardian or conservator; and • Chair of a professional licensing board that has jurisdiction over mandatory reporters; • Any person who has assumed full, intermittent, or occasional responsibility for the care and custody of

- the incapacitated or dependent adult, regardless of whether that person is compensated;
- Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether that person is compensated; and
- Any person providing transportation services as a volunteer or employee of an agency, business or other entity, regardless of whether the services are provided for compensation.
- A mandatory reporter acting in their professional capacity is not required to report when all of the following are met with respect to the individual believed to be causing the abuse, neglect or exploitation:
 - The factual basis for knowing or suspecting abuse, neglect or exploitation derives from the professional's treatment of the person suspected of causing the abuse, neglect or exploitation;
 - The treatment was sought by the person for a problem relating to the abuse, neglect or exploitation; and
 - Their opinion is that the abused, neglected or exploited adult's life or health is not immediately threatened.
- A mandatory reporter acting in their professional capacity is also not required to report when all of the following are met with respect to the individual believed to be the subject of the abuse, neglect or exploitation:
 - The factual basis for knowing or suspecting abuse, neglect or exploitation derives from the professional's treatment of the person suspected of being abused, neglected or exploited;
 - The treatment was sought by the person for a problem relating to the abuse, neglect or exploitation; and
 - Their opinion is that the abused, neglected or exploited adult is not incapacitated, and his or her life or health is not immediately threatened.

When is a report required and where does it go?

When is a report required?

- Knowledge or reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected, or exploited.
 - An adult shall not be considered to be abused, neglected, or exploited solely because he was provided with treatment by spiritual means by an accredited practitioner of a recognized religious organization.

Where does it go?

- All reports shall be made by telephone to the Office of Elder Services (1-800-624-8404) or using the 711 relay. Calls may be made anonymously. See: <http://www.maine.gov/dhhs/programs-services>
- A mandatory reporter who knows or has reasonable cause to suspect that an adult has died as a result of abuse or neglect shall report that fact to a law enforcement officer or the Office of Chief Medical Examiner

<p>What definitions are important to know?</p>	<ul style="list-style-type: none"> • “Abuse” means the infliction of injury, unreasonable confinement, intimidation or cruel punishment that causes or is likely to cause physical harm or pain or mental anguish; sexual abuse or sexual exploitation; or the intentional, knowing or reckless deprivation of essential needs. “Abuse” includes acts and omissions. <ul style="list-style-type: none"> • An incapacitated or dependent adult shall not be considered to be abused, neglected or exploited solely because treatment is by spiritual means by an accredited practitioner of a religious organization. • “Adult” means any person who has attained 18 years of age or who is a legally emancipated minor. • “Dependent Adult” means an adult who has a physical or mental condition that substantially impairs the adult’s ability to adequately provide for that adult’s daily needs. A “dependent adult” includes, but is not limited to, a resident of a nursing home licensed or required to be licensed under state law; a resident of a facility providing assisted living services licensed or required to be licensed under state law; a person considered a dependent person under Title 17-A, section 555; and a person, regardless of where that person resides, who is wholly or partially dependent upon one or more other persons for care or support, either emotion or physical, because the person suffers from a significant limitation in mobility, vision, hearing, or emotion or mental functioning. • “Exploitation” means the illegal or improper use of an incapacitated or dependent adult or that adult’s resources for another’s profit or advantage. • “Financial Exploitation” means the use of deception, intimidation, undue influence, force or other unlawful means to obtain control over the property of a dependent adult for another’s profit or advantage. • “Incapacitated Adult” means an adult who is unable to receive and evaluate information or make or communicate informed decisions to such an extent that the adult lacks the ability to meet essential requirements for physical health, safety or self-care, even with reasonably available appropriate technological assistance. • “Neglect” means a threat to an adult’s health or welfare by physical or mental injury or impairment, deprivation of essential needs or lack of protection from these. • “Sexual abuse or sexual exploitation” means contact or interaction of a sexual nature involving an incapacitated or dependent adult without that adult's informed consent.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Must make oral report of suspected abuse, neglect or exploitation <i>immediately</i>. If requested by the Department of Health and Human Services, must follow with a written report within 48 hours.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • Reports must contain: <ul style="list-style-type: none"> • Name and address of the involved adult; • Nature and extent of the abuse, neglect, or exploitation; • Source of the report; • Name, occupation, and contact information for the reporter; and • The report <u>may</u> contain any other information that the reporter believes might be helpful.

Anything else I should know?

- Any person may report when that person has reasonable cause to suspect an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation.
- A supervisor or administrator of a person making a report may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate reporting and to ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are consistent with those prescribed in this statute.
- Whenever a person required to report as a staff member of a law enforcement agency or a hospital sees areas of trauma on an incapacitated or dependent adult, that person shall make reasonable efforts to take, or cause to be taken, color photographs of those areas of trauma.
 - The taking of photographs must be done with minimal trauma to the incapacitated or dependent adult and in a manner consistent with professional forensic standards. Consent to the taking of photographs is not required from the adult's legal guardian or by a health care power of attorney.
 - Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for adult protective services.
 - The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.
 - Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to subsequent adult protection proceedings.
- A person who knowingly violates a provision of this chapter commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. Any licensed, registered, accredited or certified professional who has been adjudged to have violated a provision of this chapter must, in addition to any financial penalty, be reported by the court or the Department of Health and Human Services to the appropriate professional licensing organization, registration board, accrediting unit or facility.
- A person who reports in good faith is immune from any civil liability that might otherwise result from the reporting, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. In a proceeding regarding immunity from liability, there shall be a rebuttable presumption of good faith.

Statutory citation(s):

22 M.R.S.A. §§ 3472, 3475, 3476, 3477, 3478, 3479, 3479-A.