

Mandatory Reporting Requirements: The Elderly Mississippi

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Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any person, including but not limited to any: <ul style="list-style-type: none"> • attorney; physician; osteopathic physician; medical examiner; chiropractor or nurse engaged in the admission, examination, care or treatment of vulnerable persons; • other health professional or mental health professional; • practitioner who relies solely on spiritual means for healing; social worker; family protection worker; family protection specialist or other professional care, residential or institutional staff; • state, county, or municipal criminal justice employee or law enforcement officer; • human rights advocacy committee or long-term care ombudsman council member; or • accountant, stockbroker, financial advisor or consultant; insurance agent or consultant; investment advisor or consultant; financial planner; or any officer or employee of a bank, savings and loan, credit union or any other financial service provider.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • Knowledge or suspicion that a vulnerable person has been or is being abused, neglected, or exploited. • For those who work at a care facility (as defined below), the standard is as follows: duty to report if, within the scope of their employment or in their professional or personal capacity, they have knowledge of or reasonable cause to believe that any patient or resident of a care facility has been the victim of abuse, neglect, or exploitation. <p>Where does it go?</p> <ul style="list-style-type: none"> • <u>Care Facilities</u>: Reports of abuse in care facilities (as defined below) are reported differently depending upon what type of facility is at issue. • <u>Home Health Agencies</u>: Report abuse occurring within home health agencies to the Medicaid Fraud Control Unit of the Attorney General's office. • <u>Other Care Facilities</u>: Report all other abuse in care facilities to the Mississippi Department of Health (1-800-227-7308) or to the Medicaid Fraud Control Unit, Office of the State Attorney General (1-800-852-8341). • <u>Minors</u>: Reports of the abuse of a minor <u>may</u> be made to the Department of Child Protective Services. • <u>All Other Cases</u>: Reports of abuse in all other cases (such as a home setting) should be made to the Department of Human Services Vulnerable Person Abuse Hotline (1-844-437-6282) or online at: https://www.mdhs.ms.gov/adults-seniors/adult-protective-services/. • The Attorney General Abuse, Neglect and Exploitation Complaint Form is available at: https://www.ago.state.ms.us/divisions/medicaid-fraud-control-unit/abuse-neglect-and-exploitation-complaint-online-form/. • Investigations are required to be initiated within 48 hours if immediate attention is needed, or within 72 hours if a vulnerable person is not in immediate danger
What definitions are important to know?	<ul style="list-style-type: none"> • "Abuse" means the commission of a willful act, or the willful omission of the performance of a duty, which act or omission contributes, tends to contribute to, or results in the infliction of physical pain, injury or mental anguish on or to a vulnerable person, the unreasonable confinement of a vulnerable person, or the willful deprivation by a caretaker of services which are necessary to maintain the mental or physical health of a vulnerable person. "Abuse" includes sexual abuse. "Abuse" does not mean conduct that is a part of the treatment and care of, and in furtherance of the health and safety of, a patient or resident of a care facility, nor shall it mean a normal caregiving action or appropriate display of affection. "Abuse" includes, but is not limited to, a single incident. • "Care facility" means: <ul style="list-style-type: none"> • Any institution or place for the aged or infirm that is required to be licensed by the state; • Any long-term care facility; • Any hospital that is required to be licensed by the state; • Any home health agency that is required to be licensed by the state; • Any hospice that is required to be licensed by the state; and • Any adult day services facility, which means a community-based group program for adults designed to meet the needs of adults

	<p>with impairments through individual plans of care, which are structured, comprehensive, planned, nonresidential programs providing a variety of health, social and related support services in a protected setting, enabling participants to live in the community. (Any program licensed and certified by the Department of Mental Health or any adult day services program provided to 10 or fewer individuals are exempt from the definition of "Care facility".)</p> <ul style="list-style-type: none"> • Note that the failure to obtain a license despite being required to does not except a facility from being covered by this definition. (<i>Op. Atty. Gen. No. 2003-0702, Brittain, May 2, 2003</i>) • "Exploitation" means the illegal or improper use of a vulnerable person or his resources for another's profit, advantage or unjust enrichment, with or without the consent of the vulnerable person, and may include actions taken pursuant to a power of attorney. "Exploitation" includes, but is not limited to, a single incident. • "Neglect" means either the inability of a vulnerable person who is living alone to provide for himself the food, clothing, shelter, health care or other services which are necessary to maintain his mental or physical health, or failure of a caretaker to supply the vulnerable person with the food, clothing, shelter, health care, supervision or other services which a reasonably prudent person would do to maintain the vulnerable person's mental and physical health. "Neglect" includes, but is not limited to, a single incident. • "Vulnerable person" means any person (minor or adult) whose ability to perform the normal activities of daily living or provide for his or her own care or protect herself from abuse, neglect, exploitation or improper sexual contact is impaired due to mental, emotional, physical or developmental disability or dysfunction, or brain damage or the infirmities of aging. A "vulnerable person" includes all residents or patients (regardless of age) in a care facility (such as a long-term care facility, hospital, home health agency, hospice, or adult day services facility).
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • If a reporter is reporting in the scope of his or her employment at a care facility, the report must be given orally or telephonically (excluding Saturdays, Sundays and legal holidays) within 24 hours of discovery and a written report must be submitted within 72 hours of discovery. • All others must report immediately orally or in writing, but where the report is made orally, it must be followed up by a written report.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • If the reporter is reporting in the scope of his or her employment with a care facility, the report must include: <ul style="list-style-type: none"> • The name, address, telephone number, occupation and employer's address and telephone number of the person reporting; • The name and address of the patient or resident who is believed to be the victim of abuse or exploitation; • The details, observations and beliefs concerning the incident; • Any statements relating to incident made by the patient or resident; • The date, time and place of the incident; • The name of any individual(s) believed to have knowledge of the incident; • The name of the individual(s) believed to be responsible for the incident and their connection to the patient or resident; • Such other information that may be required by the State Department of Health and/or the Medicaid Fraud Control Unit, as requested. • All other reports should include, to the extent possible: <ul style="list-style-type: none"> • The name, age, race, sex, physical description and location of the vulnerable person; • The names, addresses and telephone numbers of the vulnerable person's family members; • The name, address and telephone number of the alleged perpetrator(s); • The name, address and telephone number of the vulnerable person's caregiver, if different from the alleged perpetrator; • A description of the neglect, exploitation, physical or psychological injuries sustained; • Actions taken by the reporter, if any, such as notification to the criminal justice agency; • Other information available to the reporter which may be useful in establishing the cause of abuse, neglect or exploitation that occurred or is occurring; and • The name, address, and telephone number of the reporter <i>if</i> that person or entity holds a professional license granted by the state.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • If a person, within the scope of his employment at a care facility, knowingly fails to make a mandatory report or attempts to induce another (by threat or otherwise) to fail to make a required report, that person may be charged with a misdemeanor punishable by a fine of up to \$500 or imprisonment for up to 6 months, or both. • No person shall terminate from employment, demote, reject from promotion or otherwise sanction, punish or retaliate against any individual who, in good faith, makes a report under the Mississippi care facility laws. • A person who fails to make a report as required or who, because of the circumstances, should have known or suspected beyond a reasonable doubt that a vulnerable person was suffering from exploitation, abuse, neglect or self-neglect but who knowingly failed to report, may be charged with a misdemeanor punishable by a fine of up to \$5,000 or imprisonment for up to 6 months, or both.

- Anyone who makes a report shall be presumed to be acting in good faith and in so doing shall be immune from liability, civil or criminal, that might otherwise be incurred or imposed, provided that immunity shall not apply to any suspect or perpetrator of any abuse, neglect or exploitation. A person who intentionally makes a false report under the provisions of this section may be found liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury.
- Reports made pursuant to applicable Mississippi law shall be confidential and shall only be made available to (1) a physician who has before him/her a vulnerable person such physician reasonably suspects may be abused, neglected or explored; (2) a duly authorized agency having responsibility for the care or supervision of the subject of the report; (3) a grand jury or competent court upon a finding that the information in the record is necessary for the determination of charges; or (4) a district attorney or other law enforcement official, except that the department may not disclose a report of the abandonment, exploitation, abuse, neglect or self-neglect of a vulnerable person to the vulnerable person's guardian, attorney-in-fact, surrogate decision maker, or caregiver who is a perpetrator or alleged perpetrator of the abandonment, exploitation, abuse or neglect of the vulnerable person.
- Status as a "vulnerable adult" can be used as an "aggravator" to impose an elevated sentence for another crime (i.e. aggravated assault), and so convictions for aggravated assault and abuse of a vulnerable person do not violate the prohibition against double jeopardy. (*Jones Lil Siip vs. State*, Ct. App. Miss. 2021, 2021 WL 4271805).

Statutory citation(s):

Miss. Code Ann. §§ 43-47-5, 43-47-7, 43-47-37.