

Mandatory Reporting Requirements: The Elderly Pennsylvania

Last Updated: April 2023

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • An Employee or an Administrator of a Facility (as those terms are defined in the section below on Definitions that are Important to Know)
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • Mandatory Reporting to Agency <ul style="list-style-type: none"> • Any of the above referenced persons who has reasonable cause to suspect that a recipient is a victim of abuse shall immediately make an oral report to an agency. If applicable, the agency shall advise the employee or administrator of the requirements pertaining to mandatory reporting to law enforcement officials as outlined below. • Mandatory Reporting to Law Enforcement Officials <ul style="list-style-type: none"> • Any of the above referenced persons who has reasonable cause to suspect that a recipient is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the agency and the Pennsylvania Department of Human Services (for an adult 18-59) or Aging (for an older adult), immediately contact law enforcement officials to make an oral report. An employee shall notify the administrator immediately following the report to law enforcement officials. • Within 48 hours of making the oral report, the employee and an administrator shall make a written report to appropriate law enforcement officials. • The law enforcement officials shall notify the administrator that a report has been made with the law enforcement officials. • The employee may request the administrator to make or to assist the employee to make the oral and written reports to law enforcement. <p>Where does it go?</p> <ul style="list-style-type: none"> • Agency: When an employee or administrator suspects a recipient is a victim of abuse, the statewide abuse hotline (1-800-490-8505) may be called and the reporter will then be directed to the applicable local area agency. See also https://www.aging.pa.gov/local-resources/Pages/AAA.aspx. Contact information for area agencies can also be located at: https://www.aging.pa.gov/local-resources/Pages/AAA.aspx • Agencies shall be capable of receiving reports of adults or older adults in need of protective services 24 hours a day, seven days a week (including holidays). • Law Enforcement: Reports of suspected sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious must be reported to law enforcement as well as the protective services agency as described above.

What definitions are important to know?

Adults Between 18 and 59

- **“Abandonment”** means the desertion of an adult by a caregiver.
- **“Abuse”** means the occurrence of one or more of the following acts:
 - (1) the infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish;
 - (2) the willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health; and
 - (3) sexual harassment, rape or abuse.

Abuse does not include environmental factors which are beyond the control of the adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

- **“Administrator”** means the person responsible for the administration of a facility. The term includes a person responsible for employment decisions or an independent contractor.
- **“Adult”** means a Pennsylvania resident between 18 and 59 years of age who has a physical or mental impairment that substantially limits one or more major life activities.
- **“Adult in need of protective services”** means an adult who needs the assistance of another person to obtain protective services in order to prevent imminent risk to person or property,
- **“Agency”** means a local contracted provider of protective services
- **“Assessment”** means social, physical and psychological findings along with a description of the person’s current resources and needs.
- **“Caregiver”** means an individual or institution that has assumed the responsibility for the provision of care needed to maintain the physical or mental health of an adult. This responsibility may arise voluntarily, by contract, by receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction. It is not the intent of this act to impose responsibility on any individual if such responsibility would not otherwise exist in law.
- **“Court”** means a court of common pleas or a district magistrate court, where applicable.
- **“Department”** means the Pennsylvania Department of Human Services.
- **“Employee”** means an individual who is employed by a facility. The term includes contract employees who have direct contact with residents or unsupervised access to their personal living quarters. The term also includes any person who is employed or who enters into a contractual relationship to provide care to a care-dependent individual for monetary consideration in the individual's place of residence.
- **“Exploitation”** means an act or course of conduct by a caretaker or other person against an adult or an adult’s resources, without the informed consent of the adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the adult.
- **“Facility”** includes any of the following: (1) an assisted living residence; (2) a domiciliary care home, (3) a home health care agency, (4) an intermediate care facility for people with mental retardation; (5) a long-term care nursing facility; (6) an older adult daily living center; (7) a personal care home; (8) an

organization of group of people that uses public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting; and (9) a residential treatment facility.

- **“Incident Reporting System”** means Home and Community Services Information System (HCSIS) or its successor.
- **“Intimidation”** means an act or omission by any person or entity toward another person which is intended to, or with knowledge that the act or omission will, obstruct, impede, impair, prevent or interfere with the administration of the PA Adult Protective Services Act or any law intended to protect adults from mistreatment.
- **“Law Enforcement Official”** means (1) a police officer of a municipality, (2) a district attorney, (3) the Pennsylvania State Police; (4) a county sheriff; and/or (5) the Pennsylvania Attorney General.
- **“Least restrictive alternative”** means the least intrusive service or environment that can effectively and safely address an adult’s needs and preferences.
- **“Most integrated setting”** means a setting that enables individuals with disabilities to interact with individuals who do not have disabilities to the fullest extent possible.
- **“Neglect”** means the failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. This does not include environmental factors which are beyond the control of an adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.
- **“Protective services”** means those activities, resources and supports provided to adults under the Adult Protective Services Act to detect, prevent, reduce or eliminate abuse, neglect, exploitation and abandonment.
- **“Recipient”** means an adult who receives care, services or treatment in or from a facility.
- **“Secretary”** means the Pennsylvania Secretary of Public Welfare.
- **“Serious bodily injury”** means injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.
- **“Serious injury”** means an injury that: (1) causes a person severe pain; or (2) significantly impairs a person’s physical functioning, either temporarily or permanently.
- **“Service plan”** means a written plan that: (1) is cooperatively developed by an agency staff, an adult in need of protective services or the adult’s appointed guardian, if any, and other family members and advocates when appropriate; (2) where possible, is based on multidisciplinary, comprehensive written assessments conducted by professionals who have met with the adult in need of protective services and are familiar with his situation; (3) provides for services in the most integrated setting and utilizes least restrictive alternatives; (4) describes identified needs, goals to be achieved and specific services to support goal attainment, with regular follow-up and predetermined reassessment of client progress; and (5) is updated as needed.
- **“Sexual abuse”** means intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

Older Adults

- **“Abandonment”** means the desertion of an older adult by a caretaker.
- **“Abuse”** means the occurrence of one or more of the following acts:
 - (1) the infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish;
 - (2) the willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health; and
 - (3) sexual harassment, rape or abuse, as defined in the act of October 7, 1976 (P.L. 1090, No. 218).

No older adult shall be found to be abused solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

- **“Administrator”** means the person responsible for the administration of a facility. The term includes a person responsible for employment decisions or an independent contractor.
- **“Agency”** means the local provider of protective services, which is the area agency on aging or the agency designated by the area agency on aging to provide protective services in the area agency's planning and service area.
- **“Care”** means services provided to meet a person's need for personal care or health care. Services may include homemaker services, assistance with activities of daily living, physical therapy, occupational therapy, speech therapy, medical social services, home-care aide services, companion-care services, private duty nursing services, respiratory therapy, intravenous therapy, in-home dialysis and durable medical equipment services, which are routinely provided unsupervised and which require interaction with the care-dependent person. The term does not include durable medical equipment delivery.
- **“Care-dependent individual”** means an adult who, due to physical or cognitive disability or impairment, requires assistance to meet needs for food, shelter, clothing, personal care or health care.
- **“Caretaker”** means an individual or institution that has assumed the responsibility for the provision of care needed to maintain the physical or mental health of an older adult. This responsibility may arise voluntarily, by contract, by receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction. It is not the intent of this act to impose responsibility on any individual if such responsibility would not otherwise exist in law.
- **“Client assessment”** means social, physical and psychological findings along with a description of the person's current resources and needs.
- **“Department”** means the Department of Aging of the Commonwealth.
- **“Employee”** means an individual who is employed by a facility. The term includes contract employees who have direct contact with residents or unsupervised access to their personal living quarters. The term also includes any person who is employed or who enters into a contractual relationship to provide care to a care-dependent individual for monetary consideration in the individual's place of residence.
- **“Exploitation”** means an act or course of conduct by a caretaker or other person against an older adult or an older adult's resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other

benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.

- **“Facility”** includes any of the following: (1) a domiciliary care home, (2) a home health care agency, (3) a long-term care nursing facility, (4) an older adult daily living center or (5) a personal care home.
- **“Home Health Care Agency”** means (1) a home health care organization or agency licensed by the Department of Health, or (2) a public or private agency or organization, or part of an agency or organization, which provides care to a care-dependent individual in the individual’s place of residence.
- **“Intimidation”** means an act or omission by any person or entity toward another person which is intended to, or with knowledge that the act or omission will, obstruct, impede, impair, prevent or interfere with the administration of the PA Older Adults Protective Services Act or any law intended to protect older adults from mistreatment.
- **“Law Enforcement Official”** means (1) a police officer of a municipality, (2) a district attorney, or (3) the Pennsylvania State Police.
- **“Neglect”** means the failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. No older adult who does not consent to the provision of protective services shall be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.
- **“Older adult”** means a person within the jurisdiction of Pennsylvania who is 60 years of age or older.
- **“Older adult in need of protective services”** means an incapacitated older adult who is unable to perform or obtain services that are necessary to maintain physical or mental health, for whom there is no responsible caretaker and who is at imminent risk of danger to his person or property.
- **“Protective services”** means those activities, resources and supports provided to older adults under this act to detect, prevent, reduce or eliminate abuse, neglect, exploitation and abandonment.
- **“Protective setting”** means a setting chosen by the agency where services can be provided in the least restrictive environment to protect the physical and mental well-being of the older adult.
- **“Recipient”** means an individual who receives care, services or treatment in or from a facility.
- **“Secretary”** means the Secretary of the Aging of the Commonwealth.
- **“Serious bodily injury”** means injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.
- **“Serious physical injury”** means an injury that: (1) causes a person severe pain; or (2) significantly impairs a person’s physical functioning, either temporarily or permanently.
- **“Service plan”** means a written plan developed by the agency on the basis of comprehensive assessment of a client’s need which describes identified needs, goals to be achieved and specific services to support goal attainment, with regular follow-up and predetermined reassessment of client progress. Specific services to support goal attainment may include, but is not limited to, homemaker services, home-delivered meals, attendant care, other in-home services, emergency shelter or food, legal aid services, transportation and other such services. Service plans are cooperatively developed by the agency staff, the client or the client’s appointed guardian, and other family members when appropriate. The plan shall also address, where applicable, special needs of other members of the household unit as they may affect the older adult’s need for protective services.

	<ul style="list-style-type: none"> • “Sexual abuse” means intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Reports must be made orally and immediately. • All reports received orally shall be reduced to writing immediately by the person who receives the report. • An employee shall notify the administrator immediately following the report to the agency. • Within 48 hours of making the oral report, the employee or administrator shall make a written report to the agency. The agency shall notify the administrator that a report of abuse has been made with the agency. • The employee may request the administrator to make or to assist the employee to make the oral and written reports required.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • Written reports must be in a manner and on forms prescribed by the Department of Public Welfare (for an adult) or Aging (for an older adult) and shall include, at a minimum: <ul style="list-style-type: none"> • The name, age and address of the recipient; • The name and address of the recipient’s guardian or next of kin; • The name and address of the facility; • The nature of the alleged offense; and • Any specific comments or observations that are directly related to the alleged incident and the individual involved.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Any person having reasonable cause to believe that an adult, an older adult, or someone within the state who is 60 years of age or older, is in need of protective services <i>may report</i> such information to the agency. • Any person participating in the making of a report or who provides testimony in any administrative or judicial proceeding arising out of a report shall be immune from any civil or criminal liability on account of the report or testimony unless the person acted in bad faith or with malicious purpose. This immunity shall not extend to liability for acts of abuse, neglect, exploitation or abandonment, even if such acts are the subject of the report or testimony. • Any person making a report or cooperating with the agency, including providing testimony in any administrative or judicial proceeding, and the victim, shall be free from any discriminatory, retaliatory or disciplinary action by an employer or by any other person or entity. Any person who violates this subsection is subject to a civil lawsuit by the reporter or the victim wherein the reporter or victim shall recover treble compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater. • Any person, including the victim, with knowledge sufficient to justify making a report or cooperating with the agency, including possibly providing testimony in any administrative or judicial proceeding, shall be free from any intimidation by an employer or by any other person or entity. Any person who violates this subsection is subject to civil lawsuit by the person intimidated or the victim wherein the person intimidated or the victim shall recover treble compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater. • In the absence of willful misconduct or gross negligence, the agency, the director, employees of the agency, protective services workers or employees of the department shall not be civilly or criminally liable

for any decision or action or resulting consequence of decisions or action when acting under and according to the provisions of the law summarized here.

- Information contained in reports, records of investigation, client assessment and services plans shall be considered confidential and shall be maintained under regulations promulgated by the relevant department to safeguard confidentiality.
- An administrator or facility owner who intentionally or willfully fails to report or obstructs another person from reporting or who intimidates or commits a retaliatory act against an employee who complies in good faith with reporting suspected abuse may be subject to a civil penalty of not more than \$2,500 (Administrative Penalty).
- An administrator or facility owner who intentionally or willfully fails to report or obstructs another person from reporting commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than 1 year, or both (Criminal Penalty).
- A person required to report a case of suspected abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.
- An administrator or facility shall not be held civilly liable for any action directly related to good faith compliance with reporting suspected abuse by employees.
- Except for reports to law enforcement officials, the release of data that would identify the individual who made a report under reporting suspected abuse by employees or an individual who cooperates in a subsequent investigation is prohibited.
- A report shall be confidential except reports shall be made available to all of the following:

Reports Involving Adults 18-59

- A court of competent jurisdiction pursuant to a court order;
- Law enforcement officials, if an investigation by an agency or law enforcement results in a report of criminal conduct;
- Appropriate service providers necessary to initiate the delivery of services;
- The subject of a report, upon written request (other than the identity of a reporter or anyone who cooperated in a subsequent investigation);
- Appropriate Department of Human Services, when the Department is involved in the hearing of an appeal by the subject of a report; and
- Appropriate staff of the Department for limited purposes of monitoring agency performance.

Reports Involving Older Adults

- An employee of the Department of Aging or of an agency in the course of official duties in connection with responsibilities under this chapter;
- An employee of the Department of Health or the Department of Public Welfare in the course of official duties;
- An employee of an agency of another state which performs protective services similar to those under this chapter;
- A practitioner of the healing arts who is examining or treating a recipient and who suspects that the recipient is in need of protection under this chapter;

	<ul style="list-style-type: none"> • The director, or an individual specifically designated in writing by the director, of any hospital or other medical institution where a victim is being treated if the director or designee suspects that the recipient is in need of protection under this chapter; • A guardian of the recipient; • A court of competent jurisdiction pursuant to a court order; • The Attorney General; • Law enforcement officials of any jurisdiction as long as the information is relevant in the course of investigating cases of abuse; and • A mandated reporter under Chapter 3 who made a report of suspected abuse. Information released under this paragraph shall be limited to the following: (i) the final status of the report following the investigation or (ii) services provided or to be provided by the agency.
Statutory citation(s):	35 P.S. (Chapter 57), §§ 10210.103, 10210.302, 10210.305, 10210.306, 10210.501, 10210.505, 10210.506, 10210.507 (Adult Protective Services Act); 35 P.S. (Chapter 58) §§ 10225.103, 10225.302, 10225.305, 10225.306, 10225.701, 10225.705, 10225.706, 10225.707 (Older Adults Protective Services Act).