

# Mandatory Reporting Requirements: The Elderly Rhode Island

*Last Updated: April 2023*

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> <li>• <b>Elders:</b> <ul style="list-style-type: none"> <li>• Any person (who has reasonable cause to believe that any person sixty (60) years of age or older has been abused, neglected, or exploited, or is self-neglecting).</li> <li>• Any physician, physician assistant, medical intern, registered nurse, licensed practical nurse, nurse's aide, orderly, certified nursing assistant, medical examiner, dentist, optometrist, optician, chiropractor, podiatrist, coroner, police officer, probation officer, emergency medical technician, firefighter, speech pathologist, audiologist, social worker, pharmacist, physical or occupational therapist, or health officer.</li> </ul> </li> <li>• <b>Disabled:</b> Any physician, physician assistant, medical intern, registered nurse, licensed practical nurse, nurse's aide, orderly, certified nursing assistant, medical examiner, dentist, optometrist, optician, chiropractor, podiatrist, coroner, police officer, probation officer, emergency medical technician, firefighter, speech pathologist, audiologist, social worker, pharmacist, physical or occupational therapist, or health officer, or any person, within the scope of their employment at a facility or in their professional capacity, who has knowledge of or reasonable cause to believe that a patient or resident in a facility has been abused, mistreated, or neglected, either while in the facility or prior to being admitted.</li> <li>• <b>Developmentally Disabled (in a Program):</b> Any person who within scope of their employment at a program (as defined below) or in their professional capacity has knowledge of or reasonable cause to believe that a participant in a program has been abused, mistreated or neglected.</li> </ul>
When is a report required and where does it go?	<p><b>When is a report required?</b></p> <ul style="list-style-type: none"> <li>• <b>Elders:</b> Reasonable cause to believe that a person 60 years of age or older has been abused, neglected, exploited, or is self-neglecting.</li> <li>• <b>Disabled:</b> Knowledge of or reasonable cause to believe that a patient or resident in a facility has been abused, mistreated, or neglected, either while in the facility or prior to being admitted.</li> <li>• <b>Developmentally Disabled (in a Program):</b> Knowledge of or reasonable cause to believe that a participant in the program has been abused, mistreated, or neglected.</li> </ul> <p><b>Where does it go?</b></p> <ul style="list-style-type: none"> <li>• <b>Elders:</b> <ul style="list-style-type: none"> <li>• The Director of the Office of Healthy Aging – Adult Protective Services Unit (1-401-462-0555) or his or her designee, or appropriate law enforcement personnel.</li> </ul> </li> <li>• <b>Disabled:</b> <ul style="list-style-type: none"> <li>• The Director of the Department of Health (<a href="http://www.health.ri.gov/">http://www.health.ri.gov/</a>) or his or her designee for</li> </ul> </li> </ul>

- those incidents involving healthcare facilities (as defined by R.I. Gen. Laws § 28-17.8-1);
- Call the Office of Quality Assurance at 401-462-2629
- And, in addition, to the Office of the Long-Term Care Ombudsperson for those incidents involving nursing facilities, assisted living residences, home care and home nursing care providers, veterans' homes and long-term care units in Eleanor Slater Hospital (401.785.3340);
- And, in addition, to the Director of the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (401-462-2339) or his or her designee for those incidents involving community residences for people with developmental disabilities or the director of the office of healthy aging for individuals aged sixty (60) years or older.
- Developmentally Disabled (in a Program): The Director of the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (<http://www.bhddh.ri.gov/>) (401-462-2339) – or his or her designee.

What definitions are important to know?

- Elders:
  - **“Abuse”** means physical abuse, sexual abuse, and/or emotional abuse of an elderly person by a caregiver.
  - **“Caregiver”** means a person who has assumed the responsibility for the care of the elderly person voluntarily, by contract or by order of a court of competent jurisdiction, or who is otherwise legally responsible for the care of the elderly person.
  - **“Elderly Peron”** or **“Elder”** means any person 60 years of age or older.
  - **“Emotional Abuse”** means a pattern of willful infliction of mental or emotional harm upon an elder by threat, intimidation, isolation or other abusive conduct.
  - **“Exploitation”** means the fraudulent or otherwise illegal, unauthorized or improper act or process of an individual, including but not limited to, a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets by use of undue influence, harassment, duress, deception, false representation or false pretenses.
  - **“Neglect”** means the willful failure by a caregiver or other person with a duty of care to provide goods or services necessary to avoid physical harm, mental harm or mental illness to an elderly person, including, but not limited to, “abandonment” (withdrawal of necessary assistance) and denial of food or health related services.
  - **“Physical Abuse”** means the willful infliction of physical pain or injury (e.g. slapping, bruising or restraining) upon an elderly person.
  - **“Self-neglect”** means a pattern of behavior in an elderly person that directly, imminently and significantly threatens his/her own health and/or safety. Self-neglect includes, but is not limited to, an inability or an incapacity to provide self with food, water, shelter or safety to the point of establishing imminent risk of any of the harm(s) described in the immediately preceding sentence.
  - **“Sexual Abuse”** means the infliction of non-consensual sexual contact of any kind upon an elderly person. Sexual abuse includes, but is not limited to, sexual assault, rape, sexual misuse or exploitation of an elder, as well as threats of sexual abuse where the perpetrator has the intent and the capacity to carry out the threatened abuse.
- Disabled:

- **“Abuse”** means:
  - Any assault as defined in chapter 5 of title 11, including, but not limited to, hitting, kicking, pinching, slapping, or the pulling of hair; provided, however, unless it is required as an element of the offense charged, it shall not be necessary to prove that the patient or resident was injured by the assault;
  - Any assault as defined in chapter 37 of title 11;
  - Any offense under chapter 10 of title 11;
  - Any conduct which harms or is likely to physically harm the patient or resident except where the conduct is a part of the care and treatment, and in furtherance of the health and safety of the patient or resident; or
  - Intentionally engaging in a pattern of harassing conduct which causes or is likely to cause emotional or psychological harm to the patient or resident, including but not limited to, ridiculing or demeaning a patient or resident, making derogatory remarks to a patient or resident or cursing directed towards a patient or resident, or threatening to inflict physical or emotional harm on a patient or resident.
- **“Department”** means the department of health when the incident occurs in a healthcare facility, and the department of behavioral healthcare, developmental disabilities and hospitals when the incident occurs in a community residence for persons with intellectual or developmental disabilities.
- **“Facility”** means any health care facility or community residence for persons who are mentally retarded, or persons with developmental disabilities.
  - **“Health care facility”** means any hospital or facility which provides long-term health care required to be licensed under chapter 17 of this title, and any assisted living residence required to be licensed under chapter 17.4 of this title, and any community residence whether privately or publicly owned.
  - **“Community residence”** for persons who are mentally challenged or persons with developmental disabilities means any residential program licensed by the department of behavioral healthcare, developmental disabilities and hospitals that meets the definition of a community residence as defined in [§ 40.1-24-1](#) and provides services to persons with intellectual or developmental disabilities.
- **“High Managerial Agent”** means an officer of a facility, the administrator and assistant administrator of the facility, the director and assistant director of nursing services, or any other agent in a position of comparable authority with respect to the formulation of the policies of the facility or the supervision in a managerial capacity of subordinate employees.
- **“Mistreatment”** means the inappropriate use of medications, isolation, or use of physical or chemical restraints: (1) as punishment; (2) for staff convenience; (3) as a substitute for treatment or care; (4) in conflict with a physician’s order; or (5) in quantities which inhibit effective care or treatment, or which harms or is likely to harm the patient or resident.
- **“Neglect”** means the intentional failure to provide treatment, care, goods, and services necessary to maintain the health and safety of the patient or resident, or the intentional failure to carry out a plan of treatment or care prescribed by the physician of the patient or resident, or the intentional failure to report patient or resident health problems or changes in health problems or changes in

health conditions to an immediate supervisor or nurse, or the intentional lack of attention to the physical needs of a patient or resident including, but not limited to, toileting, bathing, meals, and safety. No person shall be considered to be neglected for the sole reason that he or she relies on or is being furnished treatment in accordance with the tenets and teachings of a well-recognized church or denomination by a duly-accredited practitioner of a well-recognized church or denomination.

- **“Patient”** means any person who is admitted to a facility for treatment or care.
- **“Resident”** means any person who maintains their residence or domicile, on either a temporary or permanent basis, in a facility.
- Developmentally Disabled (in a Program):
  - **“Abuse”** means:
    - Any assault as defined in chapter 5 of title 11;
    - Any assault as defined in chapter 37 of title 11;
    - Any offense under chapter 10 of title 11;
    - Any conduct which harms or is likely to physically harm the participant except where the conduct is a part of the care and treatment, and in furtherance of the health and safety of the participant; or
    - Intentionally engaging in a pattern of harassing conduct, which is intended to cause psychological harm to the participant; provided, however, nothing herein shall be construed to prohibit the prosecution of any violator of this section under any other section.
  - **“Mistreatment”** means the inappropriate use of medications, isolation, or use of physical or chemical restraints as punishment, for staff convenience, as a substitute for treatment or care, in conflict with a physician’s order, or in quantities which inhibit effective care or treatment, which harms or is likely to harm the participant.
  - **“Neglect”** means the failure to provide treatment, care, goods, and services necessary to maintain the health and safety of the participant, or the failure to carry out a plan of treatment or care prescribed by the physician of the participant; provided, however, no person shall be considered to be neglected for the sole reason that he or she relies or is being furnished treatment in accordance with the tenets and teachings of a well-recognized church or denomination by a duly accredited practitioner thereof.
  - **“Participant”** means any person with developmental disabilities who participates in a program.
  - **“Program”** means any day treatment program, habilitation program, rehabilitation program or other program for persons with developmental disabilities licensed by the department of mental health, retardation, and hospitals.

What timing and procedural requirements apply to reports?

- Elders: Immediately report. The specified individuals above shall, whenever practical and if known, provide twenty-four hour (24) notice of discharge to the department and shall include the address and telephone number of the individual being discharged.
- Disabled: Report must be made within 24 hours or by the end of the next business day. Telephone reports must be followed up by a written report within 3 business days.
- Developmentally Disabled (in a Program): Written report must be made within 24 hours or by the end of the next business day.

What information must a report include?

- Elders:
  - The name, address, telephone number, occupation, and employer's address and the phone number of the person reporting;
  - The name and address of the patient or resident who is believed to be the victim of the abuse, mistreatment, or neglect;
  - The details, observations, and beliefs concerning the incident(s);
  - Any statements regarding the incident made by the patient or resident and to whom they were made;
  - The date, time, and place of the incident;
  - The name of any individual(s) believed to have knowledge of the incident;
  - The name of any individual(s) believed to have been responsible for the incident;
  - The name of the individual's caretaker, if known;
  - Any medical treatment being received if immediately required and need to coordinate care, if known;
  - Any other information the reporter believes relevant to the investigation; and
  - The name and address of the reporter and where the reporter can be contacted. The reporter's identity shall remain confidential unless disclosure is consented to by the reporter or by court order.
  
- Disabled:
  - The name, address, telephone number, occupation, and employer's address and the phone number of the person reporting;
  - The name and address of the patient or resident who is believed to be the victim of the abuse, mistreatment, or neglect;
  - The details, observations, and beliefs concerning the incident(s);
  - Any statements regarding the incident made by the patient or resident and to whom they were made;
  - The date, time, and place of the incident;
  - The name of any individual(s) believed to have knowledge of the incident;
  - The name of any individual(s) believed to have been responsible for the incident;
  - The name of the individual's caregiver, if known;
  - Any medical treatment being received if immediately required and need to coordinate care, if known;
  - Any other information the reporter believes relevant to the investigation; and
  - The name and address of the reporter and where the reporter can be contacted. The reporter's identity shall remain confidential unless disclosure is consented to by the reporter or by court order.
  
- Developmentally Disabled(in a Program):
  - The name, address, telephone number, occupation, and employer's address and phone number of

the reporter;

- The name and address of the participant who is believed to be the victim of the abuse, mistreatment, or neglect;
- Details, observations, and beliefs concerning the incident(s);
- Any statements regarding the incident made by the participant and to whom they were made;
- Date, time, and place of the incident;
- Name of any individual(s) believed to have knowledge of the incident; and
- The name of any individual(s) believed to have been responsible for the incident.

Anything else I should know?

• Elders:

- In cases of abuse, neglect or exploitation, any person who fails to make the report shall be punished by a fine of not more than \$1,000.
- Nothing in this section shall require an elder who is a victim of abuse, neglect, exploitation or who is self-neglecting to make a report regarding such abuse, neglect, exploitation or self-neglect to the director or his or her designee.
- No person required to report pursuant to the provisions of this section shall be liable in any civil or criminal action by reason of the report; provided, however, that such person did not perpetrate, inflict, or cause the abuse.
- No employer or supervisor may discharge, demote, transfer, reduce pay, benefits, or work privileges; prepare a negative work performance evaluation; or take any other action detrimental to an employee or supervisee who files a report in accordance with the provisions of this section by reason of such report.
- No person shall obstruct the provision of available and existing services to a person sixty (60) years of age or older who has been abused, neglected, exploited or who is self-neglecting.
- Any person participating in good faith in making a report pursuant to Section 42-66-8, excluding any perpetrator or conspirator of those acts, has immunity from any liability, civil or criminal, that might otherwise be incurred or imposed.
- Any records of the department or other agency pertaining to a person reported to be abused, neglected, exploited, or self-neglecting shall be confidential. The director may, however, disclose to the attorney general, any local, state or federal police officials, appropriate courts, state departments, public or private agencies, or medical personnel, pertinent information that is necessary to investigate reports of abuse, neglect, exploitation, or self-neglect, the coordination of needed services, the protection of the elderly victim or criminal prosecution.

• Disabled:

- In addition to those persons required to report, any other person may make a report if that person has reasonable cause to believe that a patient or resident of a facility has been abused, mistreated, or neglected.
- Any person required to make a report shall be deemed to have complied with these requirements if a report is made to a high managerial agent of the facility in which the alleged incident occurred, who is required to meet all reporting requirements within the specified time frames.

- No person required to report pursuant to this section shall be liable in any civil or criminal action by reason of the report; provided, however, that the person did not perpetrate, inflict, or cause the abuse.
- No employer or supervisor may discharge, demote, transfer, reduce pay, benefits, or work privileges; prepare a negative work performance evaluation; or take any other action detrimental to an employee or supervisee who files a report in accordance with the provisions of this section by reason of the report.
- If a facility receives a report by a person other than a physician or a certified registered nurse practitioner or physician assistant that a patient or resident of the facility has been harmed as a result of abuse, neglect, or mistreatment, the facility must have the patient examined by a licensed physician or a certified registered nurse practitioner or physician assistant, who must make a preliminary report of his or her findings to the department of health for a health care facility, or to the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals for a community residence for persons with intellectual or developmental disabilities and to the facility within forty-eight (48) hours after the examination, and a written report within five (5) days after the examination.
- Any person required to make a report and who fails to do so shall be guilty of a misdemeanor and be punished by a fine of not more than \$500.
- Any person who alters or changes without authorization or destroys or renders unavailable a report made by another shall be deemed guilty of a misdemeanor and be fined not more than \$500.
- Any person who attempts to induce another to fail to report an incident of abuse, mistreatment, or neglect shall be deemed guilty of a misdemeanor and be punished by a fine of not more than \$1,000 or imprisoned not more than 1 year, or both.
- Any person being a high managerial agent who fails to report an incident of abuse, mistreatment, or neglect after another has reported an incident of abuse, neglect or mistreatment to an appropriate agent shall be guilty of a misdemeanor and shall be fined not more than \$1,000, or imprisoned for more than 1 year, or both.
- Any person who in good faith makes an oral or written report pursuant to § 23-17.8-2, excluding any perpetrator or conspirator of the patient abuse, mistreatment, or neglect shall have immunity from any liability, civil or criminal, that might be incurred as a result of having made the report.
- No facility shall discharge, or in any manner discriminate or retaliate against, any person who, in good faith, makes a report, testifies, or is about to testify in any proceeding about the abuse, mistreatment or neglect of patients or residents in the facilities.
- No facility shall discharge, threaten or in any manner discriminate or retaliate against any employee regarding the employee's compensation, terms, conditions, location, duration or privileges of employment because: (1) the employee, or a person acting on behalf of the employee, reports or is about to report to a public body, verbally or in writing, or who, in good faith, makes a report, testifies, or is about to testify in any proceeding, about the abuse, mistreatment, or neglect of patients or residents in the facility, unless the employee knows or has reason to know that the report is false; or (2) an employee is requested by a public body to testify or participate in an investigation, hearing, or inquiry held by that public body, or a court action.

- Developmentally Disabled (in a Program):
  - Any other person may make a report if that person has reasonable cause to believe that a participant has been abused, mistreated, or neglected.
  - If a program receives a report by a person other than a physician that a participant has been harmed as a result of abuse, neglect, or mistreatment, the program shall have the patient examined by a licensed physician, and the physician must make a preliminary report of his or her findings to the director of the department of behavioral healthcare, developmental disabilities and hospitals and to the program within 48 hours after his or her examination, and a written report within 5 days after his or her examination.
  - Any person required to make a report and who fails to do so shall be guilty of a misdemeanor and be punished by a fine of not more than \$500.
  - Any person who alters or changes without authorization or destroys or renders unavailable a report made by another shall be guilty of a misdemeanor and be fined not more than \$500.
  - Any person who shall attempt, with or without threats or promises of benefit, to induce another to fail to report an incident of abuse, mistreatment, or neglect shall be guilty of a misdemeanor and be punished by a fine of not more than \$1,000 or imprisoned for more than one year, or both.
  - Any person who fails to report an incident of abuse, mistreatment, or neglect after another has indicated a reliance on the reporting pursuant to Section 40.1-27-2 shall be guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned for more than 1 year, or both.
  - Any person who, in good faith, makes an oral or written report pursuant to Section 40.1-27-2, excluding any perpetrator or conspirator of the acts described in Section 40.1-27-1, shall have immunity from any liability, civil or criminal, that might be incurred as a result of having made such a report.
  - No program shall discharge, or in any manner discriminate or retaliate against, any person who, in good faith, makes a report, testifies, or is about to testify in any proceeding about the abuse, mistreatment, or neglect of participants.
  - Any person who knowingly abuses, mistreats, or neglects a participant, or commits any acts of abuse, mistreatment, or neglect, as those terms are defined by [§ 40.1-27-1\(a\)\(1\), \(2\), \(3\), or \(4\)](#), shall be fined not more than three thousand dollars (\$3,000) or imprisoned not more than three (3) years, or both.
  - Any person who commits any act of abuse as the term is defined by [§ 40.1-27-1\(a\)\(5\)](#) shall be fined not more than five hundred dollars (\$500) or imprisoned not more than one year, or both.

Statutory citation(s):

- Elders: R.I. Gen. Laws §§ 42-66-4.1, 42-66-8, 42-66-9, 42-66-10, 42-66-11.
- Disabled: R.I. Gen. Laws §§ 23-17.8-1, 23-17.8-2, 23-17.8-3, 23-27.8-3.1, 23-17.8-4.
- Developmentally Disabled (in a Program): R.I. Gen. Laws §§ 40.1-27-1, 40.1-27-2, 40.1-27-4, 40.1-27-5, 40.1-27-6, 4.1-27-10.