

# Mandatory Reporting Requirements: The Elderly South Carolina

*Last Updated: December 2017*

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> <li>• Physician;</li> <li>• Nurse;</li> <li>• Dentist;</li> <li>• Optometrist;</li> <li>• Medical examiner;</li> <li>• Coroner;</li> <li>• Other medical, mental health, or allied health professional;</li> <li>• Christian Science practitioner;</li> <li>• Religious healer;</li> <li>• School teacher;</li> <li>• Counselor;</li> <li>• Psychologist;</li> <li>• Mental health or intellectual disability specialist;</li> <li>• Social or public assistance worker;</li> <li>• Caregiver;</li> <li>• Staff or volunteer of an adult day care center or facility;</li> <li>• Law enforcement officer; and</li> <li>• Anyone with actual knowledge of abuse, neglect, or exploitation.</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>• For mandatory reporters: reason to believe that a vulnerable adult has been or is likely to be abused, neglected, or exploited.</li> <li>• For any other person: actual knowledge that a vulnerable adult has been abused, neglected, or exploited.</li> </ul> <p><b>Where does it go?</b></p> <ul style="list-style-type: none"> <li>• The Vulnerable Adult Investigations Unit of the South Carolina Law Enforcement Division (1-866-200-6066) (<a href="http://www.sled.sc.gov/Vulnerable.aspx?MenuID=VulAdult">http://www.sled.sc.gov/Vulnerable.aspx?MenuID=VulAdult</a>) for incidents occurring in facilities operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.</li> <li>• The Long Term Care Ombudsman Program of the South Carolina Office on Aging ((803) 734-9900) (<a href="http://www.aging.sc.gov/Seniors/Ombudsman.htm">http://www.aging.sc.gov/Seniors/Ombudsman.htm</a>) for incidents occurring in facilities. Regional Contacts are available at: <a href="http://aging.sc.gov/ContactInformation/Pages/OmbudsmanRegionalContacts.aspx">http://aging.sc.gov/ContactInformation/Pages/OmbudsmanRegionalContacts.aspx</a>.</li> <li>• The South Carolina Department of Social Service's Adult Protective Services Program in the county where the</li> </ul>

adult lives (<http://www.state.sc.us/dss/counties.html>) for incidents occurring in all other settings.

Law enforcement must be contacted immediately in cases of an emergency, serious injury, or suspected sexual assault, in addition to the relevant state agency.

What definitions are important to know?

- **“Abuse”** means physical abuse or psychological abuse.
- **“Caregiver”** means a person who provides care to a vulnerable adult, with or without compensation, on a temporary or permanent or full or part-time basis and includes, but is not limited to, a relative, household member, day care personnel, adult foster home sponsor, and personnel of a public or private institution or facility.
- **“Contracted facility”** means those public and private facilities contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.
- **“Exploitation”** means: (a) causing or requiring a vulnerable adult to engage in activity or labor which is improper, unlawful, or against the reasonable and rational wishes of the vulnerable adult (exploitation does not include requiring a vulnerable adult to participate in an activity or labor which is a part of a written plan of care or which is prescribed or authorized by a licensed physician attending the patient), (b) an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a vulnerable adult by a person for the profit or advantage of that person or another person or (c) causing a vulnerable adult to purchase goods or services for the profit or advantage of the seller or another person through: (i) undue influence, (ii) harassment, (iii) duress, (iv) force, (v) coercion, or (vi) swindling by overreaching, cheating, or defrauding the vulnerable adult through cunning arts or devices that delude the vulnerable adult and cause him to lose money or other property.
- **“Facility”** means nursing care facility, community residential care facility, a psychiatric hospital, or any residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.
- **“Neglect”** means the failure or omission of a caregiver to provide the care, goods, or services necessary to maintain the health or safety of a vulnerable adult including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services and the failure or omission has caused, or presents a substantial risk of causing, physical or mental injury to the vulnerable adult. Noncompliance with regulatory standards alone does not constitute neglect. Neglect includes the inability of a vulnerable adult, in the absence of a caretaker, to provide for his or her own health or safety which produces or could reasonably be expected to produce serious physical or psychological harm or substantial risk of death.
- **“Operated facility”** means those facilities directly operated by the Department of Mental Health or the Department of Disabilities and Special Needs.
- **“Physical Abuse”** means intentionally inflicting or allowing to be inflicted physical injury on a vulnerable adult by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery as defined in Section 16-3-651, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that a therapeutic procedure prescribed by a licensed physician or other qualified professional or that is part of a written plan of care by a licensed physician or other qualified professional is not considered physical abuse. Physical abuse does

	<p>not include altercations or acts of assault between vulnerable adults.</p> <ul style="list-style-type: none"> <li>• <b>“Protective services”</b> means those services whose objective is to protect a vulnerable adult from harm caused by the vulnerable adult or another. These services include, but are not limited to, evaluating the need for protective services, securing and coordinating existing services, arranging for living quarters, obtaining financial benefits to which a vulnerable adult is entitled, and securing medical services, supplies, and legal services.</li> <li>• <b>“Psychological Abuse”</b> means deliberately subjecting a vulnerable adult to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.</li> <li>• <b>“Vulnerable adult”</b> means a person 18 years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing for his or her own care or protection; this includes a person who is impaired in the ability to adequately provide for the person’s own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. Residents of a “facility” (defined as “a nursing care facility, community residential care facility, a psychiatric hospital, or any residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs”) are by definition vulnerable adults.</li> </ul>
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> <li>• A person required to report under this section must report the incident within twenty-four hours or the next working day.</li> </ul>
<p>What information must a report include?</p>	<ul style="list-style-type: none"> <li>• Not specified in statute.</li> <li>• When a law enforcement officer takes protective custody of a vulnerable adult under this section, the law enforcement officer must immediately notify the Adult Protective Services Program and the Department of Social Services in the county where the vulnerable adult was situated at the time of being taken into protective custody. This notification must be made in writing or orally by telephone or otherwise and must include the following information: <ul style="list-style-type: none"> <li>• the name of the vulnerable adult, if known, or a physical description of the adult, if the name is unknown;</li> <li>• the address of the place from which the vulnerable adult was removed by the officer</li> <li>• the name and the address, if known, of any person who was exercising temporary or permanent custody of or control over or who was the caregiver of the vulnerable adult at the time the adult was taken into protective custody;</li> <li>• the address of the place to which the vulnerable adult was transported by the officer; and</li> <li>• a description of the facts and circumstances resulting in the officer taking the vulnerable adult into protective custody.</li> </ul> </li> </ul>

Anything else  
I should know?

- No facility may develop policies or procedures that interfere with the reporting requirements.
- No vulnerable adult may be considered to be abused or neglected for the sole reason that, in lieu of medical treatment, the vulnerable adult is being furnished nonmedical remedial treatment by spiritual means through prayer alone which the vulnerable adult has practiced freely in accordance with his religion.
- A mandatory reporter is personally responsible for making the report.
- A person required to report who has reasonable suspicion to believe that a vulnerable adult died as a result of abuse or neglect must report the death and the suspected cause to the coroner or medical examiner.
- Any person, other than a mandatory reporter, who has reason to believe that a vulnerable adult has been or may be abused, neglected, or exploited may report the incident.
- A person required to report who has actual knowledge and who knowingly and willfully fails to report is guilty of a misdemeanor punishable by a fine of up to \$2,500 or imprisonment for up to a year.
- The privileged quality of communication between husband and wife or between a professional person and the person's patient or client, except that between attorney and client or priest and penitent, are abrogated and do not constitute grounds for failing to report or for the exclusion of evidence in any civil or criminal proceeding resulting from a report made pursuant to this chapter.
- Any person who reports in good faith is immune from civil and criminal liability which may otherwise result. In a civil or criminal proceeding good faith is a rebuttal presumption.
- It is against the public policy of South Carolina to change an employee's status solely because the employee reports or cooperates with an investigation or action.
- A person required to report or a person investigating a report may take or cause to be taken color photographs of the trauma visible on the vulnerable adult who is the subject of a report. A person required to report under this chapter as a member of the staff of a medical facility, public or private institution, school, facility, or agency immediately shall notify the person in charge or the designated agent of the person in charge who shall take or cause to be taken color photographs of visible trauma. The investigative entity or law enforcement, if indicated, may cause to be performed a radiological examination or medical examination of the vulnerable adult without consent. All photographs, x-rays, and results of medical examinations and tests must be provided to law enforcement or to the investigative entity upon request.
- A person required to report is personally responsible for making the report; however, a state agency may make a report on behalf of an agency employee if the procedure the agency uses for reporting has been approved in writing by the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division or the investigative entity to which the report is to be made.
- Provided the mandatory reporting requirements of this section are met, nothing precludes a person also from reporting directly to law enforcement, and in cases of an emergency, serious injury, or suspected sexual assault law enforcement must be contacted immediately.
- A person required to report or investigate cases who has reasonable suspicion to believe that a vulnerable adult died as a result of abuse or neglect shall report the death and suspected cause of death to the coroner or medical examiner. The coroner or medical examiner shall conduct an investigation and may conduct or order an autopsy. The coroner or medical examiner must report the investigative findings to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division.
- All deaths involving a vulnerable adult in a facility operated or contracted for operation by the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors must be referred to

	the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division for investigation.
Statutory citation(s):	S.C. Code Ann. §§ 43-35-10, 43-35-13, 43-35-15, 43-35-25, 43-35-30, 43-35-35, 43-35-50, 43-35-75, 43-35-85.