

# Mandatory Reporting Requirements: The Elderly Utah

*Last Updated: April 2023*

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> <li>• Any person.</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>• Reason to believe that any vulnerable adult has been the subject of abuse, neglect or exploitation.</li> </ul> <p><b>Where does it go?</b></p> <ul style="list-style-type: none"> <li>• Utah Department of Adult Protective Services hotline at 1-800-371-7897 or nearest law enforcement agency. Report form also available at: <a href="https://utahaps.com/Intake/NewPublicIntakeReport.aspx">https://utahaps.com/Intake/NewPublicIntakeReport.aspx</a>.</li> </ul>
What definitions are important to know?	<ul style="list-style-type: none"> <li>• <b>“Abandonment”</b> means a knowing or intentional action or failure to act, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.</li> <li>• <b>“Abuse”</b> means: <ul style="list-style-type: none"> <li>• Knowingly or intentionally: (i) attempting to cause harm, (ii) causing harm, or (iii) placing another in fear of harm;</li> <li>• unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult;</li> <li>• emotional or psychological abuse;</li> <li>• sexual offense as defined under Utah law; or</li> <li>• deprivation of life sustaining treatment, or medical or mental health treatment, except under Utah law related to advanced health care directives or when informed consent has been obtained.</li> </ul> </li> <li>• <b>“Caretaker”</b> means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, resource management, or other necessities for pecuniary gain, by contract, or as a result of friendship, or who is otherwise in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.</li> <li>• <b>“Dependent adult”</b> means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights. “Dependent adult” includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.</li> <li>• <b>“Emotional or psychological abuse”</b> means knowing or intentional verbal or nonverbal conduct directed</li> </ul>

at a vulnerable adult that results in the vulnerable adult suffering mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

- “Emotional or psychological abuse” includes intimidating, threatening, isolating, coercing, or harassing.
- “Emotional or psychological abuse” does not include verbal or non-verbal conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly (i) engage in the conduct; or (ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.
- **“Harm”** means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, serious physical injury, suffering, or distress inflicted knowingly or intentionally.
- **“Intimidation”** means communication through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or abuse.
- **“Isolation”** means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:
  - preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;
  - physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or
  - making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.
  - The term “isolation” does not include an act intended in good faith to protect the physical or mental welfare of the vulnerable adult or an act performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.
- **“Lacks capacity to consent”** means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause to the extent that a vulnerable adult lacks sufficient understanding of the nature or consequences of decisions concerning the adult's person or property.
- **“Neglect”** means:
  - failure of a caretaker to provide necessary care, including nutrition, clothing, shelter, supervision, personal care, or dental, or other health care for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance;
  - failure of a caretaker to provide protection from health and safety hazards or maltreatment;
  - failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;
  - a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's wellbeing;
  - knowing or intentional failure by a caretaker to carry out a prescribed treatment plan that causes or

	<p>is likely to cause harm to a vulnerable adult;</p> <ul style="list-style-type: none"> <li>• self-neglect by the vulnerable adult; or</li> <li>• abandonment by a caretaker.</li> <li>• “<b>Neglect</b>” does not include conduct, or failure to take action, that is permitted or excused under advance health care directives.</li> </ul> <ul style="list-style-type: none"> <li>• “<b>Self-neglect</b>” means the failure of a vulnerable adult to provide or obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult’s well-being when that failure is the result of the adult’s mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.</li> <li>• “<b>Undue influence</b>” occurs when a person (a) uses influence to take advantage of a vulnerable adult’s mental or physical impairment; or (b) uses the person’s role, relationship, or power to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult, or uses the person’s role, relationship, or power to gain control deceptively over the decision making of the vulnerable adult.</li> <li>• “<b>Vulnerable adult</b>” means an elder adult (65 years or older), or a dependent adult who has a mental or physical impairment which substantially affects that person’s ability to: <ul style="list-style-type: none"> <li>• Provide personal protection;</li> <li>• Provide necessities such as food, shelter, clothing, or mental or other health care;</li> <li>• Obtain services necessary for health, safety, or welfare;</li> <li>• Carry out the activities of daily living;</li> <li>• Manage the adult’s own financial resources; or</li> <li>• Comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.</li> </ul> </li> </ul>
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> <li>• Report to be made immediately to Adult Protective Services or to the nearest peace officer or law enforcement agency.</li> </ul>
<p>What information must a report include?</p>	<ul style="list-style-type: none"> <li>• Contents of report not specified. However, there is an online reporting form (<a href="https://utahaps.com/LEAPSINTAKE/NewPublicIntakeReport_301.aspx">https://utahaps.com/LEAPSINTAKE/NewPublicIntakeReport_301.aspx</a>) that requests certain information regarding the victim and alleged abuser. The Utah Department of Adult Protective Services hotline number is 1-800-371-7897.</li> </ul>
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> <li>• Willful failure to report is a Class B misdemeanor punishable by imprisonment for a term not exceeding six months, a fine of \$1,000, or both. A covered provider or covered contractor that knowingly fails to report suspected abuse or neglect is subject to a private right of action and liability for the abuse or neglect of another person that is committed by the individual who was not reported to Adult Protective Services. <ul style="list-style-type: none"> <li>• “Covered provider” means: (a) an end stage renal disease facility; (b) a long-term care hospital; (c) a nursing care facility; (d) a small health care facility; (e) an assisted living facility; (f) a hospice; (g) a home health agency; or (h) a personal care agency.</li> <li>• “Covered contractor” means a person that supplies covered individuals, by contract, to a covered</li> </ul> </li> </ul>

employer or covered provider.

- Under circumstances not amounting to a felony of tampering with a witness, a person who threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report, a witness, the person who made the report, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a Class B misdemeanor.
- Caretakers, facilities and other institutions must, regardless of confidentiality standards, report abuse, neglect or exploitation of a vulnerable adult, cooperate with Adult Protective Services investigations, provide Adult Protective Services with access to records regarding the vulnerable adult, and provide evidence in judicial or administrative proceedings.
- Anyone who in good faith makes a report or otherwise notifies a law enforcement agency or Adult Protective Services of suspected abuse, neglect, or exploitation is immune from civil and criminal liability in connection with the report or other notification.
- An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.
- The physician-patient privilege does not (i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult or (ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of those injuries, in any judicial or administrative proceeding resulting from a report made in good faith pursuant to this part.

Statutory  
citation(s):

U.C.A. §§ 62A-3-301, 62A-3-304, 62A-3-305, 76-3-201, 76-3-204, 76-3-301, 76-5-111.1.