

Mandatory Reporting Requirements: The Elderly Virginia

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Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any of the following persons acting <i>in their professional capacity</i>: <ul style="list-style-type: none"> • Any person licensed, certified, or registered by health regulatory boards, with the exception of persons licensed by the Board of Veterinary Medicine; • Any mental health services provider; • Any emergency medical services provider certified by the Board of Health unless such provider immediately reports the suspected abuse, neglect or exploitation directly to the attending physician at the hospital to which the adult is transported (who shall make such report forthwith); • Any guardian or conservator of an adult; • Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity; • Any person providing full, intermittent or occasional care to an adult for compensation, including but not limited to companion, chore, homemaker, and personal care workers; • Any law enforcement officer; and • Any person who engages in the practice of behavior analysis. • Note: medical facilities inspectors of the Department of Health are exempt from immediate reporting while conducting federal inspection surveys.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • Reason to suspect abuse, neglect or exploitation of adults. <p>Where does it go?</p> <ul style="list-style-type: none"> • To the local department of social services of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to the Adult Protective Services hotline at 1-888-832-3858. See the following website for further information: http://www.dss.virginia.gov/family/as/aps.cgi • Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician.

<p>What definitions are important to know?</p>	<ul style="list-style-type: none"> • “Adult” means any person 60 years of age or older, or any person 18 years of age or older who is incapacitated, and who resides in the Commonwealth of Virginia; provided, however, “adult” may include qualifying non-residents who are temporarily in the Commonwealth of Virginia and who are in need of temporary or emergency protective services. • “Adult abuse” means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult. • “Adult exploitation” means the illegal, unauthorized, improper, or fraudulent use of an adult or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. “Adult exploitation” includes: <ul style="list-style-type: none"> • an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; • the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and • forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services. • “Adult neglect” means that an adult is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. <ul style="list-style-type: none"> • However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult. • “Incapacitated person” means an adult who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning his or her well-being.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Report must be made immediately orally or in writing upon the reporting person’s determination that there is reason to suspect abuse, neglect or exploitation.
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • All information that is the basis for the suspicion of adult abuse, neglect or exploitation, and, upon request, any information, records or reports that document the basis for the report.

Anything else I should know?

- Failure to make a required report can result in a fine of up to \$500 for the first failure and not less than \$100 nor more than \$1,000 for subsequent failures to report.
- If a person required to report receives information regarding abuse, neglect or exploitation while providing professional services in a hospital, nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the institution or his designee, who shall report such information, in accordance with the institution's policies and procedures for reporting such matters, immediately upon his determination that there is reason to suspect abuse, neglect or exploitation.
- Any other person who suspects that an adult is an abused, neglected or exploited adult "may" make a report concerning such adult to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the Adult Protective Services hotline.
- Any person who makes a report or provides records or information or who testifies in any judicial proceeding arising from such report, records or information, or who takes or causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any civil or criminal liability on account of such report, records, information, photographs, video recordings, appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.
- Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect, or exploitation that he knows to be false shall be guilty of a Class 4 misdemeanor (punishable by a fine of not more than \$250). Any subsequent conviction shall be a Class 2 misdemeanor (punishable by confinement in jail for not more than 6 months and a fine of not more than \$1,000, or both).
- An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to the local department or to the adult protective services hotline. Employers whose employees are mandated reporters shall notify employees upon hiring of the requirement to report.
- No person or entity shall be obligated to report any matter if the person or entity has actual knowledge that the same matter has already been reported to the local department of social services or to the adult protective services hotline.
- If financial institution staff refuse to execute a transaction, delay a transaction or refuse to disburse funds based on a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult, then the financial institution shall report such refusal or delay within five business days to the local department of social services or the Adult Protective Services hotline.

Statutory citation(s):

Va. Code Ann. §§ 18.2-11, 63.2-100, 63.2-1603, 63.2-1606.