

Mandatory Reporting Requirements: The Elderly West Virginia

Last Updated: April 2023

Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • Any medical, dental or mental health professional; • Christian Science practitioner or religious healer; • Social service worker; • Law enforcement officer; • Humane officer; and • Any employee of any nursing home or other residential facility.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • Reasonable cause to believe that a vulnerable adult or facility resident is or has been neglected, abused, financially exploited or placed in an emergency situation, or if such person observes a vulnerable adult or facility resident being subjected to conditions that are likely to result in abuse, neglect, financial exploitation, or an emergency situation. <p>Where does it go?</p> <ul style="list-style-type: none"> • Local department's adult protective service agency, with a copy of any such report to the Department of Health and Human Resources (including the Abuse and Neglect Hotline at 1-800-352-6513); a local law enforcement agency and prosecuting attorney, if necessary; (in the case of death) to the appropriate medical examiner's office, the state and regional long-term care ombudsman and the Office of Health Facility Licensure and Certification if the institution making the report is a hospital, nursing home or other residential facility. See https://dhhr.wv.gov/bss/services/Pages/Centralized-Intake-for-Abuse-and-Neglect.aspx • If the person who is alleged to be abused, neglected, or financially exploited is a resident of a nursing home or other residential facility, a copy of the report shall also be filed with the state or regional long-term care ombudsman and the administrator of the nursing home or facility. • Public officers and employees are required to report suspected cases of financial exploitation to state or federal law-enforcement authorities, the county prosecuting attorney, and to the Department of Health and Human Resources, Adult Protective Services Division, or Medicaid Fraud Division, as appropriate.
What definitions are important to know?	<ul style="list-style-type: none"> • “Abuse” means the infliction or threat of physical or psychological harm, including the use of undue influence or the imprisonment of any vulnerable adult or facility resident. • “Caregiver” means an individual who is responsible for the care of a vulnerable adult or a facility resident, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an adult with

	<p>disabilities or a facility resident who needs supportive services in any setting.</p> <ul style="list-style-type: none"> • “Emergency” or “emergency situation” means a situation or set of circumstances which presents a substantial and immediate risk of death or serious injury to a vulnerable adult. • “Facility resident” means an individual living in a nursing home or other facility as codified in §9-6-1(9) (<i>See below definition of “Nursing home”</i>). • “Financial exploitation” means the intentional misappropriation, misuse, or use of undue influence to cause the misuse of funds or assets of a vulnerable adult or facility resident, but does not apply to a transaction or disposition of funds or assets where a person made a good-faith effort to assist the vulnerable adult or facility resident with the management of his or her money or other things of value. • “Neglect” means the unreasonable failure by a caregiver to provide the care necessary to maintain the safety or health of a vulnerable adult or self-neglect by a vulnerable adult, including the use of undue influence by a caregiver to cause self-neglect. • “Nursing home” or “facility” means any institution, residence, intermediate care facility for individuals with an intellectual disability, care home, or any other adult residential facility, or any part or unit thereof, that is subject to the provisions of articles § 16-5C-1, § 16-5D-1 <i>et seq.</i> § 16-5E-1 <i>et seq.</i>, or § 16-5H-1 <i>et seq.</i> of the W.V. Code. • “Vulnerable adult” means any person over the age of 18, or an emancipated minor, who by reason of physical or mental condition is unable to independently carry on the daily activities of life necessary to sustaining life and reasonable health and protection.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • Reports shall be made immediately, and not more than 48 hours later after suspecting abuse, neglect or financial exploitation, to the Department of Health and Human Resources’ local adult protective services agency by a method established by the department. • Mandated reporters with an allegation involving a vulnerable adult or resident of a nursing home or residential facility, are required by law to complete the APS Mandatory Reporting Form immediately, but not more than 48 hours of suspecting the abuse or neglect as part of the Adult Protective Services process. (Link to the form is above.)
<p>What information must a report include?</p>	<ul style="list-style-type: none"> • Pursuant to the state website, when calling the Abuse and Neglect Hotline, you will need to provide the following information: <ul style="list-style-type: none"> • Demographic information of the victim and household members; • Type of abuse or neglect suspected; • Location of the victim and caregivers; • Whether there is a protective caregiver present; • Whether the alleged perpetrator has access to the victim; • General functioning of the victim and caregivers; and • Any safety threats for first responders. <p>The form may be found at: the link in the above section.</p>

Anything else I should know?

- Any person required to report and who has probable cause to believe that a vulnerable adult or facility resident has died as a result of abuse or neglect must report that fact to the appropriate medical examiner or coroner.
- Any person subject to the mandatory reporting provisions of this article who knowingly fails to make any report required herein or any person who knowingly prevents another person from making such a report is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$100, imprisoned in the county jail for not more than 10 days, or both.
- The privileged status of communications between husband and wife, and with any person required to make reports under the relevant statute, except communications between an attorney and his or her client, is abrogated in circumstances involving suspected or known abuse, neglect, or financial exploitation of a vulnerable adult, or where the vulnerable adult is in a known or suspected emergency situation.
- In addition to those persons required to make such reports, any other person “may” make a report about any situation involving suspected abuse, neglect, or financial exploitation of a vulnerable adult or facility resident or the existence of an emergency situation.
- Financial institutions and their employees, as defined and as permitted by [the W.V. code](#), others engaged in financially related activities, as defined by [the W.V. code](#), caregivers, relatives, and other concerned persons are permitted to report suspected cases of financial exploitation to state or federal law-enforcement authorities, the county prosecuting attorney, and to the Department of Health and Human Resources, Adult Protective Services Division, or Medicaid Fraud Division, as appropriate.
- Any person who in good faith makes or causes to be made any report shall be immune from any civil or criminal liability which might otherwise arise solely out of making such report.
- The identity of any person reporting abuse, neglect, or financial exploitation of a vulnerable adult may not be released without that person's written consent to any person other than employees of the department responsible for protective services or the appropriate prosecuting attorney or law-enforcement agency.
- No nursing home may discharge or in any manner discriminate against any resident, family member, legal representative or employee for the reason that he or she filed a complaint or participated in any matter or proceeding stemming from a report of abuse.

Statutory citation(s):

W. Va. Code, §§ 9-6-1, 9-6-8, 9-6-9, 9-6-10, 9-6-11, 9-6-12, 9-6-13, 9-6-14.