

## Unit 2: Reporting Abuse



### Reporting Abuse Process and Responsible Parties

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#### UNIT INTRODUCTION AND LEARNING OBJECTIVES

Until an amendment to Act 79 of 1987, all reporting of abuse was voluntary. With the introduction of the **Act 13-1997** amendment which was effective December 10, 1997, mandatory reporting is now required for any employee or administrator of a facility who has reasonable cause to suspect that an individual is a victim of abuse. The amendment further explains what needs to be done if sexual abuse, serious physical injury or serious bodily injury is suspected or if a death seems suspect. This unit will delineate the responsibilities of various parties and the different circumstances that warrant voluntary or mandatory reporting.

By the end of this Unit, you should be able to:

- Describe the voluntary reporting process.
- Describe the mandatory reporting process.
- Understand the difference between voluntary reporting requirements and mandatory reporting requirements.
- Identify the protections for reporters.
- Identify specific reporting requirements for certain Commonwealth Agencies

#### STUDY STEPS

1. Read the narrative section.
2. Review the Reporting Flow Chart.
3. Review [Section 102225.302](#) and [10225.701](#) of the Act.
4. Review the Crimes Code 18PA.C.S.A.s 101.
5. Take the Self Check Quiz.
6. Check your answers to the Quiz at the end of the unit.

#### NARRATIVE

**REPORTING ABUSE (35 P.S. § [10225.302](#) and § [10225.701](#))**

## A. Voluntary Reports (regarding older adults age 60 plus)

Any person who has reasonable cause to believe that an *older adult* is being abandoned, abused, exploited or neglected may file a report with an AAA. ***A person who reports abuse, abandonment, exploitation and/or neglect may choose to remain anonymous and still be assured that his or her report will be investigated.***

Reasonable cause means that it's more than likely than not that something occurred. As an example, one could envision approaching a traffic light that has just turned yellow. The decision to go or not to go could be influenced by the presence of the police. It's more likely that you would go through the light if the police weren't around.

A person who chooses to file a report is given civil protection from retaliation and enjoys immunity from civil and criminal liability unless they act in bad faith or with malicious purpose. Consequently, any person who has personal knowledge that abandonment, abuse, exploitation or neglect has been, or is being, perpetrated upon an older adult may voluntarily report such to the AAA.

## B. Mandatory Reports (regarding recipients of care – no age limitation)

The Act mandates that any ***employee or administrator of a facility*** who has reasonable cause to suspect that an individual (recipient) receiving care, services or treatment from a facility (domiciliary care home; home health agency; long-term nursing facility; older adult daily living center; personal care home; home health care agency that provided care to a care-dependant individual in individual's home; or other DPW-licensed adult facilities\*) is a victim of abuse, ***shall immediately make an oral report of such abuse to the AAA ( 35 P.S. § 10225.701 (a)(1)).*** Further, ***within 48 hours of making the oral report, the employee or administrator shall make a written report to the AAA. Written report is to be on forms prescribed by PDA.*** Additionally, any employee or an administrator who has reasonable cause to suspect that such ***individual is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the AAA and PA Department of Aging (PDA), immediately contact law enforcement officials to make an oral report ( 35 P.S. § 10225.701(b)(1)).*** Within 48 hours of making the oral report, the employee and an administrator shall make a written report to appropriate law enforcement officials. Consequently, any employee or an administrator who has knowledge that abuse has been, or is being, perpetrated upon a recipient is mandated to report to the AAA. If the abuse involves serious injury, sexual abuse or suspicious death, it must be reported to law enforcement and PDA in addition to the AAA.

**\*Note: Effective February 9, 2003, pursuant to Act 171, DPW OMR facilities are exempt from reporting requirements under OAPSA for recipients only under the age of 60. Said facilities must comply with reporting requirements for recipients over the age of 60.**

### (a) Oral Report

#### i. Mandatory reports to AAA

An employee or an administrator who has reasonable cause to suspect that a recipient is a victim of abuse shall immediately make an oral report to the AAA. An employee shall notify the administrator immediately following the report to the AAA. And, **within 48 hours** of making the oral report, the employee or administrator shall make a written report to the AAA.

#### ii. Mandatory reports to law enforcement

An employee or an administrator who has reasonable cause to suspect that a recipient is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the AAA and PDA [(717) 265-7887], immediately contact law enforcement to make an oral report. An

employee shall notify the administrator immediately following the report to law enforcement officials. And, **within 48 hours** of making the oral report, the employee and the administrator shall make a written report to law enforcement in addition to the report made to the AAA.

### iii. Reports to department and coroner

(1) The AAA shall forward the written report within 48 hours of receipt to the department for cases involving **sexual abuse, serious physical injury, serious bodily injury, suspicious death or for abuse reports for individuals under age 60 which do not involve sexual abuse, serious physical injury, serious bodily injury, or suspicious death.**

(2) **The AAA shall give the oral report and forward a copy of the written report to the appropriate coroner within 48 hours for all reports received that involve a death which the AAA suspects the recipient died as a result of abuse.**

### (b) Written Report - Components

The written report to the AAA in matters of abuse, and to law enforcement in matters of sexual abuse, serious physical injury, serious bodily injury or suspicious death, shall include: name, age and address of the recipient; name and address of the recipient's guardian or next of kin; name and address of the facility; nature of the alleged offense; and, any other specific comments or observations that are directly related to the alleged incident and the individual involved. The report must be on the [forms prescribed by PDA](#).

A person who files a report is given protection from retaliation and has immunity from civil or criminal liability unless they act in bad faith or with malicious purpose.

## C. Mandatory Reports (Others) (Crimes Code 18 Pa. C.S.A. § 101)

In addition to the Protective Services law voluntary and mandatory elder abuse reporting declarations, the Crimes Code ***mandates reporting criminal acts or abuse for certain Commonwealth Agencies and for certain medical personnel, when such Agencies and personnel are engaged in the performance of their duties.*** That is, to wit:

The Crimes Code requires any member or agent of the Commonwealth Agencies of PDA, Department of Health or Department of Public Welfare, when in the course of conducting the performance of regulatory or investigative duties, and having reasonable cause to believe that an individual receiving care, services or treatment has suffered bodily injury or been unlawfully restrained, shall immediately report such criminal act to the local law enforcement agency or to the Office of Attorney General ([18 Pa. C.S.A. § 2713\(c\)](#)). That is, where personnel or agents (area agency on aging personnel) of PDA, Department of Health or Department of Public Welfare have cause to believe that the criminal act of omission defined as "neglect of care-dependent person" has been, or is being, perpetrated, it is mandatory that such be reported to law enforcement or to the Pennsylvania Attorney General. Consequently, any employee or agent (area agency on aging personnel) of PDA, Health or Public Welfare must report suspected neglect of care-dependent persons.

Further, the Crimes Code directs that a physician, intern or resident, or any person conducting, managing or in charge of any hospital or pharmacy, or in charge of any ward or part of a hospital, to whom shall come or be brought any person suffering from any wound or other injury inflicted, by his own act or by the act of another, by means of a weapon or has injuries inflicted in violation of any penal law of this Commonwealth (18 Pa. C.S.A. § 5106(a)), shall report such criminal act injuries to the local law enforcement agency or to the State Police. Such is mandatory reporting for medical personnel when injuries sustained are the result of suspected criminal activity ([cf 18 Pa. C.S.A. § 5106\(a\)](#)).

The following chart displays the mandatory reporting requirements for employees or administrators of nursing homes, personal care homes, domiciliary care homes, adult day care centers and home health providers. The left side shows the reporting process for abuse (abuse, exploitation, neglect and abandonment) and the right side indicates the process to report sexual abuse, serious physical injury, serious bodily injury, or suspicious death and the response required by the appropriate report recipient.

*Figure 1.*

### Act 13-1997 Mandatory Abuse Reporting by Employees/Administrators

**Please note:** The following are possible scenarios only.

The law mandates that facility employees/administrators who have reasonable cause to suspect that an individual who receives care, services, or treatment in or from a facility is a victim of abuse, shall immediately make reports to the appropriate entities (AAA, law enforcement and PA Department of Aging, as appropriate). The law does not specify/define who can be a perpetrator.

**Perpetrators can be anyone** - staff, residents, visitors, family members, spouses, etc.

#### **Scenario #1**

The following scenario is used to describe the reporting process for a nurse at a nursing home who witnesses a nursing assistant shoving a resident, Mr. Smith, into a chair in his room. Mr. Smith tries to get out of the chair but the nursing assistant slaps him and holds his hands down and threatens to tie him down if he doesn't stop resisting.

The shoving and slapping would fit the definition of abuse as the infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish. The nurse would call the local area agency on aging. If the alleged victim is **under age 60**, the person taking the report completes a Report of Need, doesn't assign an investigation priority but does refer the case to the Department of Health, the licensing agency, for investigation. The area agency on aging also sends a Report of Need to the Department of Aging. If Mr. Smith is **60 years old**, the area agency on aging completes the Report of Need form, assigns an investigation priority and conducts an investigation as indicated in the protective services regulation. The investigator completes the assessment and care plan as appropriate.

#### **Scenario #2**

Another scenario includes the staff person on the morning shift at ABC Personal Care Home. The staff person notices that Ms. Ham doesn't come to breakfast and so he checks and finds her in bed. Ms. Ham loves breakfast so this is unusual for her not to come. Ms. Ham says that she can't get out of bed, that someone had sex with her last night and she has difficulty moving. As defined in the amendment (Act 13) to the Older Adult Protective Services Act, suspected sexual abuse (intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest), the staff person must call the area agency on aging immediately and notify the administrator immediately following the oral report to the AAA and to the Department of Aging. Within 48 hours of the oral report, a written report must be made to the area agency on aging. Since the report alleged sexual abuse, the employee must immediately make a report to the local police and within 48 hours of making the oral report, a written report must be made to the local police in addition to the report made to the AAA.

More than one investigation will occur once the report is made. The police will investigate to determine if criminal charges should be filed. If Ms. Ham is **under 60** years of age, the area agency on aging completes a Report of Need, does not assign an investigation priority, but a

referral is made to the Department of Public Welfare (the licensing agency) for investigation and the area agency on aging sends a copy of the Report of Need to the Pennsylvania Department of Aging, If she is **60 years** of age or older, the area agency on aging will investigate.

**It must be clearly understood that making the reports to AAA, PDA and police does not fulfill the facility's responsibility to file incident reports or other reports required by the licensing agency.**

[Click here to view the  
Unit 2 Self Check Quiz](#)