Mandatory Reporting and Investigation in Long-Term Care Facilities

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Module Overview

Protective services workers have the responsibility to respond to reports of suspected abuse that may have occurred in the course of the older adult receiving professional care services and/or that is identified by a *mandated reporter*. A protective services worker must know the mandated reporting statutes as well as how to conduct an investigation in a long-term care facility.

Learning Objectives

By the end of this module, you will

- ❑ Know the various types of older care and long-term care facilities in Pennsylvania, as defined by Act 13.
- ❑ Know the characteristics of residents residing in long-term care facilities.
- ❑ Know the requirements of Act 13.
- ❑ Know the unique dynamics of conducting an investigation in a long-term care facility.
- ❑ Know how to locate critical documentation and medical information in a long-term care facility.

Study Steps

1. Prior to reading this module it would be beneficial to:
    a. Shadow an experienced worker on an abuse investigation that is conducted in a long-term care facility.
    b. Read a completed case record that documents a report of abuse in a long-term care facility from the Report of Need (RON) to a completed investigation.
2. Review the content of this section.
3. Review referenced Sections of the Pa. Code, Title 6, Aging - Chapter 15, Protective Services for Older Adults, Aging Program Directives (APD) and Aging Technical Assistance Bulletins (ATAB).
4. Complete the self-evaluation quiz and use the answer key to review your answers.

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5. Review the content of any of the questions you answered incorrectly.
6. Plan with your supervisor to complete transfer of learning activities.

Content

Read the module, Mandatory Reporting & Investigation in Long-Term Care Facilities.

Conducting Investigations in Long-Term Care Facilities

A. There are various levels of care facilities throughout the Commonwealth. See Figure 1 for Long-Term Care covered under OAPSA.
   1. A domiciliary care home
   2. Personal care home (See 55 Pa. Code § 2600.4, *et. seq*.):
      a. Residents must receive 1 hour of personal assistance per day.
         i. A premise in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours, for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in activities of daily living or instrumental activities of daily living.
   3. Skilled or intermediate nursing care (See 28 Pa. Code § 201.3, *et. seq*.):
      a. Professionally supervised nursing care and related medical and other health services provided for a period exceeding 24 hours to an individual not in need of hospitalization, but whose needs are above the level of room and board and can only be met in a long-term care nursing facility on an inpatient basis because of age, illness, disease, injury, convalescence or physical or mental infirmity. The term includes the provision of inpatient services that are needed on a daily basis by the resident, ordered by and provided under the direction of a physician, and which require the skills of professional personnel, such as, registered nurses, licensed practical nurses, physical therapists, occupational therapists, speech pathologists or audiologists.
   4. Long-term care nursing facility (See 28 Pa. Code § 201.3, *et. seq*.):
      a. A facility that provides either skilled or intermediate nursing care or both levels of care to two or more patients, who are unrelated to the licensee, for a period exceeding 24 hours. Intermediate care facilities exclusively for the mentally retarded, commonly called ICF/MR, shall not be considered long-term care nursing facilities for the purpose of this act and shall be licensed by the Department of Public Welfare.
         i. Residents require 2.7 hours of nursing care per day. The elder nursing home resident may present with one or numerous conditions that may impact their ability to protect

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themselves and/or relate information regarding the assault. This condition may be a medical, physical or cognitive (neurological).

B. Investigation/Situations involving State-licensed facilities (6 Pa. Code § 15.45).
   1. The following apply to investigations of reports concerning older adults who reside in State-licensed facilities:
      a. The agency continues to maintain its general responsibility for protective services when a licensing agency assumes the role of investigating a report received by the agency.
      b. The response times are the same as any elder abuse investigation § 15.42(a). (Refer to module Three, Older Adult Protective Services Investigations, in this study guide).
      c. The supervisor of a protective services caseworker who initiates an investigation under this section shall be informed during the current day or next day of normal agency operating hours concerning the report and shall consult frequently with the caseworker about the progress and findings of the investigation.
      d. The agency shall notify the area agency on aging ombudsman of reports and investigations concerning older adults residing in State licensed facilities for which the area agency on aging provides ombudsman services.
      e. The agency shall notify the appropriate licensing agency under procedures developed by the Department, in consultation with the licensing agency
         i. Notification shall identify the facility, the older adult and the nature of the report.
         ii. Notification shall be made immediately by telephone or facsimile to the appropriate field office of the Department of Health that an investigation has been initiated in a facility licensed by the Department of Health.
         iii. Notification shall be made immediately by telephone or facsimile to the appropriate field office or central office of the Department of Public Welfare that an investigation has been initiated in a facility licensed by the Department of Public Welfare.
      f. During the course of the investigation, the agency shall coordinate its investigative activities and findings with the licensing agency to avoid duplication of effort and to foster jointly developed remedies to situations requiring protective services intervention.
   2. Reports involving state-operated mental health and mental retardation facilities, operated by the Department of Welfare under the Office of Mental Retardation:
      a. Provide for an investigation of that report as follows:

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i. The protective services caseworker or investigator to whom the report is referred shall initiate the investigation by referring the report to the appropriate administrative office under procedures jointly developed by the Department and the Department of Public Welfare for investigation under their patient rights program.
    a. The jointly developed procedures provide for specific points of contact between the agency and the Department of Public Welfare and establish a system which assures that the agency will be kept fully informed of the activities, findings and results of investigations through written records of the investigative activities and remedial actions as they develop.

ii. The agency shall closely monitor an investigation to determine that the investigation is effectively implemented and that appropriate remedies have been effected to correct the situation which led to the making of the report.
    a. The referral of an investigation to the Office of Mental Health or Office of Mental Retardation does not relieve the agency of its mandated authority and responsibility to provide protective services. If the agency determines that an older adult's need for protective services is not adequately being met , the agency shall intervene and conduct its own investigation.

C. Staffing in long-term care facilities. There are several levels of staff throughout a LTC facility/personal care home during any 24 hour period of time. The staff has the potential to provide information regarding the alleged perpetrator. They may have information about individuals observed with the victim and/or in the victim's room.
    1. General Care Givers
        a. Various job titles: Personnel care assistants, home care aides, home health aides, and/or certified nursing assistant.
        b. They are often low-paid with high work loads
        c. Work responsibilities may include:
            i. Bathing, dressing, toileting, transferring, comfort and companionship, providing for basic needs, providing oversight for people with cognitive and mental impairments
    2. Certified Nursing Assistants
        a. Perform duties similar to the general caregiver
        b. Receive certification upon completion of a course of study
    3. House Keeping
    4. Licensed Practical Nurses
    5. Registered Nurses

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6. Doctors
7. Administration

Through collection of information from staff, including house keeping, maintenance etc., key information about alleged elder mistreatment may be provided. Through interviews with staff you can develop an outline of the victim's day and develop a list of possible witnesses and/or perpetrators.

D. Locating Documentation in long-term care facilities
   1. Facility Surveillance:
      a. Surveillance cameras: Facilities may have cameras stationed at the sign-in/entrance area, parking lot etc. The tapes could provide information re: arrival and exit times. Some facilities have extensive surveillance that tracks movement in the halls and residents rooms.
      b. Visitor logs: Most facilities maintain some level of documentation regarding visitors to the facility and residents: their time of arrival, person they are visiting.
      c. Alarm doors checks: Facilities may have door alarms that alert personnel of a perpetrator attempting to leave unnoticed.
      d. Security guard records:These may also indicate the arrival and departure of facility staff or any unusual incidence that may have been observed.
   2. Written Documentation
      a. Medical Record with History and Physical
      b. Physician Progress Notes & Orders
      c. Nurses and Nursing Aides Documentation
      d. Turn and Position Log Sheet
      e. Care Plan
      f. Medication Record
      g. Treatment Record
      h. X-ray Reports if related to this incident
      i. Incident and Accident Report
      j. Private Notebooks:
         i. Licensed staff including the Director of Nursing and Administrators may have related to this incident
      k. Electronic Correspondence:
         i. Any electronic correspondence or intra-agency facility memos related to the issue.
      l. 24 Hour Report Sheets:
         i. These forms contain information about unusual events. There may have been activity that is reported that is connected to the sexual assault.
      m. Employee Schedule & Time Clock Reports:
         i. Provides information about who was scheduled to be on duty and usually details who is covering the possible various

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sections of a facility. Can provide assistance to identify possible witnesses/ suspects.

n. Employee time clock punches:
   i. Documents who was actually in the facility, what time they arrived and what time they left. This may be different then the scheduling and deployment time sheet.

o. Staffing deployment sheets:
   i. Documents who was assigned to work with patients and allows officers to identify specific staff members assigned to care for the victim.

E. Act 13 of 1997, 35 P.S. § 10225.701 *et. seq.*; Mandatory Reports (regarding recipients of care – no age limitation) - Mandatory reporting is required for any employee or administrator of a covered facility who has <u>reasonable cause to suspect</u> that an individual is a victim of abuse. The Act 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.

1. Facilities covered by this legislation include:
   a. Domiciliary care home;
   b. Home health agency;
   c. Long-term nursing facility;
   d. Older adult daily living center;
   e. Personal care home;
   f. Home health care agency that provided care to a care-dependant individual in individual's home;
   g. Or other DPW-licensed adult facilities
2. If abuse is suspected, the employee MUST IMMEDIATELY make an oral report of such abuse.
   a. An employee shall notify the administrator immediately following the report to the AAA
   b. <u>Within 48 hours</u> of making the oral report, the employee or administrator shall make a written report to the AAA. Written report is to be on <u>forms prescribed by PDA</u>**.**
3. 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 PA Department of Aging (PDA), immediately contact law enforcement officials to make an oral report (35 P.S. § 10225.701(b)(1)).
   a. Within 48 hours of making the oral report, the employee and an administrator shall make a written report to appropriate law enforcement officials, PA Department of Aging (717) 783-6207 and the local AAA. *Note: Effective February 9, 2003, pursuant to Act 171, DPW OMR facilities are exempt from reporting requirements under OAPSA for recipients <u>only</u> under the age of 60. Said

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facilities must comply with reporting requirements for recipients over the age of 60.

b. The Crimes Code, Title 18 Pennsylvania Consolidated Statutes, requires the PA Departments of Aging, Health or 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 PDA personnel, Department of Health or Department of Public Welfare staff 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 PDA, Health or Public Welfare personnel must report suspected neglect of care-dependent persons.

c. 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)).

d. 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.

e. 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.

4. Reports to department and coroner

a. 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**

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involve sexual abuse, serious physical injury, serious bodily injury, or suspicious death. (35 P.S. § 10225.701, *et. seq*.)

See Figure 2
Act 13-1997 Mandatory Abuse Reporting by Employees/Administrators
Section 4, Page 13 of this study guide

F. Characteristics of older adults receiving services from a facility. As mentioned, care services provided to older adults range from the short-term incident specific in-home care giving to the long-term complete care nursing facility. As such there is a broad range of capabilities of the older adult receiving services; from a time limited minimally physically and/or cognitively challenged person in their own home to a resident requiring complete medical care due to multiple moderate to severe physical and/or cognitive limitations. As the level of dependency on a caregiver increases, the vulnerability for victimization increases. This is not to say that a fully independent person will not be abused or that a completely dependent person will be abused - only that the ability to protect oneself and caregiver dependency and stress level increases.
   1. Physical Health Challenges
      a. The physical health challenges confronted by seniors in some form of home based or institutional long-term care include a wide variety of conditions and disease. Usually, these include difficulties with ambulation and one or more chronic diseases such as hypertension, diabetes, cardiovascular disease, cancer, chronic restrictive pulmonary disease, congenital heart failure and a wide variety of other limiting conditions. Core to all of these diseases processes is that for institutional or home based skilled nursing care, the consumer must have some identified skilled nursing care need that must be delivered, and for personal care the consumer requires assistance with one or more activities of daily living.
   2. Cognitive Challenges
      a. Dementia: (from Latin de- "apart, away," + mens (genitive mentis) "mind") is progressive decline in cognitive function due to damage or disease in the brain beyond what might be expected from normal aging. Particularly affected areas may be memory, attention, language and problem solving, although particularly in the later stages of the condition, affected persons may be disoriented in time (not knowing what day, week, month or year it is), place (not knowing where they are) and person (not knowing who they are). Symptoms of dementia can be classified as either reversible or irreversible depending upon the etiology of the disease. Probably less than 10% of all dementias are reversible. Dementia is a non-specific term that encompasses many disease processes, just as fever. Dementia is most often manifested by the victim being unable to recall or repeat what has occurred.

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b. Dementia vs. Depression
   i. Depression manifests in a number of ways; with some victims it leaves them unable to repeat what has happened to them. Depression is treatable and the victim recovers. As part of the recovery process they may recall details of their victimization.

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Figure 1.

Long Term Care Covered Under OAPSA

Domiciliary Care	Homelike, supportive living environments for up to 3 adults incapable of living alone in the community. Provides food, shelter and assistance or supervision with activities of daily living for a period exceeding 24 hours. Provider resides in facility.	18 years or older, mobile or semi-mobile and do not require skilled or intermediate nursing care on a 24 hour basis.	Department of Aging	State	Private
Home Health	Provides nursing and at least one therapeutic service. May provide other health-related services to maintain persons in their own home.	Disabled, aged, injured, sick in their place of residence.	Department of Health	Federal, State	Private Medicare Medicaid
Nursing Homes	Provide skilled or intermediate care or both levels of care to at a minimum, 2 or more residents not related to licensee (largest is over 900 residents). Length of stay over 24 hours. Free standing or hospital-based. May be licensed only or participate in Medicare and/or Medicaid.	18 years or older who require skilled or intermediate care or both levels of care.	Department of Health	Federal, State	Private Medicare Medicaid
Personal Care Homes	Any premise in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty-four hours for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility but who do require the assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency or medication prescribed for self administration. Article X of the Public Welfare Code	18 years of age or older who do not require services in or of a licensed long-term care facility.	Department of Public Welfare	State	Private eligible SSI residents may apply for state supplement funds. All PCHs have provisions to obtain Home Health for MA and Medicare service delivery in home.
Older Adult Daily Living Center	Private, non-profit and profit licensed settings with 4 or more adults. Provide food, shelter and personal assistance/supervision for part of a 24-hour day. Clients predominantly 60 years of age but who have a dementia-related disease as a primary diagnosis. Clients must have a functional impairment and be in need of services, as determined by an intake process. Clients receive the following services: personal care, nursing, social services, therapeutic activities, nutrition and emergency	Predominantly 60 years of age or older.	Department of Aging	State	Private

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	care.				
Community Residential Rehabilitation Services (CRRS) for Adults	Transitional residential programs in community settings for persons with chronic psychiatric disability. CRRS's provide housing, personal assistance and psychosocial rehabilitation to clients in nonmedical settings. There are two levels of care, full or partial, which are distinguished by the level of functioning of the clients served and the intensity of rehabilitation and training services provided by CRRS staff to the clients. In both levels of care, the provider acts as landlord to the client. …every site used by a CRRS to house clients is owned, held, leased or controlled by the provider or a provider-affiliate. PA Code, Title 55, Chapter 5310	18 years of age or older with psychiatric disability	Department of Public Welfare	State	County MH/MR Funds via State allocation
Community Homes for Individuals with Mental Retardation	Community home for people with mental retardation¾ A building or separate dwelling unit in which residential care is provided to one or more individuals with mental retardation. Each apartment unit within an apartment building is considered a separate home. Each part of a duplex, if there is physical separation between the living areas, is considered a separate home. A community home is not: A private home of persons providing care to a relative with mental retardation; An intermediate care facility for the mentally retarded licensed by the Department of Public Welfare as an ICF/MR [intermediate care facility for the mentally retarded]; A licensed foster family care home servicing only foster care children; Summer camps; Facilities serving exclusively personal care home, drug and alcohol, mental health or domiciliary care residents. Residential homes for three or fewer people with mental retardation who are 18 years of age or older and who need a yearly average of 30 hours or less direct staff contact per week per home. PA Code, Title 55 Chapter 6400 Large Community Home¾ A community home serving 9 or more individuals. PA Code, Title 55 Chapter 6400	18 years of age or older with mental retardation	Department of Public Welfare	State	Private State Medicaid

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Family Living Homes	Family Living Home-¾ The private home of an individual or a family in which residential care is provided to one or two individuals with mental retardation. A Family Living Home is not: A private home of persons providing care to a relative with mental retardation; A licensed community home for individuals with mental retardation; A licensed foster family care home; Homes serving exclusively personal care home, drug and alcohol, mental health or domiciliary care residents; Homes providing room and board for one or two people with mental retardation who are 18 years of age or older and who need a yearly average of 30 hours or less direct training and assistance per week per home, from the agency, the county mental retardation program or the family; A home providing 90 or fewer calendar days of respite care per calendar year. PA Code, Title 55 Chapter 6500	18 years of age or older with mental retardation	Department of Public Welfare	State	Private State Medicaid
Intermediate Care Facilities for Individuals with Mental Retardation	A State operated or non state operated facility, licensed by the Department [of Public Welfare] in accordance with Chapter 6600 (relating to intermediate care facilities for the mentally retarded) to provide a level of care specially designed to meet the needs of persons who are mentally retarded, or persons with related conditions, who require specialized health and rehabilitative services; that is, active treatment. PA Code, Title 55 Chapter 6210	18 years of age or older with mental retardation	Department of Public Welfare	State licensure Federal certification	Private State Medicaid
State Mental Hospitals	A state owned and operated hospital that provides inpatient psychiatric evaluation and treatment under the provisions of the Mental Health Procedures Act.	18 years of age and older who have received acute psychiatric care in their community, and have been committed under the provisions of the Mental Health Procedures Act for longer term psychiatric treatment and/or evaluation.	Department of Public Welfare	Federal, State ¾ adhere to Medicare Standards and Joint Commission Accreditation Standards as required by the Mental Health procedures Act	Private Medicare Medicaid State funds

Courtesy of the PA Dept. of Aging website: www.aging.state.pa.us

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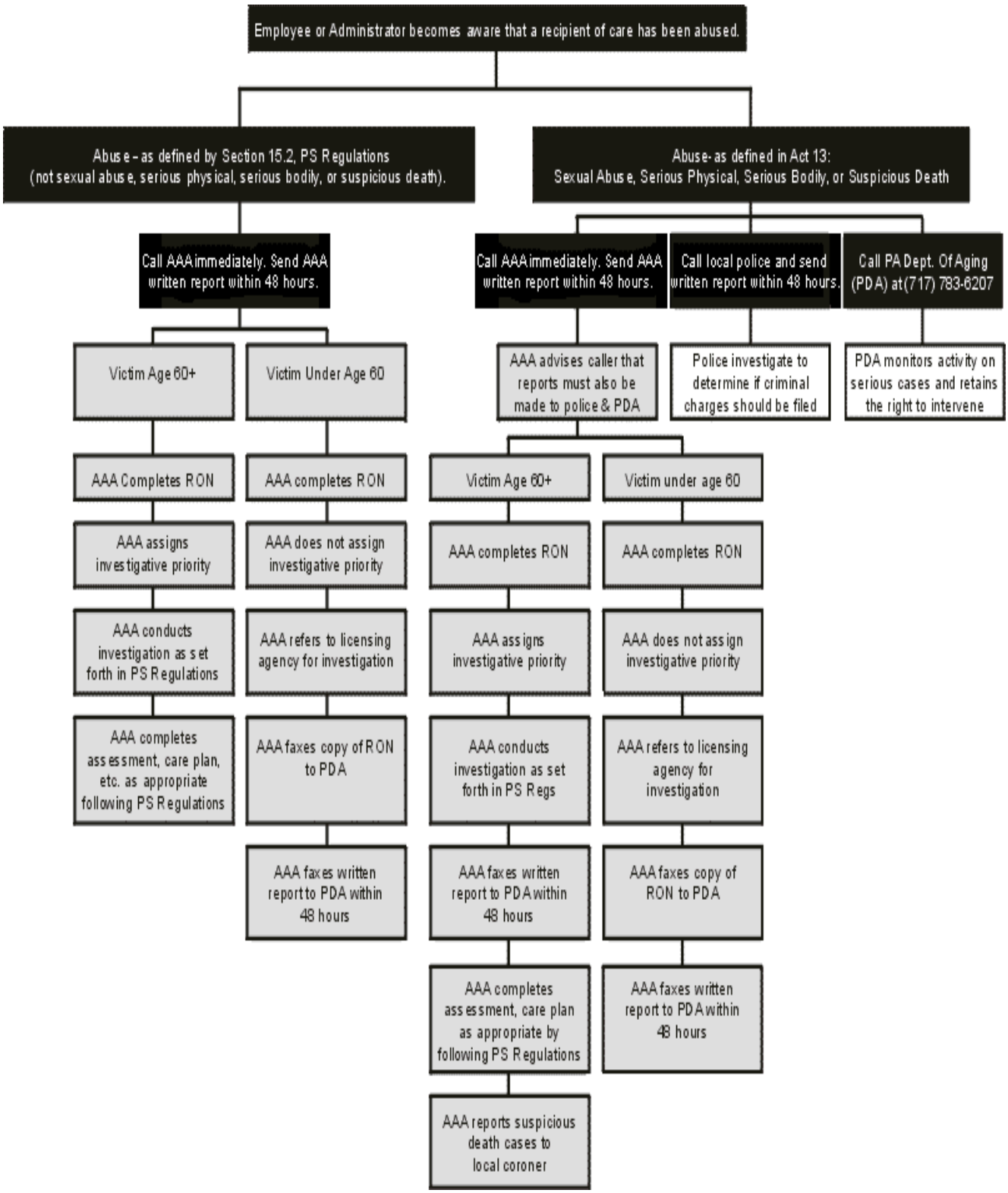
Figure 2.



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Self-Evaluation Quiz

1. List the various levels of residential care facilities licensed by the Pennsylvania Department of Welfare.
   i. _____
   ii. _____
   iii. _____
   iv. _____

2. List 5 areas to locate information when conducting an alleged abuse of a resident in a long-term care facility.
   i. _____
   ii. _____
   iii. _____
   iv. _____
   v. _____

3. Mandatory reporting is required for any employee or administrator of a facility (as defined by Act 13) who has reasonable cause to suspect that an individual is a victim of abuse.

   T F

4. If abuse is suspected, the employee must contact the Area Agency on Aging within 24 hours.

   T F

5. 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 PA Department of Aging (PDA), immediately contact law enforcement officials to make an oral report.

   T F

Review your answers with the answer key at the end of this section.

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Transfer of Learning Activities

1. Review a completed case record for:
    i. Physical Abuse
    ii. Neglect
    iii. Self Neglect
    iv. Abandonment
    v. Financial Exploitation
    vi. Sexual Abuse

2. As assigned by your supervisor, shadow an experienced PS worker throughout an entire protective services investigation. Review the process by which they document their work.

3. As assigned by your supervisor, request an experienced PS worker or your supervisor to observe you conducting an entire protective services investigation.

References

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Pennsylvania Department of Aging, Aging Program Directive. *Protective Services Investigations*, 93-12-01.

Pennsylvania Code, Title 6, Chapter 15. *Protective Services for Older Adults.*

Pennsylvania Department of Aging, Home and Community Based Services Procedures Manual. *Protective Services*, Chapter 3.

Resources

Pennsylvania Department of Aging Web-Site: www.aging.state.pa.us/

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ANSWER KEY
Mandatory Reporting & Investigation in Long-Term Care Facilities

1. List the various levels of residential care facilities licensed by the Pennsylvania department of Welfare.
    i. *Domiciliary care home*
    ii. *Personal care home*
    iii. *Skilled or intermediate nursing care*
    iv. *Long-term care nursing facility*

2. List 5 areas to locate information when conducting an alleged abuse of a resident in a long-term care facility.
    i. *Surveillance cameras*
    ii. *Visitor logs*
    iii. *Alarm doors checks*
    iv. *Security guard records*
    v. *Medical Record with History and Physical*
    vi. *Physician Progress Notes & Orders*
    vii. *Nurses and Nursing Aides Documentation*
    viii. *Turn and Position Log Sheet*
    ix. *Care Plan*
    x. *Medication Record*
    xi. *Treatment Records*
    xii. *X-ray Reports if related to this incident*
    xiii. *Incident and Accident Reports*
    xiv. *Private Notebooks*
    xv. *Electronic Correspondence*
    xvi. *24 Hour Report Sheets:*
    xvii. *Employee Schedule & Time Clock Reports*
    xviii. *Employee time clock punches:*
    xix. *Staffing deployment sheets*

3. Mandatory reporting is required for any employee or administrator of a facility (as defined by Act 13) who has <u>reasonable cause to suspect</u> that an individual is a victim of abuse. True.

4. If abuse is suspected, the employee must contact the Area Agency on Aging within 24 hours. **False**. *If abuse is suspected, the employee MUST IMMEDIATELY make an oral report of such abuse. An employee shall notify the administrator immediately following the report to the AAA.* W*<u>ithin 48 hours</u> of making the oral report, the employee or administrator shall make a written report to the AAA. Written report is to be on <u>forms prescribed by PDA</u>.*

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5. An employee or an administrator who has reasonable cause to suspect that a recipient is a 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. **True. (35 P.S. § 10225.701(b)(1)).**

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