

ADDITIONAL REPORTING

In addition to the reporting methodologies described in this bulletin, the following is provided as a guide to assist in identifying additional reporting. This does not fully define, nor is it intended to substitute for, the applicable statutes and regulations.

Neglect of care-dependent person (Title 18 Pa.C.S. § 2713)

The neglect of care-dependent person 18 Pa.C.S. § 2713 covers any adult who, due to physical or cognitive disability or impairment, requires assistance to meet his needs for food, shelter, clothing, personal care or health care. 18 Pa.C.S. § 2713 extends to certain listed facilities and to home health services provided to care-dependent persons in their residence.

The statute criminalizes intentional, knowing or reckless conduct by a caregiver which results in bodily injury or serious bodily injury to a care-dependent person by the failure to provide treatment, care, goods or services necessary to preserve the health, safety or welfare of a care-dependent person for whom the caregiver is responsible to provide care. A caregiver may also be prosecuted if he intentionally or knowingly uses a physical restraint, a chemical restraint or medication on a care-dependent person, or isolates that person, contrary to law or regulation, such that bodily or serious bodily injury results.

Anyone aware of possible violations of this may make a report to the appropriate law enforcement authorities. The reporting requirements of this bulletin are to be followed even if a report of a possible violation of this statute is made to law enforcement authorities.

The Child Protective Services Law (23 Pa. C.S. §§ 6301-6385)

The Child Protective Services Law (CPSL) establishes procedures for the reporting and investigation of suspected child abuse. Certain types of suspected child abuse must be reported to law enforcement officials for investigation of criminal offenses. Children under the age of 18 are covered by the Act including those who receive supports and services from the ODP. Providers covered within the scope of this bulletin are required to report suspected child abuse in accordance with the procedures established in the CPSL and the Protective services Regulations.

The CPSL defines child abuse as any of the following when committed upon a child under 18 years of age by a parent, person responsible for a child's welfare, an individual residing in the same home as a child or a paramour of a child's parent.

- Any recent act or failure to act that causes non-accidental serious physical injury.
- Any act or failure to act that causes non-accidental serious mental injury or sexual abuse or sexual exploitation.

- Any recent act or series of such acts or failures to act that creates an imminent risk of serious physical injury or sexual abuse or sexual exploitation.
- Serious physical neglect constituting prolonged or repeated lack of supervision or the failure to provide essentials of life including adequate medical care which endangers a child's life or development or impairs the child's functioning.

Reports of suspected abuse are received by the Department of Human Services (DHS) ChildLine and Abuse Registry, which is the central register for all investigated reports of abuse. Individuals who come into contact with children in the course of practicing their profession are required to report when they have reasonable cause to suspect on the basis of their medical, professional or other training or experience, that a child is an abused child. Every facility or agency is required by the CPSL to funnel reports to the director or a designee to be promptly reported to ChildLine. The reporting, investigation and documentation requirements of this bulletin must also be followed when a report of suspected child abuse is made. It must be noted that the definition of abuse found in the CPSL differs greatly from the definition promulgated in this bulletin. Because of this difference it is possible that an allegation may be unconfirmed in terms of the CPSL but still be confirmed when using the ODP definitions contained in this bulletin.

Anyone who has reasonable cause to suspect that a child is the victim of abuse, neglect, exploitation, or abandonment can call Childline at: 1-800-932-0313

Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704)

The Adult Protective Services (APS) Law (Act 70 of 2010) was enacted to provide protective services to adults between 18 and 59 years of age who have a physical or mental impairment that substantially limits one or more major life activities.

Statutory definitions of allegations covered by APS:

Abuse

- Infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish
- Willful deprivation by a caregiver of goods or services which are necessary to maintain physical or mental health
- Sexual harassment, rape or abuse as the term is defined in 23 Pa.C.S. § 6102

Neglect

- The failure to provide for oneself or the failure of a caregiver to provide goods, care or services essential to avoid clear and serious threat to the physical or mental health of an adult

Exploitation

- An act or course of conduct by a caregiver or other person against an adult or an adult's resources, without the informed consent of the adult or with consent obtained through misrepresentation, coercion or threats of force that results in monetary, personal or other benefit, gain or profit for the perpetrators or monetary or personal loss to the adult

Abandonment

- The desertion of an adult by a caregiver

Serious bodily injury

- Injury that creates a substantial risk of death; or
- causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ

Serious injury

- An injury that causes a person severe pain; or
- significantly impairs a person's physical or mental functioning, either temporarily or permanently

Sexual abuse

- Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault or incest, as defined by 18 Pa.C.S. (relating to crimes and offenses)

Sexual Harassment

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

It must be noted that the definition of abuse, neglect and exploitation found in the APS law differs from the definition promulgated in this bulletin. Because of this difference it is possible that an allegation may be unconfirmed in terms of the APS but still be confirmed when using the ODP definitions contained in this bulletin.

APS is required to:

- Investigate allegations
- Determine if individual is at imminent risk and if protective services are necessary
- Cooperatively develop a service plan

- Provide protective services to adults who voluntarily consent
- Provide services in the least restrictive environment and the most integrated setting
- Provide Guardianship as needed

Anyone who has reasonable cause to suspect that an adult is the victim of abuse, neglect, exploitation, or abandonment can call the protective services hotline at:

1-800-490-8505

The Older Adults Protective Services Act (35 P.S. §§ 10225.101-10225.5102)

The Older Adults Protective Services Act (OAPSA) of 1987 was enacted to protect all Pennsylvanians age 60 and older. The OAPSA established a detailed system for reporting and investigating suspected abuse, neglect, exploitation, and abandonment for care dependent individuals. Act 13 was signed into law in 1997 as an amendment to the OAPSA. Unlike the other provisions of OAPSA that applied only to adults age 60 and above, Act 13 applied to adults age 18 and above who were considered “care-dependent” individuals and to “care-dependent” individuals under age 18 if they resided in a facility serving individuals over 18. Employees or administrators of a covered entity reported suspected abuse incidents to the local Area Agency on Aging (AAA), where indicated, to the Pennsylvania Department of Aging and to local law enforcement pursuant to Chapter 7 of the OAPSA. These requirements existed in addition to the reporting procedures contained in this Bulletin. In 2002, the OAPSA was further amended by the Elder Care Payment Restitution Act.

Anyone who has reasonable cause to suspect that an older adult is the victim of abuse, neglect, exploitation, or abandonment can call the protective services hotline at:

1-800-490-8505.

The Elder Care Payment Restitution Act (35 P.S. §§ 10226.101 - 10226.107)

The Elder Care Payment Restitution Act eliminated the requirements of Act 13 for which suspected abuse of individuals with an intellectual disability under the age of 60 was reported to the Area Agency on Aging and in some cases, to the Department of Aging. This Act became effective February 9, 2003.

Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191)

HIPAA and the applicable regulations at 45 CFR Parts 160 and 164 (Privacy Rule) established a set of national standards for the protection of personal health information. The Privacy Rule addresses the use and disclosure of individuals’ health information or “protected health information” by organizations subject to the Privacy Rule or “covered entities”. The Privacy Rule establishes standards for individuals’ rights to understand and control how their personal health information is used. The U.S. Department of

Health and Human Services, Office of Civil Rights is responsible to implement and enforce the Privacy Rule.

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