

REPORTING ABUSE OR EXPLOITATION OF RESIDENTS

(1) "Abuse" means any intentional or grossly negligent act or series of acts or intentional or grossly negligent omission to act which causes injury to a resident, including, but not limited to, assault or battery, failure to provide treatment or care, or sexual harassment of the resident.

(2) "Exploitation" means an unjust or improper use of another person or the person's property through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for one's own profit or advantage.

(3) "Long-term care facility" or "facility" means any skilled nursing home, intermediate care home, personal care home, or community living arrangement now or hereafter subject to regulation and licensure by the department.

(4) "Resident" means any person receiving treatment or care in a long-term care facility.

Reporting abuse or exploitation; records.

(a) Any:

(1) Administrator, manager, physician, nurse, nurse's aide, orderly, or other employee in a hospital or facility;

(2) Medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social worker, coroner, clergyman, police officer, pharmacist, physical therapist, or psychologist; or

(3) Employee of a public or private agency engaged in professional services to residents or responsible for inspection of long-term care facilities who has knowledge that any resident or former resident has been abused or exploited while residing in a long-term care facility shall immediately make a report as described in subsection (c) of this Code section by telephone or in person to the department. In the event that an immediate report to the department is not possible, the person shall make the report to the appropriate law enforcement agency. Such person shall also make a written report to the Department of Human Resources within 24 hours after making the initial report.

(b) Any other person who has knowledge that a resident or former resident has been abused or exploited while residing in a facility may report or cause a report to be made to the department or the appropriate law enforcement agency.

(c) A report of suspected abuse or exploitation shall include the following:

(1) The name and address of the person making the report unless such person is not required to make a report;

(2) The name and address of the resident or former resident;

(3) The name and address of the facility;

(4) The nature and extent of any injuries or the condition resulting from the suspected abuse or exploitation;

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(5) The suspected cause of the abuse or exploitation; and

(6) Any other information which the reporter believes might be helpful in determining the cause of the resident's injuries or condition and in determining the identity of the person or persons responsible for the abuse or exploitation.

(d) Upon receipt of a report of abuse or exploitation, the department may notify the appropriate law enforcement agency. In the event a report is made directly to a law enforcement agency, under subsection (a) or (b) of this Code section, that agency shall immediately notify the department.

(e) The department shall maintain accurate records which shall include all reports of abuse or exploitation, the results of all investigations and administrative or judicial proceedings, and a summary of actions taken to assist the resident.

Investigations.

(a) The department shall immediately initiate an investigation after the receipt of any report. The department shall direct and conduct all investigations; however, it may delegate the conduct of investigations to local police authorities or other appropriate agencies. If such delegation occurs, the agency to which authority has been delegated must report the results of its investigation to the department immediately upon completion.

(b) The investigation shall determine the nature, cause, and extent of the reported abuse or exploitation, an assessment of the current condition of the resident, and an assessment of needed action and services. Where appropriate, the investigation shall include a prompt visit to the resident.

(c) The investigating agency shall collect and preserve all evidence relating to the suspected abuse or exploitation.

(d) All state, county, and municipal law enforcement agencies, employees of long-term care facilities, and other appropriate persons shall cooperate with the department or investigating agency in the administration of this article.

Evaluation of results of investigation; protection of resident.

(a) Upon the receipt of the results of an investigation, the department, in cooperation with the investigating agency, shall immediately evaluate such results to determine what actions shall be taken to assist the resident.

(b) The department or an agency designated by the department shall assist and prevent further harm to a resident who has been abused or exploited. The department may also take appropriate legal actions to assure the safety and welfare of all other residents of the facility where necessary.

(c) Within a reasonable time not to exceed 30 days after it has initiated action to assist a resident, the department shall determine the current condition of the resident, whether the abuse or exploitation has been abated, and whether continued assistance is necessary.

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(d) If because of an investigation a determination is made that a resident has been abused or exploited, the department shall contact the appropriate prosecuting authority and provide all information and evidence to such prosecuting authority.

Immunity from liability.

(a) Any agency or person who in good faith makes a report or provides information or evidence pursuant to this article shall be immune from liability for such actions.

(b) Neither the department nor its employees, when acting in good faith and with reasonable diligence, shall have any liability for defamation, invasion of privacy, negligence, or any other claim about the collection or release of information pursuant to this article and neither shall be subject to suit based upon any such claims.

Confidentiality.

The identities of the resident, the alleged perpetrator, and persons making a report or providing information or evidence shall not be disclosed to the public unless required to be revealed in court proceedings or upon the written consent of the person whose identity is to be revealed or as otherwise required by law. Upon the resident's or his representative's request, the department shall make information obtained in an abuse report or complaint and an investigation available to an allegedly abused or exploited resident or his representative for inspection or duplication, except that such disclosure shall be made without revealing the identity of any other resident, the person making the report, or persons providing information by name or inference. For this Code section, the term "representative" shall include any person authorized in writing by the resident or appointed by an appropriate court to act upon the resident's behalf.

The term "representative" also shall include a family member of a deceased or physically or mentally impaired resident unable to grant authorization; provided, however, such family members who do not have written or court authorization shall not be authorized by this Code section to receive the resident's health records as defined in Code Section 31-33-1.

Retaliation prohibited.

No person or facility shall discriminate or retaliate in any manner against any person for making a report or providing information pursuant to this article or against any resident who is the subject of a report. Nothing in this Code section shall be construed to prohibit the termination of the relationship between the facility and the resident for reasons other than that the facility has been made the subject of a report, that such a report has been made, or that information has been provided pursuant to this article.

Notice of requirements of article.

The department shall prepare a written notice describing the reporting requirements set forth in this article. Such notice shall be distributed to all long-term care facilities and hospitals in the state and copies thereof shall be posted in conspicuous locations within facilities and hospitals.

RESIDENT SIGNATURE: _____ DATE: _____