

Adult Protective Services Act

Mandatory Reporting and Confidentiality Requirements

Overview

The Adult Protective Services Act (APSA) provides protection for abused, neglected, exploited, or abandoned adults, aged 18-59, who have physical or mental impairments that substantially limit one or more major life activities. The APSA applies to, among others, facilities that use public funds to provide care and support to adults. The Pennsylvania Department of Human Services (DHS) interprets “public funds” broadly to include any organization or group that uses any public funds from the federal, state, or county governments, or any other public funding sources.



How this impacts advocates

Many advocates are likely mandatory reporters under the APSA. Sexual assault counselors, however, are *not* mandatory reporters under the act. By statute, sexual assault advocates have an absolute privilege pertaining to communications between the victim and the advocate. Sexual assault counselors, interpreters, or counseling co-participants that receive oral or written confidential communications from a victim cannot disclose those communications or consent to be examined in any court or criminal proceeding *without the written consent of the victim* (42 Pa. Cons. Stat. Ann. § 5945.1). If sexual assault counselors are subpoenaed regarding confidential communications, they should file a motion to quash the subpoena unless the client provides written consent to disclose.

Sexual assault counselors should distinguish themselves from mandated reporters and inform clients that other advocates may be mandated reporters. Sexual assault counselors should discuss the pros and cons of making a report with the victim’s written consent and explain the reporting process.

How this impacts victims

Victims sometimes make disclosures, regardless of whether they want the information to be shared. They deserve to understand, prior to making a disclosure, how they will be impacted so that they can make informed choices about their conduct. If a victim discloses sexual abuse to a service provider who is not a sexual assault advocate, that service provider may be a mandatory reporter.

Mandated reporters must disclose:

- ① The name, age, and address of the recipient;
- ② The name and address of the recipient’s guardian;
- ③ The name and address of the facility;
- ④ The nature of the alleged offense; and
- ⑤ Any specific comments or observations that are directly related to the alleged incident and those involved.

Steps for mandatory reporting

The steps below are only required for mandated reporters or sexual assault counselors that have obtained written consent, from the victim, to make a report. Sexual assault counselors that do not have written consent should not make a report.

Those with **reasonable cause to suspect abuse or neglect** must:

- ① Immediately call the Protective Services hotline at 800-490-8505;
- ② Immediately notify an administrator;
- ③ Within 48 hours, submit a written report to the APSA Agency (Liberty Healthcare) via e-mail (mantatoryon@libertyhealth.com) or fax (484-434-1590); and
- ④ Follow all other directions.

When a **death is suspicious, or when there is reasonable cause to suspect sexual abuse, serious injury, or serious bodily injury**, one must:

- ① Immediately call the Protective Services hotline at 800-490-8505;
- ② Immediately make an oral report to law enforcement and the Mandatory Abuse Reporting Line at 717-265-7887 option 3;
- ③ Immediately notify an administrator; and
- ④ Within 48 hours, submit a joint written report, with an administrator, to law enforcement and Liberty Healthcare.

The administrator should not be notified if the notification would jeopardize the investigation or subject the recipient to further risk.

Individuals who intentionally or willfully do not comply with the APSA, obstruct compliance with the APSA, or intimidate or retaliate against an employee acting in good faith are subject to administrative and criminal penalties, including fines and imprisonment.



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