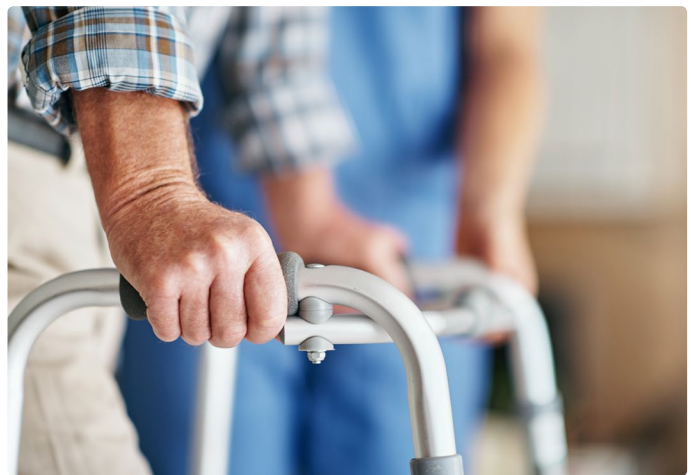


Older Adult Protective Services Act

Mandatory Reporting and Confidentiality Requirements

Overview

The Older Adult Protective Services Act (OAPSA), which is liberally construed to ensure the availability of protective services, provides protection for abused, neglected, exploited, or abandoned adults over 60. It provides mandatory reporting procedures for “employees” that work at a “facility” as defined by the OAPSA. A voluntary reporting provision for those with reasonable cause to believe an older adult is in need of protective services is also included.



How this impacts advocates

Many advocates are likely mandatory reporters under the OAPSA. 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 coparticipants 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 advocates 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 or next of kin;
- 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 for 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; and
- ③ Within 48 hours, submit a written report to the local Area Agency on Aging (AAA).

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 2;
- ③ Immediately notify an administrator; and
- ④ Within 48 hours, submit a joint written report, with an administrator, to law enforcement *and* the local AAA.

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



Pennsylvania Coalition Against Rape

2101 N Front St, Governor's Plaza North, Bldg #2, Harrisburg, PA 17110

Toll-free: 800-692-7445 • **Phone:** 717-728-9740 • **Fax:** 717-728-9781

www.pcar.org Help • Hope • Healing