

PENNSYLVANIA DEPARTMENT OF AGING



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*Older Adults Protective Service Act
Protective Services Office
February 2018*

ACRONYMS

OAPSA – Older Adults Protective Services Act

PDA – Pa Department of Aging

AAA – Area Agency on Aging

DOH – Department of Health

DHS – Department of Human Services

RON – Report of Need

SAMS – Social Assistance Management Software

Older Adults Protective Services Act (OAPSA)

Act 79 - 1987 ~ Effective July 1988

Amendments to OAPSA

Mandatory Abuse Reporting

Criminal History Background Checks

Nixon Decision

Peake Decision

Mandatory Abuse Reporting

Requires employee or an administrator of a facility who has reasonable cause to suspect that a recipient is a victim of abuse to:

1. Immediately report the abuse to the AAA
2. If sexual abuse, serious physical injury or serious bodily injury or suspicious death then in addition to contacting the AAA, facility must immediately contact law enforcement and Dept of Aging

Definitions

RECIPIENT

- An individual who receives care, services or treatment in or from a facility.

ABUSE - The occurrence of one or more of the following acts:

- ✓ The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.
- ✓ The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.
- ✓ Sexual harassment, rape or abuse as defined in the act of October 7, 1976 (P.L.1090, No.218) known as the Protection from Abuse Act.

Definitions – Cont'd

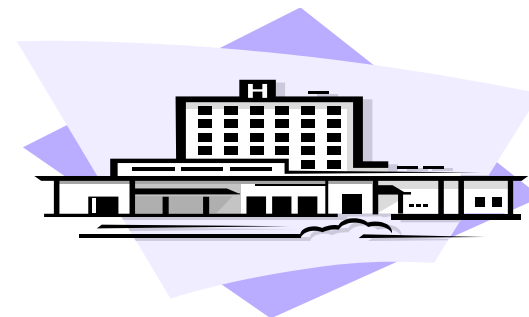
Determining Type of Abuse

- **Sexual Abuse**
 - Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest. (See attachment 2 Act 13 Summary for a list of these definitions as defined by Title 18~ Crimes and Offenses) NOTE: **Sexual Harassment is NOT reportable to PDA.**
- **Serious Physical Injury**
 - An injury that causes a person severe pain; or significantly impairs a person's physical functioning, either temporarily or permanently.
- **Serious Bodily Injury**
 - Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.
- **Suspicious Death – not defined under OAPSA**
 - Suspicious is not defined under OAPSA. However Webster defines suspicious ~ the act or an instance of suspecting something wrong without proof or on slight evidence ~ a state of mental uneasiness and uncertainty.

FACILITY TYPES

Facilities defined under OAPSA include:

- ❖ Domiciliary Care Home
- ❖ Long-term Care Nursing Facility
- ❖ Older Adult Daily Living Center/Day Care
- ❖ Personal Care Homes
- ❖ Home Health Care Agency as defined below.
 - A home health care organization or agency licensed by the department of Health
 - A public or private agency or organization, or part of any agency or organization which provide care to a care-dependent individual in the individual's place of residence.



FACILITY TYPES

Department of Human Services concludes all DHS-licensed and DHS-operated residential facilities for adults are covered by the Act. These facilities include:

- ✓ Community residential rehabilitation services
- ✓ Community homes for individuals with Intellectual Disability*
- ✓ Family living homes *
- ✓ Intermediate Care Facility for Individuals with Intellectual Disability (ICF/IID) (private and state) *
- ✓ State mental hospitals
- ✓ Long Term Structured Residence
- ✓ Assisted Living Homes

*Effective Feb. 9, 2003 pursuant to Act 171 – DO NOT report under age 60 ~ If over age 60 must report.

Department of Health concludes the following DOH-licensed facilities are covered by the Act:

- ✓ Hospice
- ✓ Birth Center
- ✓ Home Health Care Agencies and Home Care Registry

Roles of Employees and Facility

Statutory Reporting Requirements

OAPSA § 10225.701 – Reporting by employees

- “An employee or an administrator who has reasonable cause to suspect that a receipt is a victim of abuse shall immediately make an oral report to the agency. . .”
- “. . .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 agency and the department, immediately contact law enforcement . . .”
- “Within 48 hours of making the oral report, the employee or administrator shall make a written report to the agency”
 - For four serious “. . . Within 48 hours . . .make a written report to appropriate law enforcement officials . . .”

WHO MUST REPORT?



EMPLOYEES & ADMINISTRATORS

Employee

An individual who is employed by a facility.

Includes

- contract employees who have direct contact with residents or unsupervised access to their personal living quarters.
- persons employed or contracted to provide care to a care-dependent individual for monetary consideration in the individual's residence.

Administrator

- The person responsible for the administration of a facility. The term includes a person responsible for employment decisions or an independent contractor.

Mandated Reporters
cannot be ANONYMOUS

Reporting

- Make an immediate oral report to AAA upon suspicion of abuse
- Make an immediate oral report to PDA and law enforcement, if applicable
- Written report within 48 hours of oral report
 - PB22 or PDA Mandatory Abuse Report

Written Report to AAA



MANDATORY ABUSE REPORT

DATE OF REPORT:	TIME:
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NAME OF VICTIM / RECIPIENT/ CONSUMER (Last, First, M.I.):		FACILITY NAME:	
ADDRESS:		ADDRESS:	
CITY:	STATE:	ZIP CODE:	CITY:
PHONE:		COUNTY:	
DATE OF BIRTH:	SEX:	FACILITY TYPE: (NH, PCH, DC, CLA, etc.)	
DATE AND TIME OF INCIDENT: DATE: / / TIME: : A.M. P.M.		FACILITY LICENSING AGENCY:	FACILITY LICENSE NUMBER:
DATE AND TIME OF REPORT TO LICENSING AGENCY: DATE: / / TIME: : A.M. P.M.		LICENSING AGENCY CONTACT AND TELEPHONE NUMBER: NAME: TELEPHONE #.:	
OAPSA (over 60) ABUSE TYPE: (Check one) <input type="checkbox"/> ABUSE not involving sexual abuse, serious bodily injury, serious physical injury or suspicious death <input type="checkbox"/> SEXUAL ABUSE (rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest) <input type="checkbox"/> SERIOUS BODILY INJURY <input type="checkbox"/> SERIOUS PHYSICAL INJURY <input type="checkbox"/> SUSPICIOUS DEATH		APS (under 60) ABUSE/NEGLECT TYPE: (Check one) <input type="checkbox"/> ABUSE, NEGLECT, EXPLOITATION or ABANDONMENT not involving sexual abuse, serious injury, serious bodily injury or suspicious death <input type="checkbox"/> SEXUAL ABUSE (rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, or incest) <input type="checkbox"/> SERIOUS INJURY <input type="checkbox"/> SERIOUS BODILY INJURY <input type="checkbox"/> SUSPICIOUS DEATH	
DATE/TIME ORAL REPORT TO AAA:	NAME OF AAA CONTACTED:	AAA/APS AGENCY USE ONLY: DATE/TIME ORAL REPORT TO COUNTY CORONER: (if applicable)	AAA/APS AGENCY USE ONLY: NAME OF CORONER: (if applicable)
DATE/TIME ORAL REPORT TO LOCAL LAW ENFORCEMENT: (if applicable)	NAME OF LAW ENFORCEMENT AGENCY: (if applicable)	DATE/TIME ORAL REPORT TO PDA/DHS: (if applicable)	
CONTACT INFORMATION: (PLEASE CHECK APPROPRIATE BLOCK) <input type="checkbox"/> GUARDIAN <input type="checkbox"/> ATTORNEY-IN-FACT <input type="checkbox"/> NEXT OF KIN		ALLEGED PERPETRATOR NAME:	RELATIONSHIP TO VICTIM:
NAME:		ADDRESS:	
ADDRESS:		CITY:	STATE: ZIP CODE:
CITY:	STATE:	ZIP CODE:	PHONE NUMBER: AGE: SEX:
PHONE NUMBER:	RELATIONSHIP:	TYPE OF POSITION: (RN, LPN, CNA, etc.)	WORK SHIFT: DATE OF HIRE:

PDA/DHSMAR (04/15)

PLEASE COMPLETE REVERSE SIDE

DETAILS AND DESCRIPTION OF ABUSE: (ATTACH ADDITIONAL SHEETS IF NECESSARY)		
ACTIONS TAKEN BY FACILITY, INCLUDING TAKING OF PHOTOGRAPHS AND X-RAYS, REMOVAL OF VICTIM AND NOTIFICATION OF APPROPRIATE AUTHORITIES. (ATTACH ADDITIONAL SHEETS IF NECESSARY)		
OTHER PERTINENT INFORMATION, COMMENTS OR OBSERVATIONS DIRECTLY RELATED TO ALLEGED ABUSE INCIDENT AND VICTIM:		
NAME AND TITLE OF REPORTER: (PLEASE TYPE OR PRINT) NAME: TITLE:		SIGNATURE OF REPORTER:
REPORTER CONTACT INFORMATION: TELEPHONE NUMBER: EMAIL ADDRESS: DATE:		
NAME AND TITLE OF PERSON PREPARING REPORT: (PLEASE TYPE OR PRINT) NAME: TITLE:		SIGNATURE OF PERSON PREPARING REPORT:
PERSON PREPARING REPORT CONTACT INFORMATION: TELEPHONE NUMBER: EMAIL ADDRESS: DATE:		

Facility Plan of Employee Supervision/Suspension

for employees who have allegedly committed abuse

Immediately Implement

- ✓ **Plan of Supervision** ~ Immediately develop & implement an individual plan of supervision. A copy should be submitted to and approved by the AAA & facilities licensing agency
- or
- ✓ **Suspension of the employee**

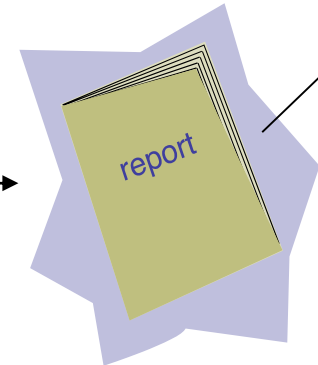
Licensing Agency shall order facility immediately prohibit employee access to recipients at the facility.

Director, operator, administrator or supervisor ~ Restrictions by the Commonwealth licensing agency to assure the safety of recipients of the facility.

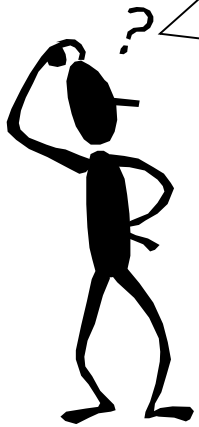
**Suspect Abuse
STOP!!**



WRITTEN REPORT TO AAA
WITHIN 48 HOURS OF ORAL
REPORT



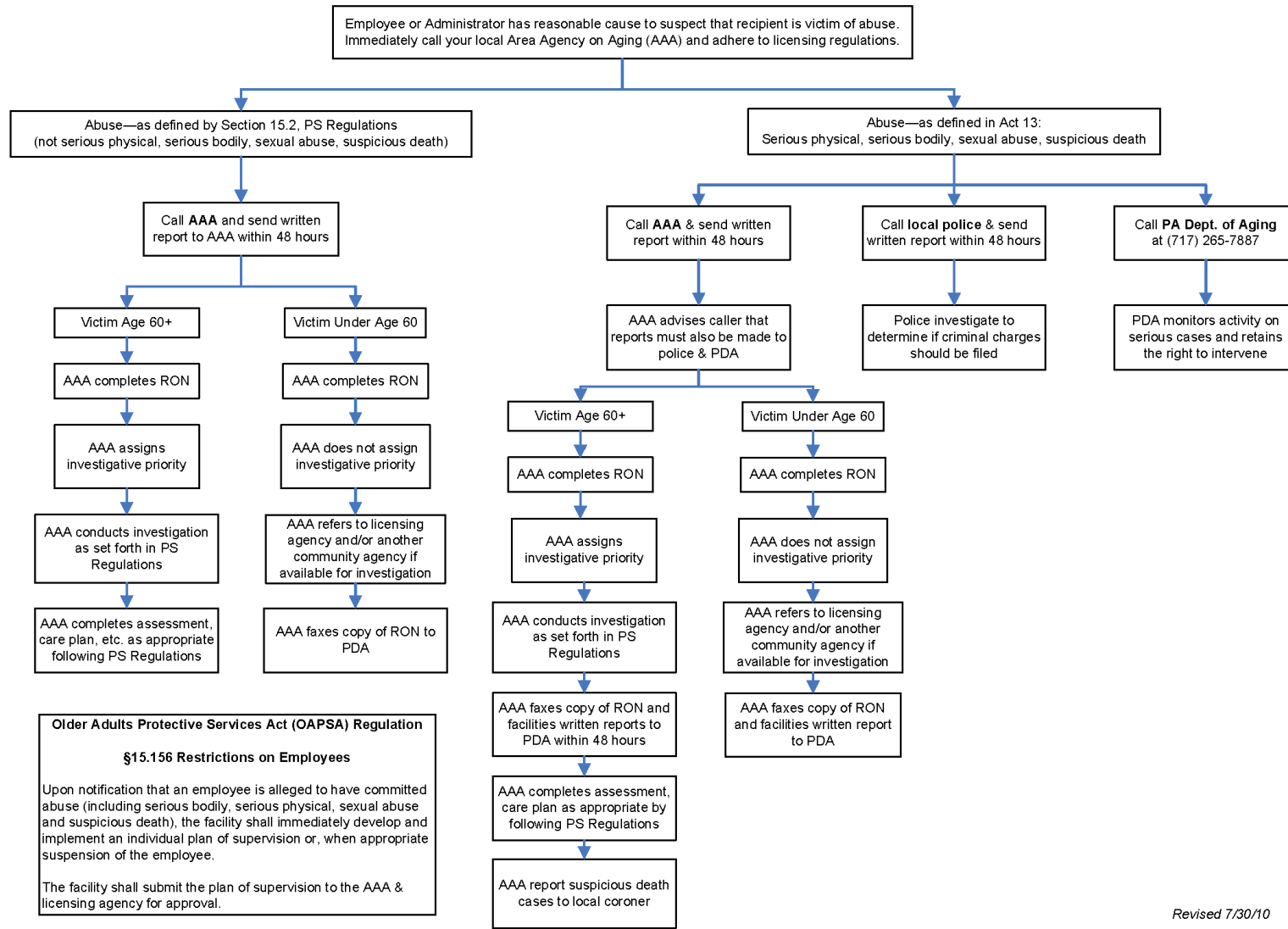
Suspected Sexual Abuse, Serious Bodily Injury, Serious Physical Injury, or Suspicious Death
YES



WRITTEN REPORT TO LAW
ENFORCEMENT WITHIN 48
HOURS OF ORAL REPORT



Mandatory Abuse Reporting by Employees/Administrators



Revised 7/30/10

Immunity & Penalties



- Immunity

- No person nor entity shall be held liable for any action directly related to good faith compliance with the Act.

- Penalties

- Administrators and facility owners who intentionally or willfully fail to comply or obstruct compliance with the Act or who intimidate or commit a retaliatory act against an employee who complies in good faith with the provisions of the Act are in violation and subject to both administrative and criminal penalties.
 - **Civil - \$2500 fine**
 - **Criminal - \$2500 fine or imprisonment**
- Any person who is required to report under the Act and willfully fails to do so commits a summary offense for the first violation and a misdemeanor for a second or subsequent violation.

ATTACHMENTS

- **The Acts – Overview of Act 28, Act 13 and Act 169**
- **Act 13 Summary**
- **Act 13 Sample Fax Cover**
- **Act 13 Mandatory Abuse Form**
- **Act 13 Mandatory Abuse Form Instructions**
- **Act 13 Flow Chart**

Who do I Call?

Criminal History Record Information And Mandatory Abuse Reporting

Telephone (717) 265-7887

Option 1 - CHBC

Option 2 - Over 60 Mandatory Abuse Reporting

Option 3 - Under 60 Mandatory Abuse Reporting

Questions?

Thank You