

REPORTING ABUSE, NEGLECT, EXPLOITATION OR HUMAN TRAFFICKING OF A CHILD, ELDER, OR DISABLED ADULT

I. Background

A. Child Abuse or Neglect:

1. In the 1975 Regular Session, the Alabama Legislature passed Act No. 1124, which amended and re-enacted the former Child Abuse and Reporting Act. The purpose of Act No. 1124 is to protect children from abuse and neglect by providing for the reporting of such cases to duly constituted authorities.
2. Abuse has been defined by law as harm or threatened harm to a child's health or welfare which can occur through non-accidental physical or mental injury, sexual abuse, attempted sexual abuse, sexual exploitation or attempted sexual exploitation.
3. Neglect has been defined by law as negligent treatment or maltreatment of a child, including the failure to provide adequate food, medical treatment, clothing, or shelter.
4. A "child" has been defined by law as someone being under the age of eighteen (18).
5. Nurses are among those persons required by law to report known or suspected child abuse or neglect. Failure to report can result in penalty of a misdemeanor (monetary fine or imprisonment). The Alabama Department of Human Resources (DHR) does not accept reports of alleged child abuse/neglect of an unborn child.

B. Adult Abuse or Neglect:

1. The Adult Protective Services Act of 1976, (Section 38-9-1 through 38-9-11, Code of Alabama, 1975 enacted 1976, effective 1977), was amended by the Regular Session of the 1989 Legislature. The intent of the law (Sec. 38-9-8) is to: allow the adult in need of protective services the same rights as other citizens to the maximum degree feasible; protect the individual from exploitation, neglect, abuse, and degrading treatment; establish protective services and assure availability to all persons who need them; and place the least possible restriction on personal liberty and exercise of constitutional rights consistent with due process and protection from abuse, exploitation, and neglect.
An Adult in Need of Protective Services is a person 18 years of age or older whose behavior indicates that he/she is mentally incapable of adequately caring for himself/herself and his/her interests without serious consequences to himself/herself or others, or who, because of physical or mental impairment, is unable to protect himself/herself from abuse, neglect, exploitation, sexual abuse, or

emotional abuse by others, and who has no guardian, relative or other appropriate person, able, willing, and available to assume the kind and degree of protection and supervision required under the circumstances. (See definitions below).

2. All physicians and other practitioners of the healing arts are required by law to report abuse, neglect, or exploitation of an elderly adult or person with disability when they have reasonable cause to believe that it has occurred.
3. **Definitions:**
 - a. **Adult Abuse** is the infliction of physical pain, injury or the willful deprivation by a caregiver or other person of services necessary to maintain mental and physical health.
 - b. **Adult Neglect** is the failure of a caregiver to provide food, shelter, clothing, medical services and health care for the person unable to care for himself; or the failure of the person to provide these basic needs for himself when the failure is the result of the person's mental or physical inability.
 - c. **Exploitation** the expenditure, diminution, or use of the property, assets, or resources of a protected person without the express voluntary consent of that person or his or her legally authorized representative or the admission of or provision of care to a protected person who needs to be in the care of a licensed hospital by an unlicensed hospital after a court order obtained by the State Board of Health has directed closure of the unlicensed hospital.
 - d. **Sexual Abuse** - Forms of sexual abuse include rape, incest, sodomy, and indecent exposure.
 - e. **Emotional Abuse** is the willful or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication or isolation as punishment or as a substitute for treatment or care of any protected person.

C. Human Trafficking

1. Alabama law allows for the prosecution of persons performing human trafficking, and those who knowingly benefit from human trafficking. It also allows for the prosecution of persons involved in obstruction or attempted obstruction of enforcement of this law. Corporations may also be prosecuted if an agent engages in human trafficking on behalf and at the behest of the corporate entity.

2. Human Trafficking is defined as “knowingly” subjecting a person to labor or sexual servitude through the use of coercion or deception or trafficking a minor (defined as a person under 18) for sexual servitude.
3. Human Trafficker is a person who knowingly subjects a person to labor or sexual servitude through coercion or deception; a person recruiting, enticing, isolating, harboring or maintain a minor to engage in sexual servitude (no coercion or deception required).
4. Nurses are among those persons required by law to report known or suspected abuse including suspicion for human trafficking. Reports should be made to DHR and local authorities as appropriate. The Department of Health and Human Services has also funded a program called the **National Human Trafficking Resource Center which** provides a hot line number to call with questions related to contact with a victim: 1-888-3737-888.

II. Reporting Responsibilities

Any staff member who identifies possible abuse or neglect is responsible for reporting. Physicians, nurse practitioners, nurses, social workers, nutritionists, and disease intervention specialists must report abuse or neglect; however, any person who has reasonable cause to suspect abuse or neglect may report.

III. Protocol

A. Reporting:

1. The initial report must be made immediately, either in person or by telephone, to the local DHR office, the police, or the sheriff by the staff member that identifies the abuse or neglect. Staff who identify abuse or neglect may request assistance from health department social workers to help assess the case or to interact with DHR social workers; however, the identifying staff member holds the responsibility for reporting.
2. A written report must also be submitted to the local DHR office. For suspected child abuse, form DHR-DFC-1593 should be used. For suspected elder/disabled adult abuse, form DHR-ASD-798 should be used. Copies of these forms are available on the ADPH Document Library in the Social Work Division section.

Note: DHR is responsible for reporting cases of abuse to the district attorney’s office.

3. The county clinic nursing supervisor and the area nursing director should be notified immediately.

B. Documentation and Record Storage:

1. Documentation of clinical findings and the referral to DHR should be made on the CHR 10 (Progress Notes). The name of the alleged perpetrator should not be included on the CHR 10. A note should be made in red ink on the CHR 1 (Patient Log) that a DHR referral was made.

If a CHR is not available, documentation of the referral should be maintained in an administrative folder, along with a copy of the DHR referral form.

2. A copy of the DHR referral form should be placed in an administrative folder, not in the CHR. The administrative folder should be maintained in the location where the report was generated. Should the clinic receive a report of investigation from DHR, it should be filed with the original report in the administrative folder. Documentation should be made on the CHR 10 that a report of investigation was received; however, findings should not be documented in the CHR. All abuse and neglect records should be maintained for 6 years.

Resources:

Alabama Department of Human Resources
http://dhr.alabama.gov/services/Child_Protective_Services/FAQs_CA.aspx

National Human Trafficking Resource Center, 1-888-3737-888, or www.acf.hhs.gov/trafficking