

§3477. Persons mandated to report suspected abuse, neglect or exploitation

1. Report required. The following persons immediately shall report to the department when the person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected or exploited:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical resident or intern;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist, dental hygienist or dental assistant;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;
- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;
- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official, corrections officer or other person holding a certification from the Maine Criminal Justice Academy;
- (18) Emergency room personnel;
- (19) An ambulance attendant;
- (20) An emergency medical technician or other licensed medical service provider;
- (21) Unlicensed assistive personnel;
- (22) A humane agent employed by the Department of Agriculture, Conservation and Forestry;
- (23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (24) A sexual assault counselor;
- (25) A family or domestic violence victim advocate;
- (26) A naturopathic doctor;
- (27) A respiratory therapist;
- (28) A court-appointed guardian or conservator; or
- (29) A chair of a professional licensing board that has jurisdiction over mandated reporters; [PL 2011, c. 291, §2 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult, regardless of whether the person receives compensation; [PL 2011, c. 291, §2 (AMD).]

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation; or [PL 2011, c. 291, §2 (AMD).]

D. Any person providing transportation services as a volunteer or employee of an agency, business or other entity, whether or not the services are provided for compensation. [PL 2011, c. 291, §2 (NEW).]

The duty to report under this subsection applies to individuals who must report directly to the department. A supervisor or administrator of a person making a report under this section may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate reporting consistent with this chapter and to ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are consistent with this chapter.

[PL 2011, c. 291, §2 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation. [PL 2007, c. 139, §1 (NEW).]

2. Reports. Reports regarding abuse, neglect or exploitation must be made immediately by telephone to the department and must be followed by a written report within 48 hours if requested by the department. The reports must contain the name and address of the involved adult; information regarding the nature and extent of the abuse, neglect or exploitation; the source of the report; the person making the report; that person's occupation; and where that person can be contacted. The report may contain any other information that the reporter believes may be helpful.

[PL 2003, c. 653, §10 (AMD).]

3. Confidentiality in case of treatment of individual suspected of causing abuse, neglect or exploitation. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of causing the abuse, neglect or exploitation; [PL 1981, c. 705, Pt. E, §2 (NEW).]

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and [PL 1981, c. 705, Pt. E, §2 (NEW).]

C. In the opinion of the person required to report, the abused, neglected or exploited adult's life or health is not immediately threatened. [PL 1981, c. 705, Pt. E, §2 (NEW).]

[PL 2003, c. 653, §11 (AMD).]

4. Confidentiality in case of treatment of individual suspected of being abused, neglected or exploited. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of being abused, neglected or exploited; [PL 2003, c. 653, §12 (NEW).]

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and [PL 2003, c. 653, §12 (NEW).]

C. In the opinion of the person required to report, the individual is not incapacitated and the individual's life or health is not immediately threatened. [PL 2003, c. 653, §12 (NEW).]
[PL 2003, c. 653, §12 (NEW).]

5. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.
[PL 2007, c. 140, §4 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

6. Photographs of visible trauma. Whenever a person required to report as a staff member of a law enforcement agency or a hospital sees areas of trauma on an incapacitated or dependent adult, that person shall make reasonable efforts to take, or cause to be taken, color photographs of those areas of trauma.

A. The taking of photographs must be done with minimal trauma to the incapacitated or dependent adult and in a manner consistent with professional forensic standards. Consent to the taking of photographs is not required from the adult's legal guardian or by a health care power of attorney.
[PL 2011, c. 291, §3 (NEW).]

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for adult protective services. [PL 2011, c. 291, §3 (NEW).]

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs. [PL 2011, c. 291, §3 (NEW).]

D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to subsequent adult protection proceedings. [PL 2011, c. 291, §3 (NEW).]
[PL 2011, c. 291, §3 (NEW).]

7. Information about duty to report. Whenever possible, the department and state licensing boards of professionals required to report under this section shall collaborate to facilitate the dissemination of information regarding the duty to report and the reporting procedure.
[PL 2011, c. 291, §4 (NEW).]

SECTION HISTORY

PL 1981, c. 705, §E2 (NEW). PL 1983, c. 616, §1 (AMD). PL 1989, c. 259, §6 (AMD). PL 1989, c. 858, §11 (AMD). PL 1995, c. 696, §B3 (AMD). PL 1997, c. 453, §4 (AMD). PL 2001, c. 345, §3 (AMD). PL 2003, c. 145, §1 (AMD). PL 2003, c. 210, §§1,2 (AMD). PL 2003, c. 510, §E2 (AMD). PL 2003, c. 510, §E4 (AFF). PL 2003, c. 599, §7 (AMD). PL 2003, c. 599, §§9,14 (AFF). PL 2003, c. 653, §§9-12 (AMD). PL 2007, c. 139, §1 (AMD). PL 2007, c. 140, §4 (AMD). PL 2007, c. 577, §5 (AMD). PL 2011, c. 291, §§2-4 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

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