

Mandatory Reporting of Elder/Adult At-Risk Abuse & Neglect

Wisconsin law requires individuals who work in certain professions to report elder and adult-at-risk abuse and neglect. Wis. Stats. 46.90, 55.043. While the intent is similar to mandatory child abuse reporting, the requirements and procedures vary greatly from those set for reporting of child abuse and neglect in several ways. This information sheet applies to cases of suspected or actual abuse of elders and adults at risk. While the definitions of an elder at risk and an adult at risk are different, the reporting requirements are the same, unless noted, and will be described together.

Reports of elder or adult-at-risk abuse must be made to the local elder-adult-at-risk agency, local or state law enforcement, the county department of social or human services (in Milwaukee, the Department of Health Services), or the board on aging and long-term care. Every Wisconsin county board must designate a county agency as the “elder/adult-at-risk” agency. When these agencies receive reports, they have several duties, including to investigate and/or refer investigation to other agencies, including law enforcement. Wis. Stats. 46.90(2), 55.043.

If the report of abuse, neglect, self-neglect, or financial exploitation of a client/patient of an entity under Wis. Stat. sec. 50.49 (generally, facilities and health services providing direct care or treatment to clients/patients) and the alleged perpetrator is a caregiver or non-client resident of the entity, the agency must refer the report to the appropriate department within 24 hours. If any investigator has reason to believe the elder/adult is at risk of substantial physical harm, irreparable injury, or death, the investigator may request immediate law enforcement assistance and/or initiate protective order proceedings under Wis. Stat. ch. 55.

WHO IS AN ELDER AT RISK?

An elder at risk is any person who is 60 years of age or older who has experienced, is experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

WHO IS AN ADULT AT RISK?

An adult at risk is any adult, 18 and older, who has a physical or mental condition that substantially impairs his or her ability to care for his or her own needs, and who has experienced, is experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

WHAT MUST BE REPORTED?

Mandatory reporters must report if, through the course of their duties, he or she has reasonable cause to believe any of the following:

- The elder/adult at risk is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss is unable to make an informed judgment about whether to report the risk.
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- An elder/adult at risk other than the subject of the report is at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by a suspected perpetrator.

Additionally, mandatory reporters must report if an elder/adult at risk asks them to do so.

WHO MUST REPORT?

Wis. Stats. 46.90(4) and 55.043(1m) list the following individuals as mandated reporters:

<ul style="list-style-type: none"> • employees of any entity that is licensed, certified, or approved by or registered with the department of Health and Family Services • chiropractors • cooperative health care associations providing direct services through salaried employees • counselors certified under Wis. Stat. ch. 457 • dentists • family therapists • home health agencies as defined in Wis. Stat. sec. 50.49 (1) (a) • marriage therapists • nurses 	<ul style="list-style-type: none"> • occupational therapists • optometrists • partnerships, corporations, or LLCs that provide health care services • perfusionists • physical therapists or their assistants • physicians • physicians' assistants • podiatrists • psychologists • social workers • any person practicing Christian Science treatment
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EXCEPTIONS TO REPORTING REQUIREMENTS:

If a mandatory reporter believes that filing a report would not be in the best interest of the elder/adult at risk, they do not have to report. However, the reporter must document the reasons for this belief in the elder or adult's case file.

In addition, a health care provider need not report if he or she provides treatment by spiritual means through prayer for healing in lieu of medical care in accordance with his or her religious tradition and his or her communications with patients are required by his or her religious denomination to be held confidential.

VOLUNTARY REPORTERS:

Voluntary reporters may report if they have reasonable belief that abuse, neglect, self-neglect, or financial exploitation have occurred.

PROTECTIONS FOR ALL REPORTERS:

Anyone who makes a good faith report has several protections; not only mandatory reporters. Reports are presumed to be made in good faith.

A reporter may not be held civilly or criminally liable or be found guilty of unprofessional conduct for making a good faith report within the scope of his or her authority. A reporter, or someone reporting for another person, may not be discharged, retaliated against, or discriminated against for making a good faith report. If a reporter is fired, retaliated or discriminated against within 120 days of reporting, there is a rebuttable presumption that the discharge/retaliation/discrimination was in response to the report. If this happens, a reporter can file complaints with various agencies and seek damages in court. In addition, if someone violates this protective provision, they may be fined up to \$10,000 and imprisoned for up to 6 months, or both.

WCASA is a membership agency comprised of organizations and individuals working to end sexual violence in Wisconsin. Among these are the 60 sexual assault service provider (SASP) agencies throughout the state that offer support, advocacy and information to victims of sexual assault and their families. For information sheets on other topics and for more information about sexual assault, please visit our website. This sheet may be reproduced in its original format only.

This information does not constitute legal advice.

Please note that this is an abridged information sheet; the statutes have not been printed in their entirety due to space restrictions.