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DEPARTMENT OF HUMAN SERVICES

Act 70 of 2010 --- Mandatory Abuse/Neglect Reporting Form Instruction Sheet

BACKGROUND AND PROCESS:

Act 70 of 2010 requires an employee or administrator of a facility who has reasonable cause to suspect that a recipient is a victim of abuse, neglect, exploitation or abandonment to immediately report.

Employees and/or administrators who have reasonable cause to suspect that a recipient is a victim of abuse, neglect, exploitation or abandonment, as described below, shall immediately make an oral report to the Area Agency on Aging (AAA). In addition to reporting to the AAA, oral reports must be made to the Pennsylvania Department of Human Services (DHS) and local law enforcement for suspected abuse or neglect involving sexual abuse, serious injury, serious bodily injury or if a death is suspicious.

Within 48 hours of making all oral reports, the employee or administrator shall make a written report (on forms prescribed by DHS) to the APS agency. Additionally, within 48 hours of making an oral report for an abuse or neglect involving sexual abuse, serious injury, serious bodily injury and suspicious death, the employee and an administrator shall make a written report (on forms prescribed by DHS) to appropriate law enforcement officials. The APS agency will forward a copy of the written report to the DHS within 48 hours for all reports involving sexual abuse (not including sexual harassment), serious injury, serious bodily injury and suspicious death.

NOTE: Sexual harassment is an abuse that requires reporting to the AAA; however, it is not sexual abuse that requires reporting to DHS and local law enforcement.

DEFINITIONS:

Abandonment: The desertion of an adult by a caregiver.

Abuse: The occurrence of one or more of the following acts: (1) the infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish; (2) the willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health; (3) sexual harassment, rape or abuse.

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

Employee: An individual who is employed by a facility. The term includes: (1) A contract employee who has direct contact with residents or unsupervised access to their personal living quarters. (2) A person who is employed or who enters into a contractual relationship to provide care to an adult for monetary consideration in the adult's place of residence.

Exploitation: An act or course of conduct by a caregiver or other person against an adult or an adult's resources, without the informed consent of the adult or with consent obtained through misrepresentation, coercion or threats of force, that result in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the adult.

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Facility:
This term includes, but is not limited to:

- Assisted Living Residences, 55 Pa. Code 2800
- Domiciliary Care Homes
- Home Health Care Agencies*
- Intermediate Care Facilities (private and state), 55 Pa. Code Ch. 6600
- Long Term Care Nursing Facilities (licensed by Dept. of Health)
- Older Adult Daily Living Centers (licensed by Dept. of Aging)
- Personal Care Homes, 55 Pa. Code Ch. 2600
- An organization or group of people that uses public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting
- Residential Treatment Facilities

*The Pennsylvania Department of Health has defined home health care organization or agency to include: hospices, birth centers, home care agencies and home care registries. A Home Care Agency is further defined to include those agencies licensed by the Department of Health and any public or private organization which provides care to a care-dependent individual in their place of residence. A Home Care Registry or "Registry" is further defined to include those agencies licensed by the Department of Health any organization or business entity that supplies, arranges or refers independent contractors to provide activities of daily living or instrumental activities of daily living or specialized care in the consumer's place of residence or other independent living environment for which the registry receives a fee, consideration or compensation of any kind.

Neglect: The failure to provide for oneself or the failure of a caregiver to provide goods, care or services essential to avoid a clear and serious threat to the physical or mental health of an adult. The term does not include environmental factors that are beyond the control of an adult or the caregiver, including, but not limited to, inadequate housing, furnishings, income, clothing or medical care.

Recipient: An adult who receives care, services or treatment in or from a facility.

Serious Bodily Injury: An 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.

Serious Injury: An injury that causes a person severe pain or significantly impairs a person's physical or mental functioning, either permanently or temporarily.

Sexual Abuse: Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault or incest.

> *Rape:* A person commits rape when he or she engages in sexual intercourse with a complainant: (1) by forcible compulsion; (2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5) who suffers from a mental disability which renders the complainant incapable of consent; (6) who is less than 13 years of age.
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> *Statutory Sexual Assault:* Except as provided under the definition of Rape, a person commits statutory sexual assault when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is four or more years older than the complainant and the complainant and the person are not married to each other.

Involuntary Deviate Sexual Intercourse: A person commits involuntary deviate sexual intercourse when he or she engages in deviate sexual intercourse with a complainant: (1) by forcible compulsion [forcible compulsion includes but is not limited to compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse]; (2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5) who suffers from a mental disability which renders him or her incapable of consent; (6) who is less than 13 years or age, or (7) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

Sexual Assault: Except as provided under the definitions relating to Rape and Involuntary Deviate Sexual Intercourse, a person commits sexual assault when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

Aggravated Indecent Assault: Except as provided under the definitions relating to Rape, Statutory Sexual Assault, Involuntary Deviate Sexual Intercourse, and Sexual Assault, a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical hygienic or law enforcement procedures commits aggravated indecent assault if: (1) the person does so without the complainant's consent; (2) the person does so by forcible compulsion; (3) the person does so by threat of forcible compulsion that would prevent resistance by a person or reasonable resolution; (4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring; (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing without the knowledge of the complainant, drugs, intoxicants or other means for the purposes of preventing resistance; (6) the complainant suffers from a mental disability which renders him or her incapable of consent; (7) the complainant is less than 13 years of age; or (8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

Incest: A person commits incest if he or she knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood. The relationships referred to include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

Sexual Harassment: Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature**. NOTE: Sexual harassment is an abuse that requires reporting to the AAA; however, it is not sexual abuse which requires reporting to DHS and local law enforcement**.

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INSTRUCTIONS FOR COMPLETING THE MANDATORY ABUSE REPORT FORM

DATE OF REPORT/TIME: Place the date and the time the written report is being prepared.

NAME OF VICTIM (Last, First MI): Complete with the last name, first name and middle initial of the recipient of care (i.e. victim) who is suspected to have been abuse or neglected.

ADDRESS: Provide the address of the victim at the time of the abuse/neglect.
CITY: Provide the city of the victim at the time of the abuse/neglect.
STATE: Provide the state of residence of the victim at the time of abuse/neglect.
PHONE: Provide the telephone number, with area code, of the victim at the time of abuse/neglect.
DATE OF BIRTH: Provide the date of birth of the victim.
SEX: Provide the sex of the victim – male or female.

ABUSE/NEGLECT TYPE: Place an "x" in the box that identifies the type of suspected abuse/neglect.

DATE AND TIME OF INCIDENT: Provide the date and time the suspected abuse/neglect occurred.

FACILITY NAME: Provide the name of the facility that employs the person making the report.

FACILITY ADDRESS: Provide the address of the facility.

FACILITY CITY: Provide the city of the facility.

STATE: Provide the state where facility is located.

PHONE: Provide the complete telephone number of the facility.

FACILITY TYPE: Provide the type of licensed facility (i.e. NH, PCH, etc.)

LICENSING AGENCY: Provide the state agency responsible for the licensure of the facility.

LICENSE NUMBER: Provide the state license number assigned to the facility

DATE AND TIME OF REPORT TO LICENSING AGENCY: Provide the date and time the facility reported the abuse/neglect to the licensing agency.

LICENSING AGENCY CONTACT AND TELEPHONE NUMBER: Provide the name of the individual, office and telephone number the facility notified

DATE/TIME ORAL REPORT TO AAA: Provide the date and time the suspected abuse/neglect was reported to the Area Agency on Aging.

DATE/TIME ORAL REPORT TO LOCAL LAW ENFORCEMENT: Provide the date and time local law enforcement was notified of the suspected abuse/neglect (reminder: Only notify law enforcement if the abuse/neglect involves sexual abuse serious bodily injury, serious injury, or suspicious death).

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DATE/TIME ORAL REPORT TO DHS: Provide the date and time the Pennsylvania Department of Human Services was notified of suspected abuse/neglect (reminder: Only notify DHS if the abuse/neglect involves sexual abuse, serious bodily injury, serious injury, or suspicious death).

DATE/TIME ORAL REPORT TO COUNTY CORONER: Provide the date and time the county coroner was notified by the Liberty Healthcare of the suspected suspicious death. NOTE: This question is filled out only by Liberty Healthcare Corporation.

NAME OF LAW ENFORCEMENT AGENCY: Provide the name of the law enforcement agency that the facility notified of the suspected abuse involving sexual abuse, serious bodily injury, serious injury, or suspicious death.

NAME OF CORONER: *This field is for Liberty Healthcare use only*. Provide the name of the coroner that Liberty Healthcare Corporation notified of the suspicious death.

CONTACT INFORMATION: This section is to gather information on the victim's guardian or next of kin. Indicate if the victim had a guardian or next of kin by placing an "x" in the appropriate block.

CONTACT'S NAME: Provide the name of the individual notified of the suspected abuse/neglect.

CONTACT'S ADDRESS: Provide the address of the individual notified.

CONTACT'S CITY: Provide the city of the individual notified

CONTACT'S STATE: Provide the state of residence for the individual notified.

CONTACT'S PHONE: Provide the telephone number, with area code, of the individual notified

CONTACT'S RELATIONSHIP: Provide the contact's relationship to the victim

ALLEGED PERPETRATOR NAME: Provide the last name, first name and middle initial of the individual who allegedly abused/neglected the victim.

ALLEGED PERPETRATOR'S RELATIONSHIP TO VICTIM: Provide what relationship the alleged perpetrator has to the victim.

ALLEGED PERPETRATOR'S ADDRESS: Provide the address of the alleged perpetrator.

ALLEGED PERPETRATOR'S CITY: Provide the city of the alleged perpetrator.

ALLEGED PERPETRATOR'S STATE: Provide the state of residence of the alleged perpetrator.

ALLEGED PERPETRATOR'S PHONE NUMBER: Provide the complete telephone number of the alleged perpetrator.

ALLEGED PERPETRATOR'S AGE: Provide the age of alleged perpetrator.

ALLEGED PERPETRATOR'S SEX: Provide the sex of the alleged perpetrator.

ALLEGED PERPETRATOR'S TYPE OF POSITION: If the individual identified as the alleged perpetrator is/was an employee of the facility, provide the position held by that employee.

ALLEGED PERPETRATOR'S WORK SHIFT: If the alleged perpetrator is/was an employee of the facility, provide the shift typically worked by the alleged perpetrator.

ALLEGED PERPETRATOR'S DATE OF HIRE: If the alleged perpetrator is/was an employee of the facility, provide the date of hire of the alleged perpetrator.

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DETAILS AND DESCRIPTION OF ABUSE: Provide information, specific comments, place of incident, observations, allegations, etc. pertaining to the alleged abuse/neglect.

ACTIONS TAKEN BY THE FACILITY, INCLUDING TAKING OF PHOTOGRAPHS AND X-RAYS, REMOVAL OF THE VICTIM AND NOTIFICATION OF APPROPRIATE AUTHORITIES: Describe all actions taken by the facility regarding the alleged abuse/neglect.

OTHER PERTINENT INFORMATION, COMMENTS OR OBSERVATIONS DIRECTLY RELATED TO ALLEGED ABUSE/NEGLECT INCIDENT AND VICTIM: Provide any additional information regarding the victim and alleged perpetrator not previously requested including evidence of prior abuse/neglect of the victim and any evidence of prior abuse/neglect by the alleged perpetrator.

NAME AND TITLE OF REPORTER: Provide the name(s) and position title(s) of the individual(s) making the report of suspected abuse/neglect

SIGNATURE OF REPORTER: Signature of individual(s) making the report of suspected abuse/neglect.

REPORTER CONTACT INFORMATION: Provide a telephone number and, if available, an e-mail address where the individual(s) making the report of suspected abuse/neglect can be contacted for additional information, if needed.

NAME AND TITLE OF PERSON PREPARING REPORT: Provide the name and position title of the individual who prepared the report form.

SIGNATURE OF PERSON PREPARING REPORT: Signature of the individual who prepared the report form.

PERSON PREPARING REPORT CONTACT INFORMATION: Provide a telephone number and, if available, an e-mail address where the individual who prepared the report form can be contacted for additional information, if needed.