

GUIDE to REPORTING ABUSE in MARYLAND

INTRODUCTION

Unfortunately, abuse in our community is a reality, and the incidents are rarely self-reported. When abused and neglected children and adults and their families fail to receive necessary services and interventions, the human and social costs are enormous. Statistics have shown that there continues to be an increase in the incidents of child abuse. It is the intent of this Guide to assist mandated reporters in the State of Maryland, in making reports of suspected abuse and neglect of all vulnerable populations.

The primary intent of the Maryland reporting laws is to protect children and vulnerable adults. However, the reporting laws are complicated and sometimes confusing. It is our hope that this document will assist mandated reporters to better understand and comply with the law.

Both child and adult abuse and neglect allegations are reported to the local Departments of Social Services (hereafter referred to as LDSS). Professionals are not responsible for investigating or collecting evidence of abuse or neglect, but they are required to report a suspected incident if they have reason to believe that abuse or neglect has taken place.

The best way for a professional to minimize the difficulty of reporting is to be prepared for the experience. Also, a professional should understand the reporting requirements and the process that may be triggered by making a report. This document is intended to be a guide to Maryland's laws and regulations pertaining to reporting requirements and the aftermath of making a report. This guide is for educational and informational purposes and is not legal advice. We hope it will be a catalyst for thought and discussion. We also hope the reader will get additional education on the subject of reporting requirements and the law, and also read the laws.

All professionals need to be aware of this mandate to report and they need to follow through by making appropriate reports. A mandated reporter has several sources from which to get help with questions or concerns when reporting a situation. They may a) consult with other behavioral health professionals b) contact the local department of social services for a consult, c) review the law on their own, and/or d) contact their attorney for advice. Whatever option(s) is chosen, it is highly recommended to document any action taken.

The Basics:

1. In Maryland, the child abuse and neglect law requires that all professionals, including health practitioners, police officers, educators and human service workers, who have reason to believe that abuse/neglect of a child or a vulnerable adult has taken place, must make an oral report to the local Department of Social Services. If the professional believes the child or adult is in

imminent danger, the report should be made to the police as well as to the local DSS. The “reason to believe” is based on professional opinion. (Maryland Statutes, Family Law Article 5-704, 5-705)(hereafter referred to as Maryland FLA)

2. Since the protection of the child or vulnerable adult is of paramount concern, it is not necessary for the reporter to establish definitive proof that abuse/neglect has occurred. (Maryland FLA 5-701)
3. It is advisable to record the name of the LDSS person who took the report and the time and date that the report was made.
4. Maryland law indicates that within 48 hours of making the oral report, the professional should send a written Form 180 to the LDSS with a copy to the local (county or city) State’s Attorney Office. (Maryland FLA 5-704). Filing a report with the State’s Attorney Office is mandated in cases of suspected abuse of a child or a vulnerable adult.
5. Staff at Child Protective Services and Adult Protective Services is available for consultation, answering specific questions and resource referral.
6. WHEN IN DOUBT, REPORT AND/OR CONSULT WITH THE LDSS.
7. According to the Maryland Attorney General’s Opinion of 1993, if an adult client reports that he or she was abused as a child, the act must be reported. However, the Department of Social Services has indicated that it will not investigate cases of abuse that took place when the victim was a child, UNLESS THE ALLEGED ABUSER IS STILL IN PROXIMITY OF CHILDREN, MAKING CHILDREN VULNERABLE TO POTENTIAL ABUSE. (From the Attorney General's Opinion 12-3-93) *
8. Maryland law allows for “reasonable” corporal punishment. However, when corporal punishment results in injury and harm or injury and substantial risk of harm to a child’s health and welfare, the act are no longer “reasonable” and must be reported as abuse.”(Maryland FLA 4-501 (2))
9. A report must be made even if the alleged victim is an adult when the incident "comes to light" and even if the alleged perpetrator is deceased. However, the department of social services has indicated that it will not investigate these cases unless there is an indication that a child AT THE PRESENT TIME could be in danger. (Attorney General's Opinion, 12-3-93) *
10. Immunity: Family Law 5-708 allows that mandatory reporters are immune from civil liability and criminal penalty for reporting and participation in any investigation and any judicial proceedings that may arise from making a report of suspected abuse/neglect. However, this law does not pertain to our licensing board. A complaint could still be made to our licensing board. (MD FLA 5-620, 5-702, 5-708)
11. Adult Protective Services is the State of Maryland's mandated program that serves vulnerable

adults who are 18 years and over, who lack the physical or mental capacity to provide for their daily needs. The purpose of the program is to prevent or remedy: Abuse, Neglect, Exploitation or Self-Neglect of vulnerable adults. (MD FLA, Title 14)

12. Reports may be made anonymously. (MD FLA 5-705)
13. Departmental (LDSS) policy is such that the identity of the reporter is to be kept confidential. (MD FLA 5-705) Note, however, that if the information goes beyond the LDSS, the confidential identity of the reporter cannot be guaranteed.
14. These laws only apply to abuse/neglect that took place in the State of Maryland and to a child or vulnerable adult who resides in this state (regardless of where the alleged abuse/neglect took place) (MD FLA 5-703 (b) (1) (2))
15. If the suspected abuse/neglect allegedly took place out of state, file the report with the local Department of Social Services in Maryland. It is the responsibility of the LDSS to forward the report to other jurisdictions. If a professional reports an act to an out of state LDSS, a breach of Maryland confidentiality laws could occur. (MD FLA 5-705.1, (c) (1) and (d)) (Scope and Applicability)

What Happens after a Report is Made?

1. Each LDSS screens allegations to determine whether or not sufficient information exists to investigate the claim and if the reported situation(s) meets the legal definitions of abuse or neglect. If the allegation does not meet the criteria for investigation, the LDSS “screens out” the allegation and documents the decision in a case file.
2. State law and regulations guide workers in making these determinations. If a LDSS accepts the case, a formal investigation will proceed. An on-site investigation will begin within 24 hours of receiving a report of abuse and within 5 days for neglect allegations. The investigations are to be completed within 10 days, if possible, but no later than 60 days.
3. One of three final determinations can be reached.
 - a. Ruled out; meaning that the abuse or neglect did not occur.
 - b. Unsubstantiated; meaning there was insufficient evidence to either prove or disprove a finding of abuse or neglect
 - c. Indicated; meaning there was credible evidence, which has not been satisfactorily refuted, that abuse or neglect occurred.

Addendum: Information to collect prior to reporting

1. Are there weapons in the home?
2. Is there a history of violence, drugs, mental illness or retaliation in the home?
3. Name, sex, birth date, race, address, school , school grade of the alleged victim
4. Name, age and address of person(s) responsible for child's care
5. Names, ages, addresses of parents
6. Name of suspected abuser/neglector
7. State the nature of the current abuse/neglect
8. List any known information regarding past abuse/neglect to the child or other children in the family
9. Information known about family functioning

Resources:

Form 180 with instructions (Form DHR/SSA 180; 5/98)(form can be found at www.dhr.md.gov, under Child Protective Services and then Mandated Reporters.)

Pamphlet: Red Flags of Elder Abuse (from the Center of Excellence on Elder Abuse and Neglect, University of California, Irvine), may be obtained from the Md. DHR

Pamphlet: What to look for in Vulnerable Adults: Abuse, Neglect, Financial Exploitation (Handout from Building Partnerships, MDAA, Boston MA) for download at www.dhr.md.gov, under Reporting Child Abuse.

List of Local Departments of Social Services in Maryland at www.dhr.md.gov

Making the Report to Child Protective Services in the State of Maryland (handout from DHR)

Pamphlet: Child Abuse and Neglect: Questions and Answers for Marylanders (DHR Publication/SSA 1038 Revised 05/08)

Pamphlet: Protective Services for Children: A Parent's Guide (DHR Pub/SSA 1041 (Revised 9/07)

Cardboard handout: Child Abuse and Neglect: Know Your Responsibility (DHR/SSA 1036 Revised 7/07)

For more information about Child and Adult Protective Services, as well as available programs and resources, go to www.dhr.md.gov.

Maryland has a website which is a clearinghouse for resources and programs, called the Maryland Community Services Locator. Go to www.mdcs.org.

Booklet: Recognizing and Reporting Child Abuse and Neglect, 5th Edition Resource Handbook for Health Care Professionals. Published by Maryland Dept of Human Resources.

Call 410-767-7112, the DHR, to request copies of these pamphlets, handouts and booklets.

Maryland Statutes: Article 88A of the Annotated Code of Maryland, Family Law Articles 5-701 through 5-705.1, 5-706.1, 5-708, 5-710, 5-711, 5-712, 5-713, 5-801, 5-620, 5-704 (search "Maryland Statutes")

Code of Maryland Regulations (COMAR), Title 07, Subtitle 02, Department of Human Resources. Chapter 07 explains investigation of child abuse and neglect. Chapter 16 explains Adult Protective Services. www.dsd.state.md.us/comar.aspx. The Maryland legislation enacts statutes, and administrative agencies adopt, amend and repeal regulations under authorization granted to them by statute.

*An opinion by the Attorney General is an interpretation of State Law. It is a prediction of how a court may rule. This opinion has not been challenged in the Maryland court system, as of the printing of this guide.

This guide is for informational purposes only. The Private Practice Committee of the NASW-MD chapter believes there is a need for the information contained in this document. This committee, comprised of licensed certified social workers, made every possible effort to ensure the accuracy of the information contained herein. If there are any errors or lack of clarity, we apologize, but cannot assume any legal liability for those errors.

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