

Mandatory Abuse or Mistreatment Reporting Notice: Adults with Mental Illness

To report abuse call 1-855-503 SAFE (7233)

<http://www.oregon.gov/oha/amh/pages/cmh-programs.aspx>

As an individual providing services to adults who are mentally ill, you are a **Mandatory Reporter** according to Oregon law (ORS 430.765). According to the law, if you have reasonable cause to believe that an adult who is mentally ill and receiving services from a community mental health program has suffered abuse or mistreatment, or that any person with whom you come in contact in your job has abused such an adult, you must immediately report the abuse to the community mental health program and to a local law enforcement agency when there is reason to believe a crime has been committed. If applicable, you should also follow your agency's policies and procedures so that immediate steps are taken to protect the victim of the abuse.

Oregon Administrative Rules define the following abuse types for adults 18 years of age or older with mental illness who are receiving services:

Abuse includes, but is not limited to:

1. Death of an adult caused by other than accidental or natural means or occurring in unusual circumstances.
2. Neglect:

Active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an adult which leads to physical harm of an adult. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the adult.

3. Physical Abuse:

Any physical injury by other than accidental means or that appears to be at variance with the explanation given for the injury.

Willful infliction of physical pain or injury.

Physical abuse is presumed to cause physical injury, including pain, to adults otherwise incapable of expressing pain.

4. Sexual Abuse:

Criminal sexual conduct; sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under 163.315.

Sexual harassment, sexual exploitation, or inappropriate exposure to sexually explicit material or language including request for sexual favors. Sexual harassment or exploitation includes but is not limited to any sexual contact or failure to discourage sexual contact between an employee of a community facility or community program, provider, or other caregiver and an adult. For situations other than those involving an employee, provider or other caregiver and an adult, sexual harassment or exploitation means unwelcome physical sexual contact including requests for sexual favors and other physical conduct directed toward an adult.

Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver. Sexual abuse does not mean consensual sexual contact

between an adult and a paid caregiver who is the spouse or partner of the adult.

Any sexual contact that is achieved through force, trickery, treat, or coercion.

As defined in ORS 163.305, "sexual contact" means any touching of sexual or other intimate parts of a person or causing such person to touch sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

In addition to the above definitions of abuse, there are additional definitions of Mistreatment set forth in the Oregon Administrative Rules. For employees, program staff, providers, volunteers serving adults living in Adult Foster Homes, Residential Treatment Facilities and Residential Treatment Homes, Mistreatment includes:

1. Abandonment:

Desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm.

2. Financial Exploitation:

Wrongfully taking the assets, funds, or property belonging to or intended for the use of an adult.

Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.

Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an adult.

Failing to use the income or assets of an adult effectively for the support and maintenance of the adult. "Effectively" means use of income or assets for the benefit of the adult.

3. Involuntary Restriction:

The involuntary restriction of an adult for the convenience of a caregiver or to discipline the adult. Involuntary restriction may include placing restrictions on an adult's freedom of movement by restriction to his or her room or a specific area or restriction from access to ordinarily accessible areas of the facility, residence, or program unless agreed to by the treatment plan. Restriction may be permitted on an emergency or short term basis when an adult's presence would pose a risk to health or safety.

4. Neglect:

Active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an adult that creates a significant risk of harm to an adult or results in actual harm or significant mental injury to an adult. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the adult.

5. Verbal Mistreatment:

Threatening significant physical or emotional harm to an adult through the use of:

Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule;

Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments;

A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an adult.

For purposes of this section, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an adult or within their hearing distance or sight, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

6. Wrongful Restraint:

A wrongful use of a physical or chemical restraint excluding an act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730.

Abuse does not include physical emergency restraint to prevent immediate injury to an adult who is in danger of physically harming himself or herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to abuse.

Pursuant to the law, your identity as the person making a mandatory report of abuse is confidential. Further, the law protects you from retaliation from a community facility, community program or individual when you make a report in good faith. You may not be discharged or transferred from one location of an agency to another, terminated from your job, demoted or have your pay lowered, or denied contact with the facility or its residents because you made a good faith report of suspected abuse. If you feel you have been retaliated against, you have the right to seek private legal action. Any agency, program or individual who retaliates against someone because of a good faith report of suspected abuse may be liable to that person for actual damages.

By signing this form, you are saying you understand the Oregon's mandatory abuse reporting requirements concerning adults with mental illness. If you do not understand the mandatory abuse reporting requirements, ask to have them explained to you before you sign this form.

You will be asked to sign this form every year and it will become part of your record.

Acknowledgement

I have received training about my mandatory abuse reporting obligations

Please sign your name

Today's Date

PLEASE RETURN THIS FORM TO YOUR PROGRAM