

## **Section 7.6**      **Duty to Report Abuse, Neglect or Exploitation**

- 7.6.1      **Introduction**
- 7.6.2      **Terms**
- 7.6.3      **Procedures**
- 7.6.3-A. **Duty to report abuse, neglect and exploitation of incapacitated or vulnerable adults**
- 7.6.3-B. **Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors**
- 7.6.4      **References**

### **7.6.1      Introduction**

Any employee of the Arizona Department of Health Services/Division of Behavioral Health Services (ADHS/DBHS) contracted Tribal and Regional Behavioral Health Authorities (T/RBHAs) and/or its contracted providers who has been informed of or has a reasonable basis to believe that abuse, neglect or exploitation of an incapacitated or vulnerable adult or minor child has occurred shall immediately report the incident to a peace officer, the Department of Economic Security/ Adult Protective Services (DES/APS) or the Department of Economic Security/Division of Youth and Families/Child Protective Services (DES/DCYF/CPS) worker as appropriate.

### **7.6.2      Terms**

Definitions for terms are located online at <http://www.azdhs.gov/bhs/definitions/index.php> or <http://www.narbha.org/for-providers/provider-resources/provider-policy-manual/definitions/>. The following terms are referenced in this section:

[Abuse](#)  
[Abuse \(of child/minor\)](#)  
[Child](#)  
[Emotional abuse](#)  
[Exploitation \(of incapacitated or vulnerable adult\)](#)  
[Neglect](#)  
[Patient](#)  
[Peace officers](#)  
[Physical injury](#)  
[Serious physical injury](#)  
[Vulnerable adult](#)

### **7.6.3      Procedures**

#### **7.6.3-A.    Duty to report abuse, neglect and exploitation of incapacitated or vulnerable adults**

Behavioral health providers responsible for the care of an incapacitated or vulnerable adult and who have a reasonable basis to believe that abuse or neglect of the adult has occurred or that exploitation of the adult's property has occurred shall report this information immediately either in person or by telephone. This report shall be made to a peace officer or to a protective

**Arizona Department of Health Services  
Division of Behavioral Health Services  
PROVIDER MANUAL  
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services worker within APS. Information on how to contact APS to make a report is located by going to the webpage for the [APS Central Intake Unit](#) . A written report must also be mailed or delivered within forty-eight hours or on the next working day if the forty-eight hours expire on a weekend or holiday. The report shall contain:

- The names and addresses of the adult and any persons who have control or custody of the adult, if known;
- The adult's age and the nature and extent of his/her incapacity or vulnerability;
- The nature and extent of the adult's injuries or physical neglect or of the exploitation of the adult's property; and
- Any other information that the person reporting believes might be helpful in establishing the cause of the adult's injuries or physical neglect or of the exploitation of the adult's property.

Upon written and signed request for records from the investigating peace officer or APS worker, the person who has custody or control of medical or financial records of the incapacitated or vulnerable adult for whom a report is required shall make such records, or a copy of such records, available (see [PM Section 4.1, Disclosure of Behavioral Health Information](#)). Records disclosed are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from the report. If psychiatric records are requested, the custodian of the records shall notify the attending psychiatrist, who may remove the following information from the records before they are made available:

- Personal information about individuals other than the patient; and
- Information regarding specific diagnoses or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

If any portion of a psychiatric record is removed, a court, upon request of a peace officer or APS worker, may order that the entire record or any portion of such record containing information relevant to the reported abuse or neglect be made available to the peace officer or APS worker investigating the abuse or neglect.

**7.6.3-B. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors**

Any behavioral health provider who reasonably believes that any of the following incidents has occurred shall immediately report this information to a peace officer or to a CPS worker by calling the [Arizona Child Abuse Hotline](#):

**Arizona Department of Health Services  
Division of Behavioral Health Services  
PROVIDER MANUAL  
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- Any physical injury, abuse, reportable offense or neglect involving a minor that cannot be identified as accidental by the available medical history; or
- A denial or deprivation of necessary medical treatment, surgical care or nourishment with the intent to cause or allow the death of an infant.

In the event that a report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. Reports shall be made immediately by telephone or in person and shall be followed by a written report within seventy-two hours. The report shall contain:

- The names and addresses of the minor and the minor's parents or the person(s) having custody of the minor, if known.
- The minor's age and the nature and extent of the minor's abuse, physical injury or neglect, including any evidence of previous abuse, physical injury or neglect.
- Any other information that the person believes might be helpful in establishing the cause of the abuse, physical injury or neglect.

If a physician, psychologist, or behavioral health professional receives a statement from a person other than a parent, stepparent, or guardian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the State Department of Corrections or the Department of Juvenile Corrections, the physician, psychologist, or behavioral health professional may withhold the reporting of that statement if the physician, psychologist, or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

Upon written request by the investigating peace officer or CPS worker, the person who has custody or control of medical records of a minor for whom a report is required shall make the records, or a copy of the records, available (see [PM Section 4.1, Disclosure of Behavioral Health Information](#)). Records are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from the required report. If psychiatric records are requested, the custodian of the records shall notify the attending psychiatrist, who may remove the following information before the records are made available:

- Personal information about individuals other than the patient.
- Information regarding specific diagnoses or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

If any portion of a psychiatric record is removed, a court, upon request by a peace officer or CPS worker, may order that the entire record or any portion of the record that contains

**Arizona Department of Health Services  
Division of Behavioral Health Services  
PROVIDER MANUAL  
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information relevant to the reported abuse, physical injury or neglect be made available for purposes of investigation.

**7.6.4 References**

The following citations serve as additional resources for this content area:

[A.R.S. § 13-3620](#)

[A.R.S. § 36-501](#)

[A.R.S. § 46-451, et seq.](#)

[A.A.C. R9-21-409\(C\) \(1\)](#)

[AHCCCS/ADHS Contract](#)

[ADHS/RBHA Contracts](#)

[ADHS/TRBHA IGAs](#)

[Section 4.1, Disclosure of Behavioral Health Information](#)

[Section 7.4, Reporting of Incidents, Accidents and Deaths](#)

[Arizona Adult Protective Services \(APS\) Central Intake Unit](#)

[Arizona Child Abuse Hotline](#)