

Chapter 30

Mandatory Reporting of Elder Abuse or Exploitation

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SYNOPSIS

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Over the last two decades there have been major advances in federal and state legislation to safeguard the health and well-being of our older adult population. Colorado law now requires certain professionals who observe the abuse or exploitation of anyone over the age of 70 to report their observations to a law enforcement agency. This chapter contains information on the mandatory reporting of abuse or exploitation, how abuse and exploitation are defined in Colorado, and who must report abuse or exploitation they observe.

30-1. Mandatory Reporting of Abuse or Exploitation

In Colorado, any person over the age of 70 is defined as an “at-risk elder.” The person does not need to have any other risk factors or disability to be considered an at-risk elder under Colorado’s mandatory reporting law. The law requires that care givers, health care providers, financial institution personnel, law enforcement members, and others must report the abuse or exploitation of an at-risk elder. **These service providers are required to report abuse or exploitation that they have observed, or have reasonable cause to believe has occurred, or that they believe is at imminent risk of occurring.** The report must be made to a law enforcement agency within 24 hours after making the observation or discovery.

Colorado’s mandatory reporting requirement also includes the reporting of abuse or exploitation of an at-risk adult with an intellectual and developmental disability (IDD). An at-risk adult with IDD is defined by state law as a person 18 years of age or older who has an established neurological condition and demonstrates impairment of intellectual function and/or adaptive behavior such as social, conceptual, or practical skills. The onset of the intellectual

and developmental disability must have occurred before the person was 22 years old to meet the definition of an at-risk adult with IDD.

For the purposes of this chapter, the term “at-risk adult” will refer to any person over 70 years of age as well as at-risk adults with IDD.

30-2. How Do We Define Abuse and Exploitation?

Abuse takes many forms. Elder abuse can include physical, sexual, psychological, or emotional abuse, neglect, or financial exploitation. Elder abuse can impact your neighbor, your business partner, or your family. It is often hidden, and if no action is taken it can have devastating consequences for the individual and for our communities.

Abusers exert their control so they can gain a benefit for themselves, such as money or a place to stay. Tactics include physical or verbal abuse and intimidation, deprivation of care, or economic control. Often the victim is isolated from others to prevent him or her from talking about the exploitation or abuse.

Colorado law defines abuse of an at-risk elder as the non-accidental infliction of bodily injury or death, unreasonable confinement or restraint, caretaker neglect, exploitation, or subjecting a person over the age of 70 to sexual conduct or contact that is classified as a crime.

Warning signs of elder abuse can include:

- ▶ Not allowing the person to speak for themselves or make decisions;
- ▶ Displays of nervousness or fear around a family member or caretaker;
- ▶ Confusion about funds missing from financial accounts;
- ▶ Isolation from friends and family;
- ▶ Changes in personality, hygiene, or self-care;
- ▶ Withdrawals of money while accompanied by a stranger or a caregiver;
- ▶ Multiple unpaid bills, unusual credit card activity or missing valuables; or
- ▶ Elders who appear dehydrated or malnourished, or have unexplained injuries such as bruises, scratches, or burns.

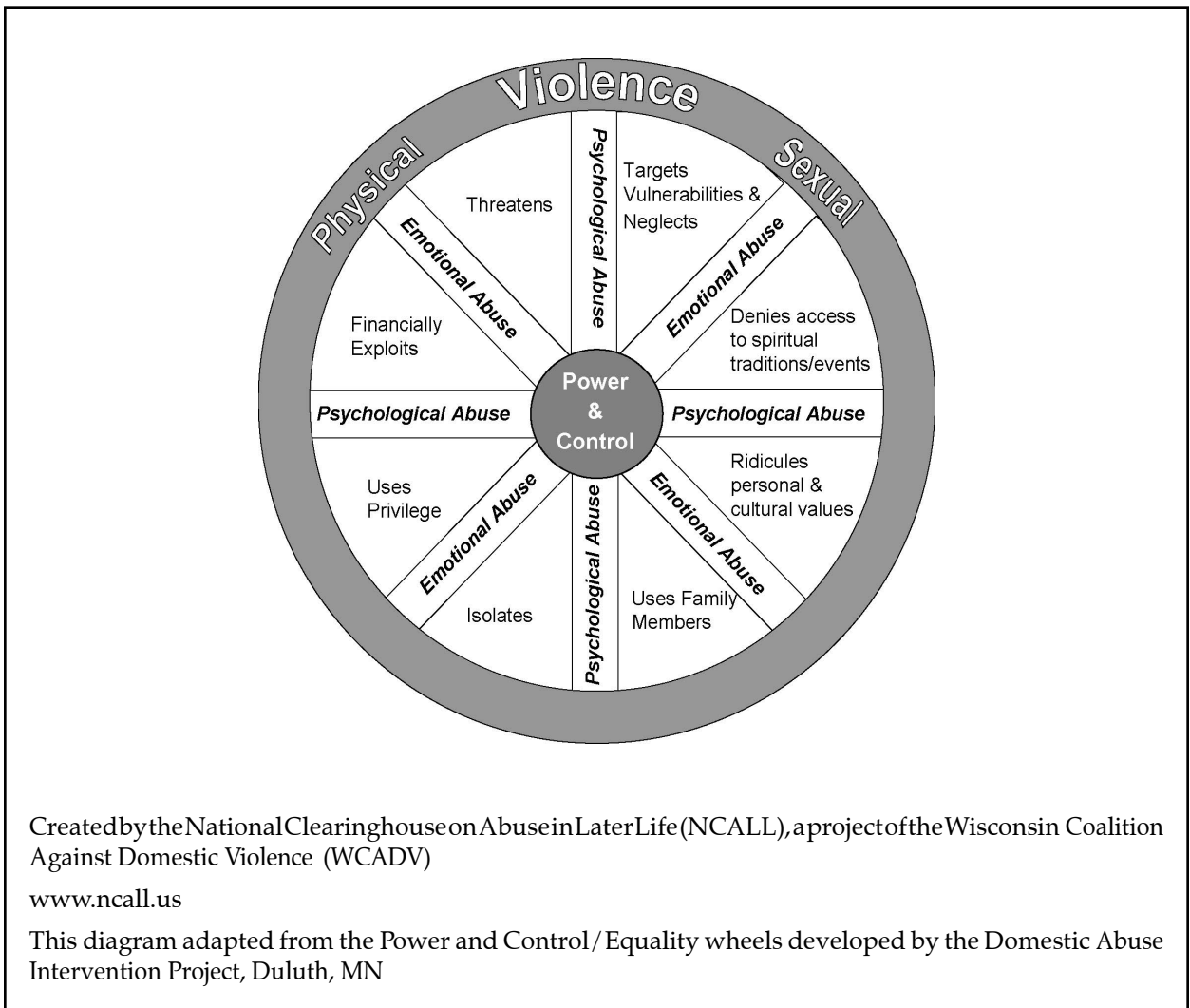
Exploitation is defined in Colorado law as using deception, harassment, intimidation, or undue influence to deprive an at-risk elder of the use, benefit, or possession of anything of value. Undue influence is defined as the use of influence to take advantage of an at-risk adult’s vulnerable state of mind, neediness, pain, or emotional distress.

Financial exploitation is a rapidly growing category of elder abuse. Unsuspecting seniors can be subject to identity theft, scams by unscrupulous contractors, or pressure to make significant gifts of money or valuable property to family members or caretakers. Financial abuse often occurs over periods of time and may involve relatives or friends or others who are in a close relationship with the affected elder. See Chapter 25, “Protecting Yourself from Crime,” for more information about financial exploitation.

These “red flags” could signal financial exploitation:

- ▶ Unusual cash withdrawals from an elder's bank accounts by the elder, the elder's agent under a power of attorney, or another person;
- ▶ A sudden increase in credit card activity or change in banking practice — for example, ATM withdrawals from a home-bound elder's account;
- ▶ Recent changes in the elder's finances or a sudden transfers of assets;
- ▶ Inappropriate fees for service providers or questionable caretaker behavior, including being financially dependent on the elder;
- ▶ An abrupt and unexplained change in the elder's agent under a power of attorney, beneficiaries on a POD account, or new names added to existing accounts;
- ▶ Signatures that appear to be forged, unusual, or suspicious; or
- ▶ The unexplained disappearance of the elder's funds or personal possessions.

Abuse in Later Life Wheel



30-3. Who Is a Mandatory Reporter?

Mandatory reporting is required for anyone who provides services (whether paid or unpaid) to at-risk elders and at-risk adults with IDD, including:

- ▶ Health care providers, including emergency health care providers;
- ▶ Caregivers (including unpaid family members), staff members, employees, or consultants for a home care placement agency;
- ▶ Medical examiners and coroners;
- ▶ Nurses and nurse practitioners;
- ▶ Dental, vision, pharmacy, or chiropractic service providers;
- ▶ Psychologists and other mental health professionals;
- ▶ Social workers;
- ▶ Staff, consultants, or independent contractors of service agencies;
- ▶ Community-centered board staff;
- ▶ Court-appointed guardians and conservators;
- ▶ First responders, including fire protection personnel;
- ▶ Law enforcement officers and victim advocates;
- ▶ Persons performing case management or assistance services;
- ▶ Care facility staff members or consultants;
- ▶ Financial institution personnel; and
- ▶ Members of the clergy, under specific circumstances.

30-4. How Do I Make a Report?

Any person who is required to report must do so within 24 hours after making the observation or discovery of the abuse. **The report should be made to a local law enforcement agency** (the police department or sheriff's office in the county where the abuse took place). Reporting to Adult Protective Services or other agencies does not meet the statutory requirement for reporting by a mandatory reporter.

The reporter does not need to investigate the abuse. You do not need to be certain of the at-risk adult's age or that the adult has an intellectual and developmental disability. When reporting abuse or exploitation of an at-risk adult, the person making the report should have as much of the following information ready as possible:

- ▶ Name, age, and address of the at-risk adult;
- ▶ Name, address, and contact information of the reporter;
- ▶ Name and contact information of the at-risk adult's caretaker, if any;
- ▶ Description of the alleged abuse and the situation the reporter observed, including the nature and extent of the injury;
- ▶ Name or description of the person who is potentially inflicting the abuse; and
- ▶ Any other related information.

Within 24 hours of receiving a report of abuse or exploitation of an at-risk adult, the law enforcement agency must notify the Adult Protective Services (APS) department of the county where the at-risk adult's residence is located or where the abuse or exploitation occurred. The law enforcement agency will also notify the District Attorney of the report to APS, complete a criminal investigation when appropriate, and provide a summary report of the investigation.

If the person who discovers or observes the abuse knows that someone else has already reported the same abuse or exploitation to a law enforcement agency, that person is not required to report his or her observations.

Individuals who report abuse or exploitation of an at-risk adult to a law enforcement agency in good faith are immune from liability for damages in any civil action or criminal prosecution unless the person reporting the abuse is the perpetrator.

The mandatory reporting requirement does not apply in cases where the reporter believes the abuse has been caused by self-neglect. Self-neglect is defined as an act or failure to act whereby an at-risk adult endangers his or her own health, safety, welfare, or life by not seeking or obtaining services necessary to meet his or her essential human needs.

30-5. What Happens if Abuses Are Not Reported?

If a person willfully violates the statute and fails to report, he or she can be charged with a Class 3 misdemeanor. This type of misdemeanor may result in a fine ranging anywhere from \$50 to \$750, or up to six months in the county jail, or both.

Mandatory reporting of abuse by professionals is required only for observations regarding at-risk elders and adults with IDD. There are many vulnerable adults who are under 70 years of age who may be at risk of abuse or exploitation due to other conditions such as dementia, traumatic brain injury, neurological impairment such as a recent stroke, or mental illness that prevents the adult from managing his or her daily needs.

Professionals who are required to report mistreatment of at-risk elders and at-risk adults with IDD are also urged to report mistreatment or exploitation that they observe regarding an adult under 70 years of age who is vulnerable to abuse due to other conditions or factors.

Mandatory reporters have a vital role in helping to end elder abuse or exploitation and preventing further harm to vulnerable adults in our community. **To report exploitation or abuse, call your local police department or sheriff's office.**

CALL 911 TO REPORT ABUSE IN PROGRESS.

For more help, resources, and information see Appendix A: Resources, Chapter 30.

