

Chapter 33

Mandatory Reporting of Elder Abuse or Exploitation

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SYNOPSIS

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It is vitally important to safeguard the health and well-being of our elder population as this segment of our community increases. Colorado law 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, who must report abuse or exploitation they observe, and a list of resources for further assistance.

33-1. Mandatory Reporting of Abuse or Exploitation

In Colorado, any person over the age of 70 is defined as an “at-risk elder.” The elder does not need to have any other risk factors or disability to be considered an at-risk elder under the mandatory reporting law. The law requires caregivers, health care providers, financial institution personnel, law enforcement members, and others to report the abuse or exploitation of any 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 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 in Colorado 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.

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.

33-2. How Do We Define Abuse and Exploitation?

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

Abusers often exert their control over seniors so they can gain a benefit for themselves, such as money or a place to stay. Various tactics include physical and verbal abuse and intimidation, along with isolating victims to prevent them from talking to others 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 70 to unwanted sexual conduct or contact classified as a crime.

Warning signs of elder abuse can include:

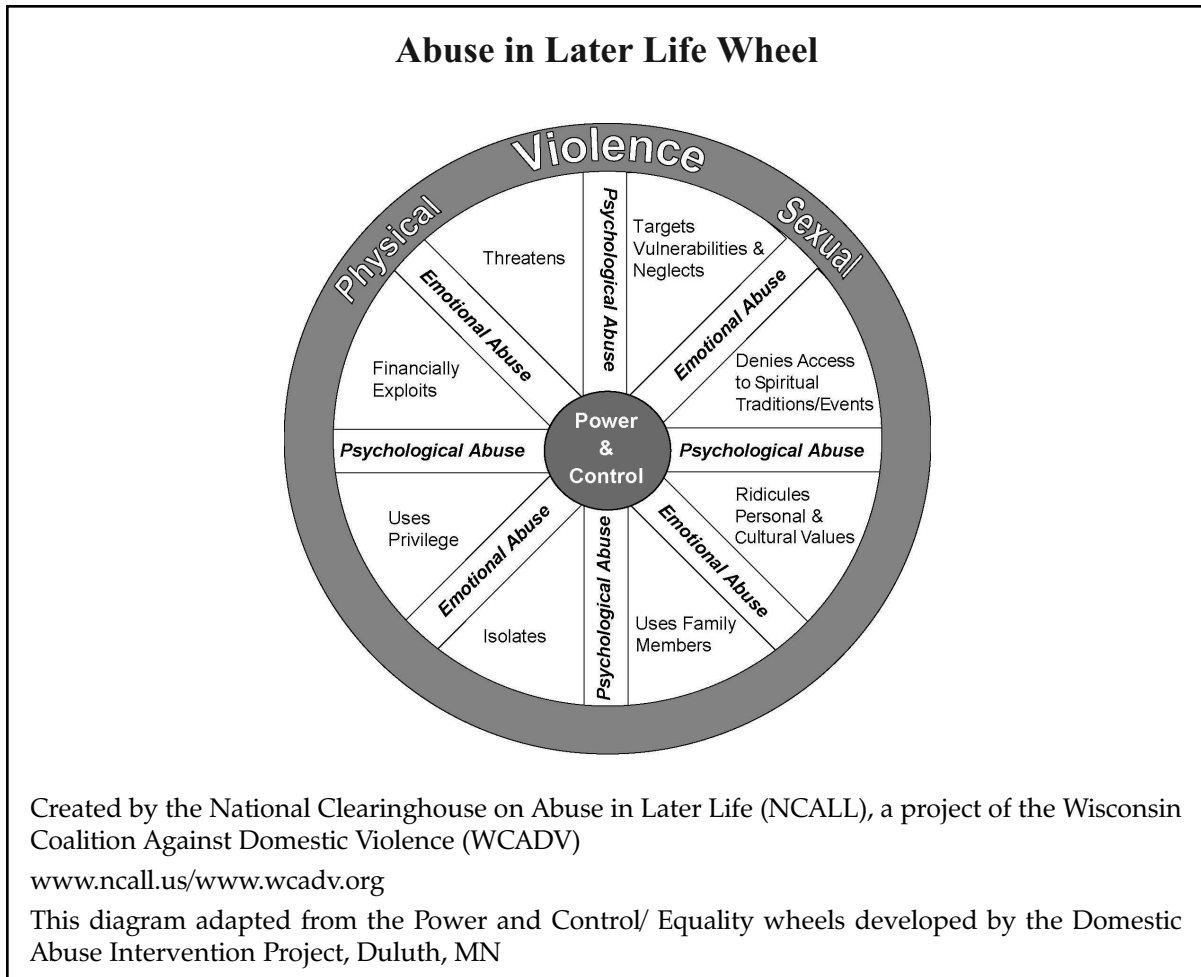
- ▶ Elders who are not allowed to speak for themselves or make decisions;
- ▶ Elders having nervousness around or fear of a caretaker;
- ▶ Elders being confused about funds missing from their accounts;
- ▶ Elders isolated from friends and family;
- ▶ Elders making withdrawals of money while accompanied by a stranger;
- ▶ Elders needing psychological care or medical treatment; or
- ▶ Elders who appear dehydrated or malnourished, or have unexplained injuries such as bruises, scratches, or burns.

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 to family members or caretakers. Financial abuse often occurs over periods of time, and may involve relatives, friends, or others in a close relationship with the affected elder. See Chapter 12, "Protecting Yourself from Crime," for more information about financial exploitation.

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.

These red flags could signal financial exploitation:

- ▶ Unusual cash withdrawals from an elder's bank accounts by the elder, an agent under a Power of Attorney, or another person;
- ▶ A sudden increase in credit card activity or 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 agent under a Power of Attorney or beneficiary on a POD account, or new names added to existing accounts;
- ▶ Signatures that seem forged, unusual, or suspicious; or
- ▶ The unexplained disappearance of funds or possessions.



33-3. Who Must Report?

Mandatory reporting is required for people who provide 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, 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 law enforcement and fire department personnel;
- ▶ 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.

33-4. How to Make a Report

Any person who is required to report elder abuse or exploitation must do so within 24 hours after observing or discovering the abuse. The report should be made to a local law enforcement agency (the police department or the county sheriff’s office in the county where the abuse took place).

You do not need to investigate the abuse yourself, and 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 elder, the person making the report should have as much of the following information ready as possible:

- ▶ Name, age, address, and contact information of the at-risk elder;
- ▶ Name, age, address, and contact information of the reporter;
- ▶ Name, age, address, and contact information of the at-risk elder’s caretaker, if any;

- ▶ Description of the alleged abuse and the situation the reporter observed, including the nature and extent of any injuries;
- ▶ Name of the person who is potentially inflicting the abuse;
- ▶ Any information regarding the elder's physical or mental condition; 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 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, also complete a criminal investigation when appropriate, and provide a summary report of the investigation to the same agency.

Note that 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.

People 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. However, if the person who reports the abuse is the perpetrator, that person is not immune from liability.

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.

33-5. What Happens if Abuse Is Not Reported?

If a person willfully fails to report the abuse or exploitation of an at-risk elder, he or she can be charged with a class 3 misdemeanor. This type of misdemeanor may result in a fine from \$50 to \$750, 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 that 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 their 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.

33-6. Resources

To report exploitation or abuse, call your local police department or sheriff's office.

Call 911 to report abuse in progress.

Note that contacting any of these resources does NOT satisfy the reporting requirement of the mandatory reporting law. Mandatory reporters must report the abuse to law enforcement.

Colorado Attorney General and AARP ElderWatch

AARP ElderWatch is a partnership between the Colorado Attorney General's Office and the AARP Foundation. AARP ElderWatch is designed to operate as a clearinghouse for complaints, educational information, and training materials dealing with the financial exploitation of elderly Coloradans.

If you are a senior or caregiver and you believe that you may have been a victim of a fraud or a scam, contact AARP ElderWatch at:

AARP ElderWatch

(800) 222-4444

(303) 222-4444

www.aarp.org/aarp-foundation/our-work/income/elderwatch

Colorado Bureau of Investigation

ID Theft/Fraud Investigation Unit

690 Kipling St., Ste. 4000

Lakewood, CO 80215

24-Hour Identity Theft Hotline

(855) 443-3489

www.colorado.gov/cbi; click on "Sections," then "Investigations," then "Identity Theft"

Colorado Coalition for Elder Rights and Abuse Prevention (CCERAP)

789 Sherman St., Ste. 250

Denver, CO 80230

www.ccerap.org

Colorado Department of Human Services, Adult Protective Services

This is the state Department of Human Services. You can also call your county Department of Social Services. You may find a list of contact information for these offices in Section 5-6, "Resources," or at www.colorado.gov/cdhs (click on "Contact Your County" for a list of offices).

(303) 866-2800

National Clearinghouse on Abuse in Later Life

Educational website with information on abuse and nationwide resources.

www.ncall.us