

**DISCLOSURE OF PROTECTED HEALTH INFORMATION TO
REPORT CHILD ABUSE, OR OTHER ABUSE, NEGLECT, OR
DOMESTIC VIOLENCE POLICY**

RESPONSIBILITY: Privacy Official or Designee(s)

BACKGROUND:

State laws require health care providers to report suspected cases of child abuse or neglect. In addition, cases of suspected abuse, neglect or domestic violence directed at adults may also be reported under certain circumstances, to wit.

§49-6A-2. Persons mandated to report suspected abuse and neglect.

When any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, member of the clergy, circuit court judge, family law master, employee of the division of juvenile services or magistrate has reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect, such person shall immediately, and not more than forty-eight hours after suspecting this abuse, report the circumstances or cause a report to be made to the state department of human services: Provided, That in any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made to the division of public safety and any law-enforcement agency having jurisdiction to investigate the complaint: Provided, however, That any person required to report under this article who is a member of the staff of a public or private institution, school, facility or agency shall immediately notify the person in charge of such institution, school, facility or agency or a designated agent thereof, who shall report or cause a report to be made. However, nothing in this article is intended to prevent individuals from reporting on their own behalf.

In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

§9-6-9. Mandatory reporting of incidences of abuse, neglect or emergency situation.

(a) If any medical, dental or mental health professional, christian science practitioner, religious healer, social service worker, law-enforcement officer, state

or regional ombudsman or any employee of any nursing home or other residential facility has reasonable cause to believe that an incapacitated adult or facility resident is or has been neglected, abused or placed in an emergency situation, or if such person observes an incapacitated adult or facility resident being subjected to conditions that are likely to result in abuse, neglect or an emergency situation, the person shall immediately report the circumstances pursuant to the provisions of section eleven of this article: Provided, That nothing in this article is intended to prevent individuals from reporting on their own behalf.

(b) In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of an incapacitated adult or facility resident or the existence of an emergency situation, any other person may make such a report.

(c) The secretary shall develop a form for the filing of written complaints, as provided by section eleven of this article, and provide these forms to all nursing homes or other residential facilities, hospitals, ombudsmen, and adult protective service agencies in this state. The forms shall be designed to protect the identity of the complainant, if desired, and to facilitate the prompt filing of complaints.

§9-6-10. Mandatory reporting to medical examiner or coroner; postmortem investigation.

(a) Any person or official who is required under section nine of this article to report cases of suspected abuse or neglect and who has probable cause to believe that an incapacitated adult or facility resident has died as a result of abuse or neglect shall report that fact to the appropriate medical examiner or coroner.

(b) Upon the receipt of such a report, the medical examiner or coroner shall cause an investigation to be made and shall report the findings to the local law-enforcement agency, the local prosecuting attorney, the department's local adult protective services agency, and, if the institution making a report is a hospital, nursing home or other residential facility, to the administrator of the facility, the state and regional long-term care ombudsman and the office of health facility licensure and certification.

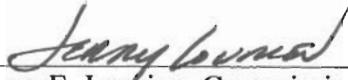
POLICY:

1. Behavioral Health and Health Facilities (BHHF) will comply with applicable state laws that require health care providers to report suspected cases of abuse or neglect of children or adults, or other forms of domestic violence (collectively “abuse reporting laws”). The Designated Attorney or Designee(s) is responsible for assuring that BHHF policies and procedures for reporting abuse, neglect and domestic violence maintain compliance with applicable state laws and that only the information required by such laws is being disclosed. When required by such law, BHHF will disclose protected health information without the written authorization of the person to whom it pertains.

2. A member of the BHHF workforce may disclose more PHI than is required by law if the patient who is the victim of the suspected abuse, or the patient's personal representative, agrees to the disclosure. This must be documented in the patient's medical record.
3. If a patient does not, or cannot, due to incapacity agree to the disclosure of more PHI than is required by state reporting laws, the worker may still disclose additional information if he or she, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the patient or to others. If possible, without causing delay that could endanger the victim of the abuse, the Privacy Official or Designee(s) or the Designated Attorney or Designee(s) should be consulted in advance of the disclosure.
4. If a law enforcement officer or other public official requests additional PHI, beyond that which is required under abuse reporting laws, because the additional information is required in an enforcement activity, the patient must still be asked to agree to the disclosure. If the patient is not able to agree or disagree because of incapacity, and the official requesting the PHI states that the information is required to avoid a material adverse impact on the enforcement activity, the worker may disclose the additional information. If possible, without causing delay that could endanger the victim of the abuse, the Privacy Official or Designee(s) or the Designated Attorney or Designee(s) should be consulted in advance of the disclosure.
5. **No information may be disclosed in excess of that required under abuse reporting laws if the information is intended to be used against the patient, in an enforcement activity or otherwise.**
6. If the patient who is the victim of the suspected abuse is an adult, a health care professional will be given the responsibility to notify the patient when protected health information has been (or will be) disclosed in connection with a report of the suspected abuse, neglect, or domestic violence. Whenever possible, this professional should be someone involved in the patient's care. However, if there is reason to believe that the patient could be placed at risk of serious harm as a result of making this notification, then the patient will not be notified of the report.
7. If it is not possible to notify an adult patient that PHI has or will be disclosed in connection with a report of suspected abuse, a personal representative of the patient may be notified instead. However, a personal representative does not need to be notified of the report of suspected abuse if there is reason to believe that the personal representative is responsible for the abuse, or that informing this person of the report of suspected abuse would not be in the patient's best interests. Whenever possible, the determination to withhold notice of a report of suspected abuse will be made by a health professional directly involved in the care of the alleged victim of the abuse, in consultation with the Designated Attorney or Designee(s).

Effective Date: 4/14/03

Dates Revised:



Jerome E. Lovrien, Commissioner, Bureau for Behavioral Health and Health Facilities