



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

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### **I. STATEMENT OF PURPOSE:**

Any employee of the Arizona Health Care Cost Containment System (AHCCCS) contracted Tribal Regional Behavioral Health Authorities (TRBHAs) 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 Arizona Department of Child Safety (DCS) worker as appropriate.

### **II. REFERENCES:**

The following Pascua Yaqui (PY) Centered Spirit Program (CSP) Provider Manual sections can serve as additional resources for this content area:

*Section 4.1, Disclosure of Behavioral Health Information*  
*Section 7.4, Reporting of Incidents, Accidents and Deaths*

The following citations and document can serve as additional resources for this section:

A.R.S. § 46-451, et seq.  
A.R.S. § 46-454  
A.R.S. § 13-3620  
A.R.S. § 36-501  
A.A.C. R9-21-409(C)(1)  
Arizona Child Abuse Hotline

### **III. STANDARDS:**

This Provider Manual section applies to all employees of and providers contracting with a TRBHA to provide services in Arizona's public behavioral health system, as well as all persons receiving, or who have received, services through Arizona's public behavioral health system.



A person who violates any provision of A.R.S. § 13-3620, and who fails to report that they have a reasonable belief that abuse, physical injury, neglect and denial or deprivation of medical care or nourishment of a minor has occurred is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

A person who intentionally or knowingly engages in emotional abuse of a vulnerable adult who is a patient or resident in any setting in which health care, health-related services or assistance with one or more of the activities of daily living is provided or, has the care and custody of a vulnerable adult, and intentionally or knowingly subjects or permits the vulnerable adult to be subjected to emotional abuse is guilty of a class 1 misdemeanor per A.R.S. § 46-454.

A person who furnishes a report, information or records required or authorized under A.R.S. § 46-454 or A.R.S. §13-3620, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized by law, is immune from any civil or criminal liability.

Reporting of incidents, accidents or deaths of behavioral health recipients to Center for Medicare and Medicaid Services (CMS), AHCCCS, the Arizona Center for Disability Law and the Bureau of Medical Facility Licensing (BMFL) is described in *Section 7.4, Reporting of Incidents, Accidents and Deaths*.

#### **IV. PROCEDURES:**

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 services worker within the DES/APS. A written report must also be mailed or delivered within 48 hours or on the next working day if the 48 hours expire on a weekend or holiday. The report shall contain:

1. The names and addresses of the adult and any persons who have control or custody of the adult, if known;
2. The adult's age and the nature and extent of his/her incapacity or vulnerability.
3. The nature and extent of the adult's injuries or physical neglect or of the exploitation of the adult's property; and



4. 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 DES/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 *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.
- 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 DES/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.

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 have occurred shall immediately report this information to a peace officer and to a DCS worker by calling the Arizona Child Abuse Hotline;

1. Any physical injury, abuse, reportable offense, or neglect involving a minor that cannot be identified as accidental by the available medical history; or
2. A denial or deprivation of necessary medical treatment, surgical care, or nourishment with the intent to cause or allow the death of an infant.

If 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 72 hours. The report shall contain:



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1. The names and addresses of the minor and the minor's parents or the person(s) having custody of the minor, if known.
2. 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.
3. 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 Clinician (BHC) 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 BHC may withhold the reporting of that statement if the physician, psychologist or BHC determines it is reasonable and necessary to accomplish the purposes of the treatment.

Upon written request by the investigating peace officer or DCS 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 *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 DCS worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, physical injury or neglect be made available for purposes of investigation.