ELDER ABUSE AND NEGLECT REPORTING

REPORTING REQUIREMENT

Physicians, residents, advanced practice nurses, physician assistants, nurses and other professionals are required to report any person 60 years old or older encountered in their professional or official capacity reasonably believed to be abused or neglected. (320 ILCS 20/4(a-5), 320 ILCS 20/2(f-5).

- Elder abuse or neglect must be reported within 24 hours to the Department on Aging (DOA) [beginning January 1, 1999].

If the physician, or other reporting party is a staff member of a medical or other public or private institution, school, facility, or agency, then in addition to notifying DOA, the reporting party also may notify the person in charge of the institution or facility, or that person’s designee, of the report.

ELDER ABUSE AND NEGLECT DEFINED

By definition, “elder abuse” consists of “causing any physical, mental or sexual injury to” any person 60 years of age or over living in a domestic situation. (320 ILCS 20/2(a)) In addition, elder abuse encompasses financial exploitation of the elderly person, meaning the use of the elderly person’s resources by the caretaker or a family member to the disadvantage of the elderly person or for the profit or advantage of some other person. The law specifies, however, that elderly persons are not considered abused or neglected solely because they are being furnished with or rely upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination.

“Neglect” consists of a person’s failure to provide or the intentional withholding of “the necessities of life, including, but not limited to, food, clothing, shelter or medical care,” from a person 60 years of age or over. (320 ILCS 20/2(g)) No affirmative duty to provide support for elderly adults is created by this definition.

Neither the definition of “abuse” nor “neglect” apply to “healthcare services provided or not provided by licensed healthcare professionals,” including physicians and residents.

Generally, any privilege regarding communications between a physician (or other person required by law to report elder abuse or neglect) and his or her patient does not protect communications about elder abuse or neglect. (320 ILCS 20/4(a-5)) Thus, a claim of privilege does not excuse a failure to report elder abuse or neglect as required by law.

MANDATED REPORTERS ADDITIONAL DUTIES

Any person, including a physician who makes a report of suspected elder abuse or neglect is required to testify in any judicial proceeding resulting from the report
concerning abuse, neglect, or the causes thereof. (320 ILCS 20/4.2) In such a judicial proceeding, the physician’s testimony is not to be excused on the basis of any common law or statutory privilege between the perpetrator of the abuse or neglect of the eligible adult and the physician.

**LIABILITY IN CONNECTION WITH ELDER ABUSE OR NEGLECT REPORTING**

Any licensed physician who fails to report elder abuse or neglect may be disciplined by the State including license revocation or suspension. No other penalties exist.

Any optometrist who willfully fails to report such abuse will be referred to the IDFPR for action. (320 ILCS 20/4(e))

**IMMUNITY FOR REPORTING ELDER ABUSE OR NEGLECT**

Physicians and others are immune from civil, criminal and other liability if they:

- Report or participate in making a report of elder abuse or neglect, or
- Participate in investigating a report, and
- If they do so in good faith, in these circumstances, they are also immune from professional discipline.

(320 ILCS 20/4(a-7) and (b)) In any proceedings to establish liability, the physician’s or resident’s good faith is presumed. Also, physicians and others acting in good faith “taking photographs or x-rays as a result of an authorized assessment” are provided the same immunity protection. (320 ILCS 20/4(b))