

**Act 13 of 1997**  
Effective December 10, 1997

**PURPOSE:** Requires an employee or an administrator of a facility who has reasonable cause to believe that a recipient is a victim of abuse to immediately report the abuse.

**FACILITY:** The type of facilities covered by the Act are:

- domiciliary care home
- home health care agency
- long-term care nursing facility
- adult daily living center/day care
- personal care home

The Act also includes any private or public organization which provides care to care-dependent persons in their residence.

In addition, PA Department of Public Welfare has determined that the following DPW-licensed and DPW-operated residential facilities for adults are also covered by the Act:

- assisted living residences
- community residential rehabilitation services
- community homes for individuals with mental retardation\*
- family living homes\*
- ICF/MR's (private and state)\*
- long term structured residence
- nursing facilities (licensed by DPW)
- state mental hospitals

\*Note: Effective February 9, 2003, pursuant to Act 171, DO NOT report under age 60. If OVER age 60 must report

In addition, PA Department of Health has determined that the following DOH-licensed facilities are also covered by the Act:

- hospices
- birth centers
- home care agencies – any public or private organization which provides care to a care-dependent individual in their place of residence
- home care registry or “registry” – any organization or business entity that supplies, arranges or refers independent contractors to provide activities of daily living or instrumental activities of daily living or specialized care in the consumer's place of residence or other independent living environment for which the registry receives a fee, consideration or compensation of any kind.

**RECIPIENT:** An individual who receives care, services, or treatment in or from a facility

**SERIOUS BODILY INJURY:** An injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

**SERIOUS PHYSICAL INJURY:** An injury that causes a person severe pain or significantly impairs a person's physical functioning, either permanently or temporarily.

**SEXUAL ABUSE:** Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest. (Title 18 Crimes and Offenses definitions on next page).

**SEXUAL HARASSMENT:** Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

**SUSPICIOUS DEATH**

**SEXUAL ABUSE:** Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

*Rape:* A person commits rape when he or she engages in sexual intercourse with a complainant: (1)by forcible compulsion; (2)by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3)who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4)where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5)who suffers from a mental disability which renders the complainant incapable of consent; (6)who is less than 13 years of age.

*Statutory Sexual Assault:* Except as provided under the definition of Rape, a person commits statutory sexual assault when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is four or more years older than the complainant and the complainant and the person are not married to each other.

*Involuntary Deviate Sexual Intercourse:* A person commits involuntary deviate sexual intercourse when he or she engages in deviate sexual intercourse with a complainant: (1)by forcible compulsion [forcible compulsion includes but is not limited to compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse]; (2)by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3)who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4)where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5)who suffers from a mental disability which renders him or her incapable of consent; (6)who is less than 13 years of age, or (7)who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

*Sexual Assault:* Except as provided under the definitions relating to Rape and Involuntary Deviate Sexual Intercourse, a person commits sexual assault when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

*Aggravated Indecent Assault:* Except as provided under the definitions relating to Rape, Statutory Sexual Assault, Involuntary Deviate Sexual Intercourse, and Sexual Assault, a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical hygienic or law enforcement procedures commits aggravated indecent assault if: (1)the person does so without the complainant's consent; (2)the person does so by forcible compulsion; (3)the person does so by threat of forcible compulsion that would prevent resistance by a person or reasonable resolution; (4)the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring; (5)the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing without the knowledge of the complainant, drugs, intoxicants or other means for the purposes of preventing resistance; (6)the complainant suffers from a mental disability which renders him or her incapable of consent; (7)the complainant is less than 13 years of age; or (8)the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

*Indecent Assault:* A person who has indecent contact with the complainant or causes the complainant to have indecent contact with the person commits indecent assault if: (1)the person does so without the complainant's consent; (2)the person does so by forcible compulsion; (3)the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (4)the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring; (5)the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (6)the complainant suffers from a mental disability which renders him or her incapable of consent; (7)the complainant is less than 13 years of age; or (8)the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

*Incest:* A person commits incest if he or she knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood. The relationships referred to include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

**PROCESS:** When an employee or administrator has reasonable cause to believe that a recipient is a victim or abuse, they shall immediately make an oral report to the local AAA. The AAA will notify the administrator of the facility that a report has been made. Within 48 hours of making the oral report, the employee or administrator shall make a written report to the AAA. The written report should be in a manner and on forms prescribed by the Department. The written report to the AAA must include (at minimum):

- name, age, and address of the recipient
- name and address of the recipient's guardian or next of kin
- name and address of the facility
- nature of the alleged offense
- any specific comments or observations that are directly related to the alleged incident and the individual involved.

If the employee or administrator believes the abuse involves sexual abuse, serious physical injury, serious bodily injury, or suspicious death, he/she is also required to make an immediate Act 13 oral report to PDA at (717) 265-7887 during the business day in which the incident occurred or the opening of the next business day if the incident occurred after hours.

If a victim has sustained serious physical injury, serious bodily injury, sexual abuse, or suspicious death, the reporter must make an immediate oral report to local law enforcement, followed by a written report within 48 hours. The employee who makes the report must immediately notify the administrator following a report to law enforcement. The employee may request the administrator make or assist in making the report to law enforcement officials. Law enforcement officials will notify the administrator that the report has been made with them.

When the local AAA receives a report concerning suspicious death, the local AAA will make an oral report to the coroner and follow up with a written report within 24 hours.

Failure to comply with ACT 13 can result in administrative and criminal penalties. The licensing agency for the facility will have jurisdiction to determine any administrative violation and may issue a civil penalty up to \$2,500. Additional criminal fines and penalties of up to one-year imprisonment are included for criminal violation of the Act.

## REPORTING REQUIREMENTS FOR ACT 13

### Age of Victim:

- If victim is over age 60, a Protective Services Report of Need (RON) is taken and categorized per standard procedure.
- If victim is under age 60, AAA takes the RON but does not investigate.

AAA's and PDA maintain a list of these RON's.

AAA's will make a report to the state agency that licenses the facility from whence the RON emanated.

### Reporting to Specific Authorities & Agencies:

- **To AAA:** Make oral report immediately. (Staff on call 24 hours/day, 7 days/week.) Within 48 hours send the written report on the forms prescribed by the Department to AAA, which must include (at minimum):
  - Name, age, and address of the recipient
  - Name, age, and address of the recipient's guardian or next of kin
  - Name and address of the facility
  - nature of the alleged offense
  - Any specific comments or observations that are directly related to the alleged incident and the individual involved.
- **To PDA:** If report involves sexual abuse, serious physical injury, serious bodily injury, or suspicious death—the employee/administrator must make an oral report to PDA (717) 265-7887 during the current business day or at the opening of the next business day, if the incident occurred after hours.
- **To Local Law Enforcement:** If a victim has sustained serious physical injury, serious bodily injury, sexual abuse, or suspicious death, the reporter must make an immediate oral report to local law enforcement, followed by written report within 48 hours. The employee who makes the report must immediately notify his/her administrator following a report to law enforcement. The employee may request the administrator make or assist in making the report to law enforcement officials. Law enforcement officials will notify the administrator that the report has been filed with them.
- **To Coroner:** For a report which concerns the death of a recipient, if there is reasonable cause to suspect that the recipient died as a result of abuse, the agency shall give the oral report and forward a copy of the written report to the appropriate coroner within 24 hours.

## Act 28 of 1995

The act is effective for conduct committed after September 6, 1995.

**Who is protected by the Act?** Individuals, 18 years of age and above, who due to physical or cognitive disability or impairment, require assistance to meet their needs for: food, shelter, clothing, personal care, or health care; and who reside in either a nursing home, domiciliary care home, community residential facility, or who receive home health services in their residence; or who receive services from another who has an obligation to care for the person for monetary consideration in either the care dependent person's home or in one of the previously described facilities; or who receives services from an adult daily living center.

**Who is subject to prosecution under the Act?** Caretakers are subject to prosecution under the Act. A caretaker is any person who: Owns, operates, manages or is employed in a nursing home, personal care home, domiciliary care home, community residential facility, intermediate care facility for the mentally retarded, adult daily living center, home health agency or home health service provider whether licensed or unlicensed who has responsibility to care for a care-dependent person. A caretaker is also any person who has an obligation to care for a care-dependent person in any described facility or the care-dependent's home and who receives monetary consideration for the care.

A caretaker can be a natural person, a corporation, a partnership, an unincorporated association or any other business entity. (This does not include governmental entities, boards or commissions).

**What triggers prosecution?** (a) Intentionally, knowingly, or recklessly causing bodily injury or serious bodily injury to a care-dependent person by failure to provide treatment, care, goods or services necessary to preserve the health, safety, or welfare of a care-dependent person for who he is responsible to provide care. (b) A caretaker may also be prosecuted if he intentionally or knowingly uses a physical restraint or a chemical restraint or medication on a care-dependent person, or isolates that person, contrary to law or regulation with resulting bodily or serious bodily injury.

**What must be observed in order to implement the provisions of the Act?** The care-dependent person must have suffered either bodily injury or serious bodily injury. Bodily injury is defined by the Crimes Code at §2301 as, "impairment of physical condition or substantial pain." Serious bodily injury is defined by the Crimes Code at §2301 as, "Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ."

**Who must report?** Personnel of PDA (or AAA's), DoH or DPW when they have reasonable cause to believe that a care-dependent person residing in a facility has suffered bodily injury or been unlawfully restrained in violation of the Act, shall report immediately to the local law enforcement agency or to the Office of the Attorney General. The Departments must make these reports when they become aware of care-dependent person's mistreatment in conducting regulatory or investigative responsibilities. (This would include licensure visits and inspections based on complaints.)

## Act 13 of 1997

**Purpose:** Requires employee or an administrator of a facility who has reasonable cause to believe that a recipient is a victim of abuse to immediately report the abuse. The effective date was December 10, 1997.

**Abuse:** The occurrence of one or more of the following acts: (1) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain, or mental anguish; (2) The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health; (3) Sexual harassment; and/or (4) Sexual abuse which is intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest. No older adult shall be found to be abused solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

**Facility:** The type of facilities impacted by the Act are: long-term care nursing facility, personal care home, domiciliary care home, home health agency and an adult daily living center.

**Recipient:** An individual who receives care, services or treatment in or from a facility.

**Serious Bodily Injury:** An injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

**Serious Physical Injury:** An injury that causes a person severe pain or significantly impairs a person's physical functioning, either permanently or temporarily.

**Sexual Abuse:** Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

### Suspicious Death

**Process:** When an employee or administrator has reasonable cause to believe that a recipient is a victim of abuse they shall immediately make an oral report to the local AAA. Within 48 hours of making the oral report the employee or administrator shall make a written report to the AAA.

If the employee or administrator believes the abuse involves sexual abuse, serious physical injury, serious bodily injury or suspicious death they are also required to make an immediate oral report to law enforcement and to PDA in addition to the oral and written report to the AAA. Within 48 hours of making the oral report the employee or administrator shall follow-up with a written report to law enforcement officials.

Within 48 hours of receiving a report of abuse involving sexual abuse, serious physical injury, serious bodily injury, or suspicious death, the local AAA shall forward a written report to PDA.

When the local AAA receives a report concerning suspicious death, the AAA will make an oral report to the coroner and follow-up with a written report within 24 hours.

Failure to comply with Act 13 can result in administrative and criminal penalties. The licensing agency for the facility will have jurisdiction to determine any administrative violation and may issue a civil penalty up to \$2,500. Additional criminal fines and penalties of up to one year imprisonment are included for criminal violation of the Act.

## Act 169 of 1996

**Purpose:** Requires criminal history background checks for employees of NH, PCH, Dom Care, Home Health and ADC. Employees with convictions for prohibitive offenses are precluded from working in these facilities. The Act takes effect July 1, 1998.

**Prohibitive Offenses:** Criminal Homicide, Aggravated Assault, Kidnapping, Unlawful Restraint, Rape, Statutory Sexual Assault, Involuntary Deviate Sexual Intercourse, Sexual Assault, Aggravated Indecent Assault, Indecent Assault, Arson and Related Offenses, Burglary, Robbery, Theft (Felony or 2 Misdemeanors), Forgery, Securing Execution of Documents by Deception, Incest, Concealing Death of a Child, Felony Drug Offense, Child Endangerment, Dealing in Infant Children, Intimidation of a Witness, Retaliation Against a Witness, Prostitution (Felony Offense), Obscene or Other Sexual Materials and Corruption of Minors.

**Employees:** An employee is defined as any applicant or new employee who has been hired since July 1, 1998. Includes contract employees with direct contact with residents or unsupervised access to their personal living quarters. Also includes persons employed or contracted to provide care to a care-dependent individual for monetary consideration in the individual's residence.

**Facility:** The types of facilities covered by the Act are as follows: domiciliary care homes, home health agencies, long-term care nursing facilities, adult day care facilities, and personal care homes. The Act also includes any private or public organization which provides care to a care-dependent person in their residence.

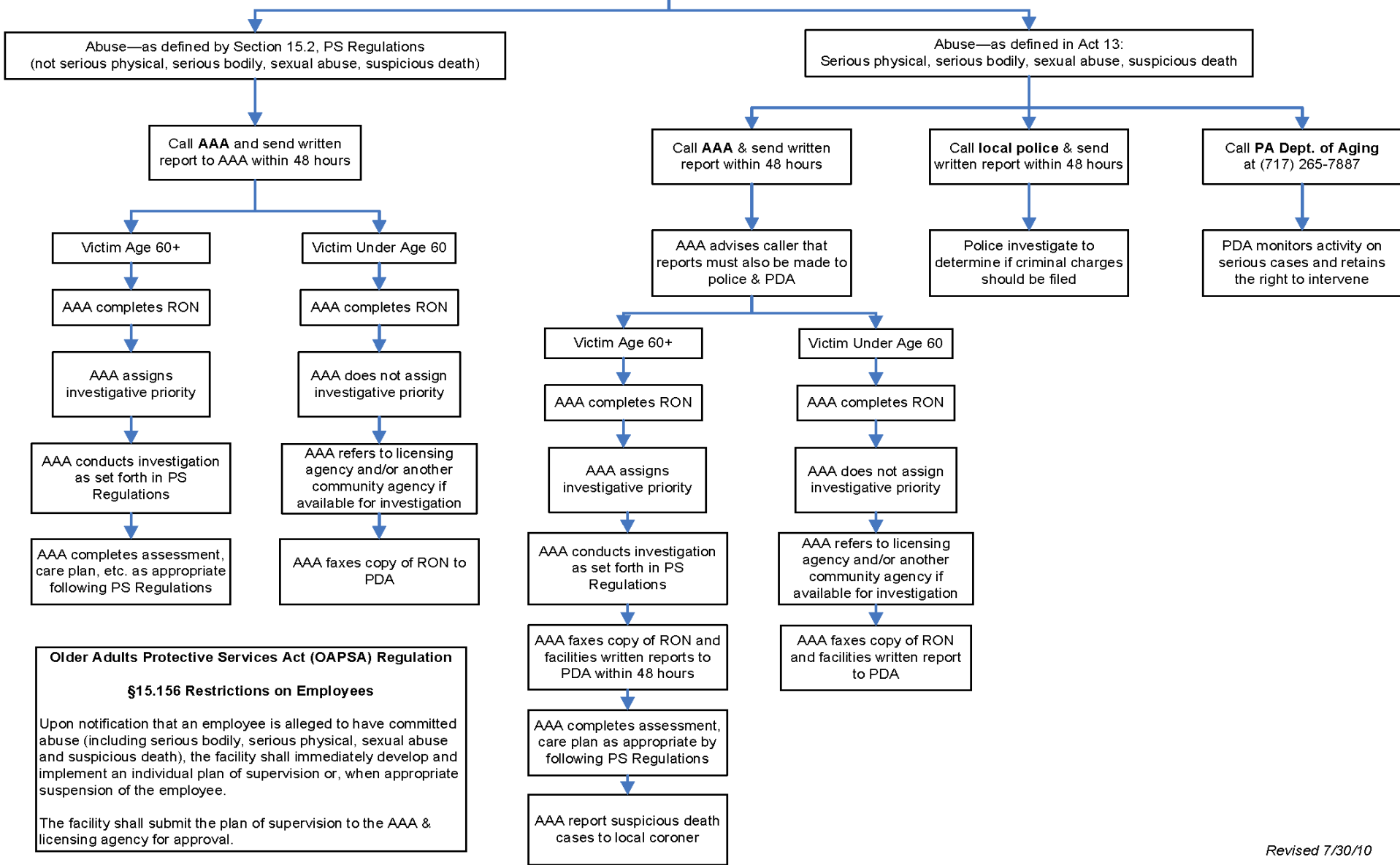
**Process:** An applicant/new hire who has been a resident of the state for the last two years uninterrupted needs to obtain a "Request for Criminal History Background Check" from the nearest PA State Police barracks. The applicant/new hire will complete the application and forward it with a money order or cashier's check for \$10 made payable to "Commonwealth of PA" to the State Police for processing. The Act does allow for the provisional hire of an employee for 30 days if the employee can provide proof they have applied for the background check. If there is no criminal history record, the PSP will forward a letter stating the same. If there is a criminal record, the PSP will forward a copy of the rap sheet to the requester.

If the applicant has not been a PA resident for the two years before application, they will need to have a PSP criminal history background check completed and an FBI Background Check. The applicant will obtain an FBI fingerprint card either from their prospective employer or by contacting PDA. After obtaining the fingerprint card the applicant will go to police to be fingerprinted. The completed card (fingerprints and requested information) will be forwarded to PDA along with a money order, cashier's check, or certified check for \$30.25 made payable to the "Commonwealth of Pennsylvania".

The fingerprints will be forwarded to the FBI for processing by PDA. The normal processing time is between 60 and 90 days. The Act does allow for the provisional hire of an employee who requires an FBI check for 90 days, if the employee can provide proof they have applied for the background check. When the application has been processed by the FBI, the results will be returned to PDA. When there is no criminal history record information recorded, a clearance letter will be sent to the applicant/employer. If there is an open disposition for a prohibitive offense, a letter will be sent to the applicant requesting the disposition of the case for determination of eligibility for employment. If there is a conviction for one of the prohibitive offenses, a prohibitive hire letter will be forwarded to the applicant/employer.

# ACT 13-1997 Mandatory Abuse Reporting by Employees/Administrators

Employee or Administrator has reasonable cause to suspect that recipient is victim of abuse. Immediately call your local Area Agency on Aging (AAA) and adhere to licensing regulations.



**AAA SAMPLE FAX COVER PAGE**

(info required for every Act 13 report faxed to PDA)

*insert fax heading here*

*(please be sure to include AAA Name, address, phone #'s, fax #)*

**TO:** CHBC UNIT (fax: 717-772-2668)

**FROM:** \_\_\_\_\_

**DATE:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**SUBJECT:** Act 13 Report of Need # of pages (including cover sheet): \_\_\_\_\_

**Protective services contact (for questions or additional info.):** \_\_\_\_\_

**County facility is located in:** \_\_\_\_\_

**TYPE OF ABUSE (Check One)**

*Types of Serious Abuse:*

**Sexual Abuse (ANY age)**

**Suspicious Death (ANY age)**

**Serious Physical Injury (ANY age)**

(injury that causes a person severe pain or significantly impairs a person's physical function, either permanently or temporarily)

**Serious Bodily Injury (ANY age)**

(injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ)

**- OR -**

**Not One of the Four Serious** (listed above) – **Under Age 60**

**IF one of the four serious types, was the facility informed of additional requirements (including calling the Dept. of Aging to give an Act 13 Oral Report)?:**

Yes (date: \_\_\_\_/\_\_\_\_/\_\_\_\_, time: \_\_\_\_:\_\_\_\_ am/pm)

**TYPE OF FACILITY (Check One)**

Nursing Home(NH)

Dom. Care Home (DC)

Assisted Living Residence

Home Health Care Agency (HH)

Adult Daily Living Center

Personal Care Home (PCH)

Birth Center

Long Term Structured Residence

Comm. Resid. Rehab. Service

Hospice

Nursing Facility (DPW)

State Mental Hospital

Home Care Agency \*\*

\*Family Living Home

\*ICF/MR

Home Care Registry \*\*

\*Community Hms for Individuals w/MR-Group Home/CLA

\*\* Public & Private

**NOTE:** the three DPW facilities above with an asterisk (\*) are exempt from reporting any under age 60 abuse

*(insert Confidentiality Notice here)*





**DETAILS AND DESCRIPTION OF ABUSE:** (ATTACH ADDITIONAL SHEETS IF NECESSARY)

**ACTIONS TAKEN BY FACILITY, INCLUDING TAKING OF PHOTOGRAPHS AND X-RAYS, REMOVAL OF VICTIM AND NOTIFICATION OF APPROPRIATE AUTHORITIES.** (ATTACH ADDITIONAL SHEETS IF NECESSARY)

**OTHER PERTINENT INFORMATION, COMMENTS OR OBSERVATIONS DIRECTLY RELATED TO ALLEGED ABUSE INCIDENT AND VICTIM:**

**NAME AND TITLE OF REPORTER:**  
(PLEASE TYPE OR PRINT)

**NAME:**

**TITLE:**

**SIGNATURE OF REPORTER:**

**REPORTER CONTACT INFORMATION:**

**TELEPHONE NUMBER:**

**EMAIL ADDRESS:**

**DATE:**

**NAME AND TITLE OF PERSON PREPARING REPORT:**  
(PLEASE TYPE OR PRINT)

**NAME:**

**TITLE:**

**SIGNATURE OF PERSON PREPARING REPORT:**

**PERSON PREPARING REPORT CONTACT INFORMATION:**

**TELEPHONE NUMBER:**

**EMAIL ADDRESS:**

**DATE:**

**ACT-13 OF 1997**  
**Mandatory Abuse Report Form**  
**Instruction Sheet**

**BACKGROUND AND PROCESS:**

Act-13 of 1997 requires an employee or administrator of a facility who has reasonable cause to suspect that a recipient is a victim of abuse to immediately report the abuse. The effective date was December 10, 1997.

Employees and/or administrators who have reasonable cause to suspect that a recipient is a victim of any of the types of abuse described below shall immediately make an oral report to the Area Agency on Aging (AAA). In addition to reporting to the AAA, oral reports must be made to the Pennsylvania Department of Aging (PDA) and local law enforcement for suspected abuse involving sexual abuse, serious physical injury, serious bodily injury or if a death is suspicious.

Within 48 hours of making all oral reports, the employee or administrator shall make a written report (on forms prescribed by PDA as mandated by Act 13) to the AAA. Additionally, within 48 hours of making an oral report for an abuse involving sexual abuse, serious physical injury, serious bodily injury and suspicious death, the employee and an administrator shall make a written report (on forms prescribed by PDA as mandated by Act 13) to appropriate law enforcement officials. The AAA will forward a copy of the written report to the Department of Aging within 48 hours for all reports involving sexual abuse (not including sexual harassment), serious physical injury, serious bodily injury and suspicious death.

NOTE: Sexual harassment is an abuse that requires reporting to the AAA; however, it is not sexual abuse that requires reporting to PDA and local law enforcement.

**DEFINITIONS:**

Act-13 mandates the following facilities to report: Domiciliary Care Homes, Home Health Care Agencies, Long Term Care Nursing Facilities (licensed by Dept. of Health), Adult Daily Living Centers (licensed by Dept. of Aging), and Personal Care Homes (licensed by Dept. of Public Welfare). In addition, the Pennsylvania Department of Health has defined home health care organization or agency to include: hospices, birth centers, home care agencies and home care registries\*. The Pennsylvania Department of Public Welfare (DPW) has concluded that the Act is applicable to all DPW-licensed and DPW-operated residential facilities for adults; specifically: Personal Care Homes, 55 Pa. Code Ch. 2620; Assisted Living Residences, 55 Pa. Code Ch. 2800; Community Residential Rehabilitation Services, 55 Pa. Code Ch. 5310; Long Term Structured Residences, 55 Pa. Code Ch. 5320; Community Homes for Individuals with Mental Retardation, 55 Pa. Code Ch. 6400; Family Living Homes, 55 Pa. Code Ch. 6500; ICF-MRs (private and state), 55 Pa. Code Ch. 6600; State Mental Hospitals; and Nursing Facilities. \*A Home Care Agency is further defined to include those agencies licensed by the Department of Health and any public or private organization which provides care to a care-dependent individual in their place of residence. A Home Care Registry or "Registry" is further defined to include those agencies licensed by the Department of Health any organization or business entity that supplies, arranges or refers independent contractors to provide activities of daily living or instrumental activities of daily living or specialized care in the consumer's place of residence or other independent living environment for which the registry receives a fee, consideration or compensation of any kind.

**Recipient:** An individual who receives care, services or treatment in or from a facility. (regardless of age)

**Abuse:** The occurrence of one or more of the following acts: (1) the infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish; (2) the willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health; (3) sexual harassment; and/or (4) sexual abuse which is intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault or incest.

**Serious Bodily Injury:** An injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

**Serious Physical Injury:** An injury that causes a person severe pain or significantly impairs a person's physical functioning, either permanently or temporarily.

**Sexual Harassment:** Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. NOTE: Sexual harassment is an abuse that requires reporting to the AAA; however, it is not sexual abuse that requires reporting to PDA and local law enforcement), serious bodily injury, serious physical injury, or suspicious death.

**Sexual Abuse:** Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

*Rape:* A person commits rape when he or she engages in sexual intercourse with a complainant: (1)by forcible compulsion; (2)by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3)who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4)where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5)who suffers from a mental disability which renders the complainant incapable of consent; (6)who is less than 13 years of age.

*Statutory Sexual Assault:* Except as provided under the definition of Rape, a person commits statutory sexual assault when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is four or more years older than the complainant and the complainant and the person are not married to each other.

*Involuntary Deviate Sexual Intercourse:* A person commits involuntary deviate sexual intercourse when he or she engages in deviate sexual intercourse with a complainant: (1)by forcible compulsion [forcible compulsion includes but is not limited to compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse]; (2)by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (3)who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring; (4)where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (5)who suffers from a mental disability which renders him or her incapable of consent; (6)who is less than 13 years or age, or (7)who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

*Sexual Assault:* Except as provided under the definitions relating to Rape and Involuntary Deviate Sexual Intercourse, a person commits sexual assault when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

*Aggravated Indecent Assault:* Except as provided under the definitions relating to Rape, Statutory Sexual Assault, Involuntary Deviate Sexual Intercourse, and Sexual Assault, a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical hygienic or law enforcement procedures commits aggravated indecent assault if: (1)the person does so without the complainant's consent; (2)the person does so by forcible compulsion; (3)the person does so by threat of forcible compulsion that would prevent resistance by a person or reasonable resolution; (4)the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring; (5)the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing without the knowledge of the complainant, drugs, intoxicants or other means for the purposes of preventing resistance; (6)the complainant suffers from a mental disability which renders him or her incapable of consent; (7)the complainant is less than 13 years of age; or (8)the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

*Indecent Assault:* A person who has indecent contact with the complainant or causes the complainant to have indecent contact with the person commits indecent assault if: (1)the person does so without the

complainant's consent; (2)the person does so by forcible compulsion; (3)the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; (4)the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring; (5)the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; (6)the complainant suffers from a mental disability which renders him or her incapable of consent; (7)the complainant is less than 13 years of age; or (8)the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

*Incest:* A person commits incest if he or she knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood. The relationships referred to include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

## **INSTRUCTIONS FOR COMPLETING ACT-13 OF 1997 MANDATORY ABUSE REPORT FORM**

**DATE OF REPORT/TIME:** Place the date and the time the written report is being prepared.

**NAME OF VICTIM (Last, First MI):** Complete with the last name, first name and middle initial of the recipient of care (i.e. victim) who is suspected to have been abused.

**ADDRESS:** Provide the address of the victim at the time of abuse.

**CITY:** Provide the city of the victim at the time of abuse.

**STATE:** Provide the state of residence of the victim at the time of abuse.

**PHONE:** Provide the telephone number, with area code, of the victim at the time of abuse.

**DATE OF BIRTH:** Provide the date of birth of the victim.

**SEX:** Provide the sex of the victim – male or female.

**ABUSE TYPE:** Place an "x" in the box that identifies the type of suspected abuse of the recipient. NOTE: If the abuse does not specifically involve sexual abuse (not including sexual harassment), serious physical injury, serious bodily injury or suspicious death, place an "x" in the "abuse including sexual harassment but not involving sexual abuse, serious bodily injury, serious physical injury, or suspicious death" box for all other types of abuse as defined by the Older Adults Protective Services Act.

**DATE AND TIME OF INCIDENT:** Provide the date and time the suspected abuse occurred.

**FACILITY NAME:** Provide the name of the facility that employs the person making the suspected abuse report.

**ADDRESS:** Provide the address of the facility.

**CITY:** Provide the city of the facility.

**STATE:** Provide the state of residence of the facility.

**PHONE:** Provide the telephone number, with area code, of the facility.

**FACILITY TYPE:** Provide the licensed type of facility as defined by the Act. (i.e. NH, PCH, etc.)

**LICENSING AGENCY:** Provide the state agency responsible for the licensure of the facility.

**LICENSE NUMBER:** Provide the state license number assigned to the facility type making the report.

**DATE AND TIME OF REPORT TO LICENSING AGENCY:** Provide the date and time the facility reported the abuse to its licensing agency.

**LICENSING AGENCY CONTACT AND TELEPHONE NUMBER:** Provide the name of the office and telephone number the facility notified of the suspected abuse.

**DATE/TIME ORAL REPORT TO AAA:** Provide the date and time the suspected abuse was reported to the AAA.

**DATE/TIME ORAL REPORT TO LOCAL LAW ENFORCEMENT:** Provide the date and time local law enforcement was notified of suspected abuse involving sexual abuse (not including sexual harassment – Note: Sexual harassment is defined as an abuse that requires reporting to the AAA; however, it is not a type of sexual abuse that requires reporting to PDA and local law enforcement), serious bodily injury, serious physical injury, or suspicious death.

**DATE/TIME ORAL REPORT TO PDA:** Provide the date and time the Pennsylvania Department of Aging was notified of suspected abuse involving sexual abuse (not including sexual harassment – Note: Sexual harassment is an abuse that requires reporting to the AAA; however, it is not sexual abuse that requires reporting to PDA and local law enforcement), serious bodily injury, serious physical injury, or suspicious death.

**DATE/TIME ORAL REPORT TO COUNTY CORONER:** Provide the date and time the county coroner was notified by the AAA of the suspected abuse involving a suspicious death. NOTE: This field is for AAA use only.

**NAME OF AAA CONTACTED:** Provide the name of the AAA the facility notified of the suspected abuse.

**NAME OF LAW ENFORCEMENT AGENCY:** Provide the name of the law enforcement agency the facility notified of the suspected abuse involving sexual abuse, serious bodily or physical injury, or suspicious death.

**NAME OF CORONER:** *This field is for AAA use only.* Provide the name of the coroner the AAA notified of the suspected abuse involving a suspicious death.

**CONTACT INFORMATION:** This section is to gather information on the victim's guardian or next of kin. Indicate if the victim had a guardian or next of kin by placing an "x" in the appropriate block.

**NAME:** Provide the name of the individual notified of the suspected abuse.

**ADDRESS:** Provide the address of the individual notified of the suspected abuse.

**CITY:** Provide the city of the individual notified of the suspected abuse.

**STATE:** Provide the state of residence of the individual notified of the suspected abuse.

**PHONE:** Provide the telephone number, with area code, of the individual notified of the suspected abuse.

**RELATIONSHIP:** Provide the relationship to the victim of the individual notified of the suspected abuse.

**ALLEGED PERPETRATOR NAME:** Provide the last name, first name and middle initial of the individual who allegedly abused the victim.

**RELATIONSHIP TO VICTIM:** Provide what relationship the alleged perpetrator is/was to the victim.

**ADDRESS:** Provide the address of the individual identified as the alleged perpetrator.

**CITY:** Provide the city of the individual identified as the alleged perpetrator.

**STATE:** Provide the state of residence of the individual identified as the alleged perpetrator.

**PHONE NUMBER:** Provide the telephone number, with area code, of the individual identified as the alleged perpetrator.

**AGE:** Provide the age of the individual identified as the alleged perpetrator.

**SEX:** Provide the sex of the individual identified as the alleged perpetrator.

**TYPE OF POSITION:** If the individual identified as the alleged perpetrator is/was an employee of the facility, provide the title of the position held by that employee.

**WORK SHIFT:** If the individual identified as the alleged perpetrator is/was an employee of the facility, provide the work shift of the employee.

**DATE OF HIRE:** If the individual identified as the alleged perpetrator is/was an employee of the facility, provide the date of hire of the employee.

**DETAILS AND DESCRIPTION OF ABUSE:** Provide information, specific comments, place of incident, observations, allegations, etc. pertaining to the alleged abuse.

**ACTIONS TAKEN BY THE FACILITY, INCLUDING TAKING OF PHOTOGRAPHS AND X-RAYS, REMOVAL OF THE VICTIM AND NOTIFICATION OF APPROPRIATE AUTHORITIES:** Describe all actions taken by the facility regarding the alleged abuse.

**OTHER PERTINENT INFORMATION, COMMENTS OR OBSERVATIONS DIRECTLY RELATED TO ALLEGED ABUSE INCIDENT AND VICTIM:** Provide any additional information regarding the victim and alleged perpetrator not previously requested including evidence of prior abuse of the victim and any evidence of prior abuse by the alleged perpetrator.

**NAME AND TITLE OF REPORTER:** Provide the name(s) and position title(s) of the individual(s) making the report of suspected abuse.

**SIGNATURE OF REPORTER:** Signature of individual(s) making the report of suspected abuse.

**REPORTER CONTACT INFORMATION:** Provide a telephone number and, if available, an e-mail address where the individual(s) making the report of suspected abuse can be contacted for additional information, if needed.

**NAME AND TITLE OF PERSON PREPARING REPORT:** Provide the name and position title of the individual who prepared the report form.

**SIGNATURE OF PERSON PREPARING REPORT:** Signature of the individual who prepared the report form.

**PERSON PREPARING REPORT CONTACT INFORMATION:** Provide a telephone number and, if available, an e-mail address where the individual who prepared the report form can be contacted for additional information, if needed.

# IMPORTANT NOTE

All employees of OAPSA facilities\* required to conduct criminal history background checks are also required to comply with **Act 13 Mandatory Abuse Reporting** requirements.



**[www.aging.state.pa.us/psonlinelearning](http://www.aging.state.pa.us/psonlinelearning)**

**The PA Department of Aging provides on-line, self-study Training for Mandatory Abuse Reporting and Criminal History Background Checks.**

The overall aim of the Self Study Course is to give you the concepts, strategies, and techniques that will allow you to understand the basic tenets of the Act, and the roles and responsibilities of various individuals and regulatory systems in the provision of protective services in long term care facilities.

You can access the training by going to the PA Department of Aging website at [www.aging.state.pa.us](http://www.aging.state.pa.us) and clicking on “Professionals and Providers” “Protective Services and Ombudsman” and under “Criminal History Background Check Quick Links” click on the **Online Training: Mandatory Abuse Training, Criminal History Background Checks.**

*\*Facilities defined by the act include:* Act-13 mandates the following facilities to report: Domiciliary Care Homes, Home Health Care Agencies, Long Term Care Nursing Facilities (licensed by Dept. of Health), Adult Daily Living Centers (licensed by Dept. of Aging), and Personal Care Homes (licensed by Dept. of Public Welfare). In addition, the Pennsylvania Department of Health has defined home health care organization or agency to include: hospices, birth centers, home care agencies and home care registries\*\*. The Pennsylvania Department of Public Welfare (DPW) has concluded that the Act is applicable to all DPW-licensed and DPW-operated residential facilities for adults; specifically: Personal Care Homes, 55 Pa. Code Ch. 2620; Assisted Living Residences, 55 Pa. Code Ch. 2800; Community Residential Rehabilitation Services, 55 Pa. Code Ch. 5310; Long Term Structured Residences, 55 Pa. Code Ch. 5320; Community Homes for Individuals with Mental Retardation, 55 Pa. Code Ch. 6400; Family Living Homes, 55 Pa. Code Ch. 6500; ICF-MRs (private and state), 55 Pa. Code Ch. 6600; State Mental Hospitals; and Nursing Facilities.

*\*\*A Home Care Agency is further defined to include those agencies licensed by the Department of Health and any public or private organization which provides care to a care-dependent individual in their place of residence. A Home Care Registry or “Registry” is further defined to include those agencies licensed by the Department of Health any organization or business entity that supplies, arranges or refers independent contractors to provide activities of daily living or instrumental activities of daily living or specialized care in the consumer’s place of residence or other independent living environment for which the registry receives a fee, consideration or compensation of any kind.*