

**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 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:

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

\*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 health 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 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.

**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.