

NOT REPORTING THIS COULD MAKE YOU A CRIMINAL

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Beginning July 1, 2014, mental health professionals became mandated reporters of at-risk elder abuse in the State of Colorado¹. (C.R.S. §18-6.5-108(1)(a)). An at-risk elder is defined as any person who is seventy years of age or older. (C.R.S. §18-6.5-102(3)). Abuse of an at-risk elder includes the following types of acts or omissions: bodily injury, death, confinement or restraint, subjection to sexual conduct or contact, caretaker neglect; and, exploitation. (C.R.S. §18-6.5-102(1)(a)-(e)). So, what does this mean to you as a mental health professional?

If you; (a) “observe the abuse or exploitation of an at-risk elder”; or (b) have “reasonable cause to believe that an at-risk elder has been abused or has been exploited or is at imminent risk of abuse or exploitation”; you **MUST report this to a law enforcement agency no more than twenty-four hours** “after making the observation or discovery.” (Emphasis ours.) (C.R.S. §18-6.5-108(1)(a)). Please be aware that you must report to a law enforcement agency; not to a clinic, a family member; or, the Department of Human Services.

If you do not report within twenty-four hours you have committed a class 3 misdemeanor. (Emphasis ours.) (C.R.S. §18-6.5-108(1)(c)). A class 3 misdemeanor is punishable by a minimum of a \$50 fine and a maximum of six months in prison, a \$750 fine or both. (C.R.S. §18-1.3-501(1)(a)).

Per C.R.S. §18-6.5-108(1)(c), when making this report, you will be requested to provide the following information:

1. “The name, age, address, and contact information of the at-risk elder”;
2. “The name, age, address, and contact information of the person making the report”;
3. “The name, age, address, and contact information of the at-risk elder’s caretaker, if any”;
4. “The name of the alleged perpetrator”
5. “The nature and extent of the at-risk elder’s injury, whether physical or financial, if any”;
6. “The nature and extent of the condition that required the report to be made”; and
7. “Any other pertinent information.”

You should document any information you report; including, what you reported, the name of the person to whom you made the report; and, the date and time you reported. Remember, you still need to comply with HIPAA and C.R.S. §12-43-218 when you are reporting information about a client, so you should not turn over or disclose any information included in mental health treatment records when you make the report. If it is a client about whom you are reporting, place that documentation in the client file. If it is not, save the documentation in a separate report file in case you need to reference it a later date.

Please be advised that you are not required to report the abuse or exploitation of an at-risk elder if you know that someone else has already reported the abuse or exploitation to a law enforcement agency and IF the report you intended to make would have been regarding the SAME abuse or exploitation. (C.R.S. §18-6.5-108(1)(d)). If you choose not to report in this situation, document the reason for declining to report, the name and contact information of the person who made the first report as well as to whom he or she reported; and, the date the initial report was made. Save this documentation as you would if you made the report.

Remember, you are a mandated reporter 24 hours a day, 7 days a week, throughout the United States. If you are ever in doubt about whether to report, contact an attorney, skilled in Colorado mental health law for guidance and direction.

¹ Please be advised that beginning July 1, 2016, the statute will be amended to include mandatory reporting of at-risk adults, age 18 and over, with intellectual and developmental disabilities.