

## MANDATORY ABUSE REPORTING NOTICE FOR CHILDREN WITH DEVELOPMENTAL DISABILITIES (DD) RECEIVING 24-HOUR CARE IN LICENSED FACILITIES AND PROCTOR FOSTER CARE

As an individual providing services to children who are developmentally disabled, you are a **Mandatory Reporter** according to Oregon law. According to the law, if you have reasonable cause to believe that a child who is developmentally disabled has suffered abuse, or that any person with whom you come in contact in your job has abused such a child, you must immediately report the abuse to the local child welfare office and to a local law enforcement agency. If applicable, you should also follow your agency's policies and procedures so that immediate steps are taken to protect the victim of the abuse.

### **Child abuse is defined as:**

1. Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.
2. Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.
3. Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are defined in ORS chapter 163.
4. Sexual abuse, as defined in ORS chapter 163.
5. Sexual exploitation, including but not limited to:

Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition

which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in ORS chapter 167.

6. Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.
7. Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.
8. Buying or selling a person under 18 years of age as described in ORS 163.537.
9. Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.
10. Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

In addition to the statutory definition of abuse that applies to children, there are additional definitions of abuse set forth in the Oregon Administrative Rules which apply to adults receiving DD living the community. (See OAR 407-045-0260). Those definitions also apply to children with developmental disabilities living in homes or facilities licensed to provide 24-hour residential services and agencies licensed or certified to provide proctor foster care for children with developmental disabilities. These rules require a report to child welfare if you have reasonable cause to believe that a child who is developmentally disabled is subject to abuse you must immediately notify local DHS child welfare and follow your agency policies and procedures to ensure the victim's safety.

**Abuse of an adult (includes child) with developmental disabilities means:**

1. Abandonment including desertion or willful forsaking of an adult or the withdrawal or neglect of duties and obligations owed an adult by a caregiver or other person.
2. Death of an adult caused by other than accidental or natural means or occurring in unusual circumstances.

3. Financial exploitation including:

Wrongfully taking the assets, funds, or property belonging to or intended for the use of an adult.

Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.

Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an adult.

Failing to use the income or assets of an adult effectively for the support and maintenance of the adult. "Effectively" means use of income or assets for the benefit of the adult.

4. Involuntary seclusion means the involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult. Involuntary seclusion may include placing restrictions on an adult's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence, or program, unless agreed to by the Individual Support Plan (ISP) team included in an approved Behavior Support Plan (BSP) or included in a brokerage plan's specialized support. Restriction may be permitted on an emergency or short term basis when an adult's presence would pose a risk to health or safety.

5. Neglect including:

Active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an adult that may result in physical harm or significant emotional harm to an adult. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the adult

Failure of a caregiver to make a reasonable effort to protect an adult from abuse.

Withholding of services necessary to maintain the health and well-being of an adult which leads to physical harm of an adult.

6. Physical abuse:

Any physical injury by other than accidental means or that appears to be at variance with the explanation given for the injury.

Willful infliction of physical pain or injury.

Physical abuse is presumed to cause physical injury, including pain, to adults otherwise incapable of expressing pain.

7. Sexual abuse” including:

Criminal code sexual offenses, or sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315.

Sexual harassment, sexual exploitation, or inappropriate exposure to sexually explicit material or language including requests for sexual favors. Sexual harassment or exploitation includes but is not limited to any sexual contact or failure to discourage sexual contact between an employee of a community facility or community program, provider, or other caregiver and an adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome physical sexual contact and other physical conduct directed toward an adult.

Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver. Sexual abuse does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse or partner of the adult.

Any sexual contact that is achieved through force, trickery, threat, or coercion.

Any sexual contact between an adult with a developmental disability and a relative of the person with a developmental disability other than a spouse or partner. “Relative” means a parent, grandparent, children, brother, sister, uncle, aunt, niece, nephew, half brother, half sister, stepparent, or stepchild.

As defined in ORS 163.305, “sexual contact” means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

8. Wrongful restraint:

A wrongful use of a physical or chemical restraint, excluding an act of restraint prescribed by a licensed physician, by any adult support team approved plan, or in connection with a court order.

Wrongful restraint does not include physical emergency restraint to prevent immediate injury to an adult who is in danger of physically harming himself or herself or others, provided only that the degree of force reasonably necessary for protection is used for the least amount of time necessary.

9. Verbal abuse includes threatening significant physical or emotional harm to an adult through the use of:

Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule;

Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments;

A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an adult.

For purposes of this section, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an adult or within their hearing distance, or sight if gestured, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to abuse.

Pursuant to the law, your identity as the person making the report is confidential. Further, the law protects you from retaliation from a community facility, community program or: individual when you make a report in good faith. You may not be discharged or transferred from one location of an agency to another, terminated from your job, demoted or have your pay lowered, or denied contact with the facility or its residents because you made a good faith report of suspected abuse. If you feel you have been retaliated against, you have the right to seek private legal action. Any agency, program or individual who retaliates against someone because of a good faith report of suspected abuse may be liable to that person for actual damages.

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**By signing this form, you are saying you understand the Oregon's mandatory abuse reporting requirements concerning children with developmental disabilities. If you do not understand the mandatory abuse reporting requirements, ask to have them explained to you before you sign this form. You will be asked to sign this form every year that you work or volunteer for this agency and it will become part of your record.**

***Acknowledgement***

I received training by this agency about my mandatory abuse reporting obligations. I was trained on \_\_\_\_\_(Date)

I received a copy of a card explaining I am a mandatory reporter and providing information as to who to call if I suspect abuse on \_\_\_\_\_(Date)

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Please sign your name

Today's Date

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**PLEASE RETURN THIS FORM TO YOUR PROGRAM**