

## **Elder Abuse**

### **What is Your Duty to Report?**

The Indiana elderly population (age 60 or older) was 1,128,000 in 2010. Suspected cases of elder abuse involve roughly 12% of this population. The overwhelming majority of elder law abuse cases do not get reported. This may soon change.

The Elder Justice Act was approved as part of the Affordable Care Act on March 23, 2010. The Elder Justice Act is effective now. This law requires employers of long-term care facilities that receive at least \$10,000 in federal funds (Medicare and Medicaid payments) to report any reasonable suspicion of a crime involving the elderly.

The term "long-term care facility" is defined as "supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self care due to illness, disability or vulnerability".

Facilities must notify all of their employees of the reporting obligations on an annual basis. Facilities must also post notices about the law in conspicuous places in their buildings for the public to read.

Covered individuals (nursing home employees and others providing care to the elderly) are required to report "any reasonable suspicion of a crime" against a person receiving care in or from the facility. Crimes are defined by state laws; reporting laws are discussed later in this article.

The report must be filed within 24 hours unless a "serious bodily injury" is involved, in which case the report must be filed within 2 hours!

The penalties for failure to file are enormous. An individual who fails to timely file a report, who has a reasonable suspicion of a crime, can be fined up to \$200,000 increasing to \$300,000 if the failure to report "exacerbates the harm to the victim". The person may also be banned from working in a health care facility for 2 or 3 years!

### **Reporting Elder Law Abuse in Indiana**

Indiana law protects "Endangered Adults". An endangered adult is a person at least 18 years of age who is incapable of managing or directing management of property or self-care who is exposed to neglect, battery, or

exploitation. The law requires certain people to report suspected cases of abuse if the person has "reason to believe" a particular person is an endangered adult if the individual has been presented with evidence that, if presented to an individual of similar background and training, would cause the individual to believe that the adult is an endangered adult.

The failure to timely file a report on an endangered adult who is a victim of battery, neglect, or exploitation is a Class B misdemeanor punishable by up to a \$1,000 fine and 180 days in jail. This increases to a Class D felony if the proceeds involved are more than \$10,000 and the endangered adult is at least 60 years of age.

While we all have a duty to report elder abuse, members of a staff of a medical institution, school, hospital, facility, or agency have a duty to report to his or her supervisor who then also has a duty to report. You file a report by contacting:

- Adult Protective Services at (260) 449-6978
- Local Law Enforcement
- Call the statewide hot line at (800) 992-6978

Anyone filing a complaint concerning an endangered adult in good faith is immune from civil or criminal liability.

**Keith P. Huffman**  
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