



Older Adults Protective Services Act

Mandatory Abuse Reporting

Process & Procedures

Mandatory Abuse Reporting

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), licensed Adult Daily Living Centers (licensed by Dept. of Aging), and Personal Care Homes (licensed by Dept. of Human Services). 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 Human Services (DHS) has concluded that the Act is applicable to all DHS-licensed and DHS-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 Intellectual Disabilities, 55 Pa. Code Ch. 6400; Family Living Homes, 55 Pa. Code Ch. 6500; ICF-IDs (private and state), 55 Pa. Code Ch. 6600; State Mental Hospitals; Residential Treatment Facilities for Adults; 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.

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 suspect 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 option 2, 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.

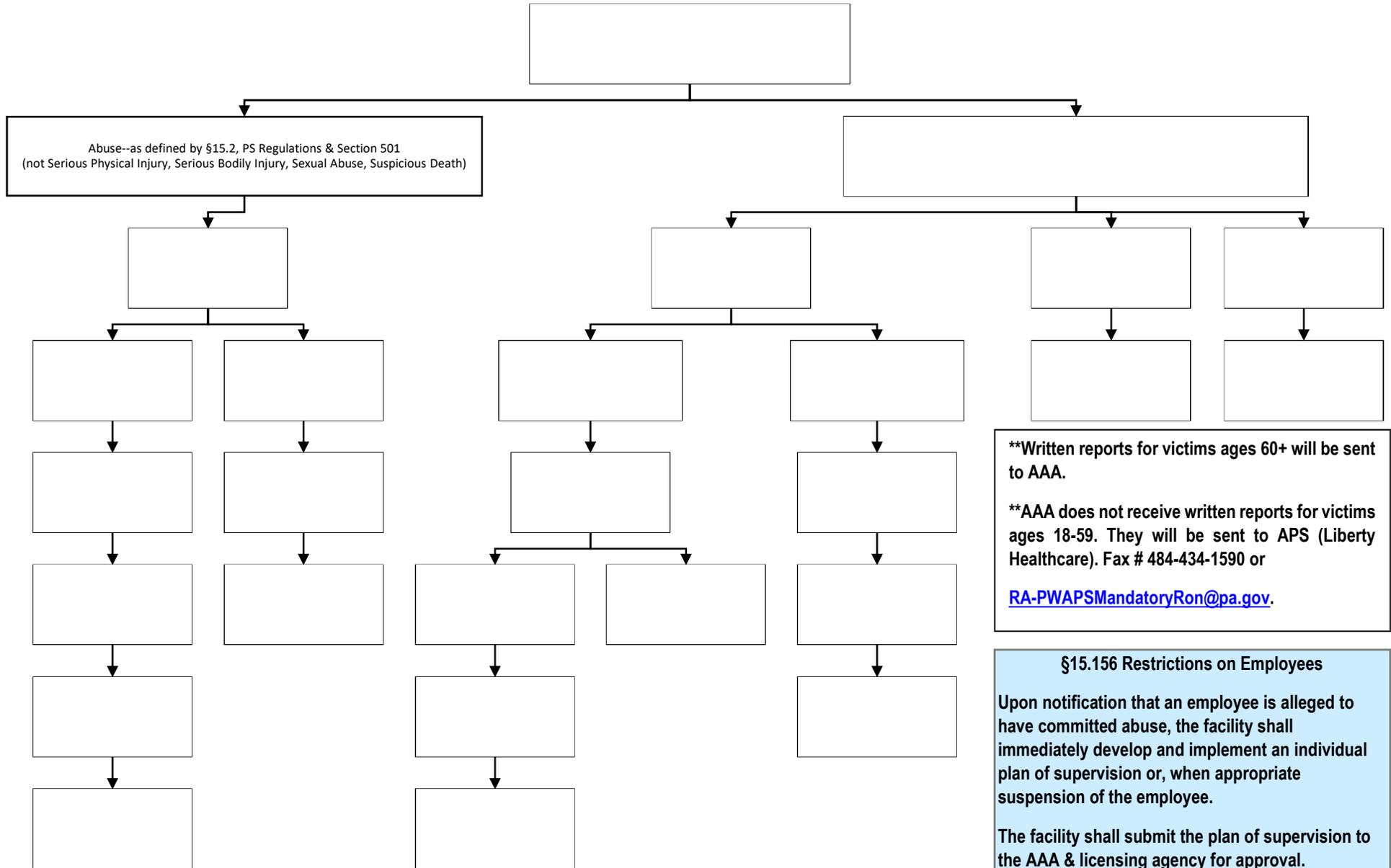
AAA's will make a report to the state agency that licenses the facility from whence the RON emanated.

(continued)

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 option 2 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.

Older Adults Protective Services Act as amended by Act 13 of 1997 Mandatory Abuse Reporting by Employees/Administrators



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:

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 injury 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.