



## **Policy and Procedure for Mandatory Reporting (C.R.S. 18-6.5-108)**

### **Purpose**

The purpose of this policy is to outline ABLE's obligations as mandatory reporters under the new law C.R.S. 18-6.5-108, passed July 1, 2016.

### **Policy**

For the purpose of this policy, mandatory reporting shall be defined as the disclosure, of any type of mistreatment of an "At-Risk Adult," to applicable authorities, which occurs during an individual's employment with A Better Life Experience, Inc. (ABLE.) ABLE personnel are now required to report, to police, the mistreatment, abuse, neglect or exploitation of any individual with Intellectual and Developmental Delay (IDD). (Please see ABLE's M/A/N/E policy and procedure for more information.) This new law expands our diligence in reporting mistreatment of any individual considered an "At-Risk Adult."

### **Who is considered to be an "At-Risk Adult"?**

Any individual over 18 years of age and has an IDD is considered an At-Risk Adult. This also covers anyone over 18 years of age who is "susceptible to mistreatment or self-neglect because the individual is unable to perform or obtain services necessary for his or her health, safety or welfare, or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs." This type of law originally applied to people over 70 years of age, considered "At Risk Elders." This definition has been expanded to cover a broader range of individuals who may experience difficulty caring for themselves. Our responsibility to report mistreatment goes beyond people with IDD. For example, if you were helping an ABLE consumer deliver lunch to an elderly woman, during your Meals on Wheels route, and witness another person in the home strike the woman receiving the meal, you would be required to report this to the authorities.

### **What is considered "Mistreatment"?**

Mistreatment has a number of subcategories:

- (1) The non-accidental infliction of bodily injury, serious bodily injury or death. This does not cover accidental injuries. If someone stumbles and knocks a person down causing injury it wouldn't be reportable because it was accidental.
- (2) Confinement or restraint that is unreasonable under generally accepted caretaking standards; for example unapproved physical holds or locking someone in a room.
- (3) Subjection to sexual contact or other physical contact classified as a crime.

- (4) Caretaker neglect which is defined as, “When adequate food clothing, shelter, psychological care, physical care, medical care, habilitation or other treatment necessary for the health and safety of the At-Risk Adult is not secured in a timely manner and with the degree of care that a reasonable person would exercise or a Caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an At-Risk Adult.”
- (5) Exploitation which occurs when a person uses deception, intimidation or undue influence to deprive an At-Risk Adult of the use/benefit/possession of anything of value, or that person uses a third person to profit at the expense of the At-Risk Adult (for example getting the At-Risk Adult to make a purchase from a third person at an unfair price), or that person forces or coerces the At-Risk Adult to perform services against their will.

### **Procedure**

#### **To whom do I report Mistreatment?**

Please contact the law enforcement agency where the mistreatment took place or may take place. Use the physical address of the At-Risk Adult to know which police department to contact. The police may ask for a verbal or written report detailing what you may or may not have witnessed and the reason(s) for your concern.

The police may direct you to contact Adult Protective Services (APS). APS may conduct an investigation with or without police involvement and will generate a report which may include your written or verbal testimony.

Contact your supervisor, as soon as possible, as this occurred during your employment at ABLE. ABLE administration will be informed of the incident by the reporting supervisor.

Mistreatment must also be reported to the Community Center Board, if it involves or affects a person in service. This may be considered a critical incident, which needs to be reported to the case manager within the 24 hour timeline. Community Center Boards and PASAs may complete an investigation when police decide to not investigate the incident.

#### **What do I report to Law Enforcement?**

Do not call 911, unless it is an emergency; instead use the non-emergency phone number. Be prepared to give information concerning the At-Risk Adult, the alleged perpetrator and the issue that concerns you. This may also include the following:

1. Name, age, and contact information of the At-Risk Adult
2. Name, age, and contact information of the person reporting
3. Name, age, and contact information of the care provider, if applicable
4. Name of alleged perpetrator
5. Nature and extent of injury; i.e. financial, physical, neglect etc.
6. Nature and extent of condition that required report to be made
7. Any other pertinent information

Please know that self-neglect or self-abuse is not a crime and should not be reported to the police.

**Do I have to witness the Mistreatment?**

If you witness mistreatment you must report it, but you also have a responsibility to report if you have “reasonable cause to believe that an At-Risk Adult has been mistreated or is in imminent risk of being mistreated”.

**When do I have to report Mistreatment?**

Mistreatment must be reported to law enforcement within 24 hours of you witnessing or suspecting it.

**If several staff witness an incident of Mistreatment do all of us need to report it?**

No. One person’s report is adequate; however, the other witnesses may be asked to testify.

**What else do I need to know about this law?**

- Willfully failing to report is a class 3 misdemeanor, which may include a fine of \$50-\$750 and/or six months in jail.
- Mandatory reporters are not investigators.
- If you make a report in good faith, you are immune from criminal charges or a civil lawsuit for damages.
- Reporting does not make you immune if you are the perpetrator of the mistreatment.