

<b>Chapter:</b>	Rights Protection		
<b>Title:</b>	Mandatory Reporting: Abuse, Neglect and Exploitation of Children and Vulnerable Adults		
<b>Policy:</b> <input checked="" type="checkbox"/> <b>Procedure:</b> <input type="checkbox"/>	<b>Review Cycle:</b> Triennial <b>Author:</b> CEO/Designee	<b>Adopted Date:</b> 08.2020 <b>Review Date:</b> 09.2023	<b>Related Policies:</b> Confidentiality & Privacy Rights & Responsibilities Clinical Supervision

**Purpose:**

Making a report of abuse, neglect or exploitation for a child or vulnerable adult can have serious implications for survivors of intimate partner violence and sexual assault. By federal law, Violence Against Women Act (VAWA), Family Violence Prevention and Service Act (FVPSA) and Victims of Crime Act (VOCA) grantees are required to protect confidentiality and privacy of persons receiving or seeking services. That said, Domestic Violence (DV) and Sexual Assault (SA) Advocates who are statutorily mandated reporters also have a duty to report child and vulnerable adult abuse, neglect or exploitation. This policy is intended to provide clarification to Hopeful Horizons’ (HH) employees, volunteers, and contractors as to their responsibilities for reporting abuse, neglect or exploitation of children or vulnerable adults; for informing clients of mandated reporting requirements and for providing safety planning for clients in the event a mandated report is required.

**Scope:**

This policy applies to

- All HH Staff
- Selected HH Staff, as specified:
- HH Board Members
- HH Volunteers
- Other: Sub-contract Providers of Care and Service

**Policy:**

Mandated Reporters must report abuse, neglect or exploitation of children or vulnerable adults in accordance with South Carolina law and as provided herein. Because certain employees of HH are mandated reporters, all employees of HH shall inform clients whether they are mandated reporters or whether there is a possibility that their information will be shared with another HH employee who is a mandated reporter. Clients should be informed of this possibility PRIOR to the client’s disclosure of information to HH. This allows the client to make an informed decision regarding what information to disclose when seeking HHs’ services.

If a client is suspected of, or a witness of, abuse, neglect or exploitation, the mandated reporter shall make a reasonable attempt to provide notice to affected victims of the mandated release of information. The mandated reporter shall also make every effort to protect the privacy and safety of victims affected by the release. The client shall also be advised of the option to self-report. Regardless of the client’s intent to self-report, the mandated reporter must comply with statutory reporting requirements.

HH employees who are not mandated reporters may share suspected abuse, neglect or exploitation as part of an internal clinical supervision when a “need to know” situation exists. If

the disclosure of abuse, neglect or exploitation is made to a mandated reporter, this would cause the mandated reporter to make a report.

A. Identifying and Reporting Child Abuse and Neglect

In accordance with South Carolina Code § 63-7-310, the *following persons* must report when, *in such person's professional capacity*, they have received information that gives them *reason to believe* that a child has been or may be *abused or neglected* as defined in Section 63-7-20(see below):

*SC Mandated Reporters of Child Abuse & Neglect:*

- a physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services,
- mental health, or allied health professional,
- member of the clergy including a Christian Science Practitioner or religious healer, clerical or non-clerical religious counselor who charges for services,
- school teacher, counselor, principal, assistant principal, school attendance officer,
- social or public assistance worker,
- substance abuse treatment staff, or
- childcare worker in a childcare center or foster care facility, foster parent,
- police or law enforcement officer, juvenile justice worker,
- undertaker, funeral home director or employee of a funeral home,
- persons responsible for processing films,
- computer technician,
- judge, and
- a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA.

Mandated reporters must report suspected child abuse or neglect when, in their professional capacity, they receive information giving them *reason to believe* that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect. The mandate to report child abuse and neglect does not require the reporter to know for certain that a child has been abused or neglected. The requirement to report is triggered when the mandated reporter has a reasonable belief that a child has been or may be abused or neglected.

Internal reporting of suspected child abuse or neglect in a clinical supervision context when there is a "need to know" is permissible. However, a mandated reporter who reports child abuse or neglect to a HH clinical supervisor is not relieved of their individual duty to report.

Reports of child abuse or neglect shall be made as soon as possible and after making a reasonable attempt to inform and safety plan with the client. The report may be made orally by telephone or otherwise to the county Department of Social Services or to an appropriate law enforcement agency in the county where the child resides or is found. If the suspected actions were taken by someone other than a parent, guardian or caregiver, the report must be

made to the appropriate law enforcement agency. Unless the client signs a written, informed and time-limited consent form, the HH mandated reporter shall only provide the minimum amount of information required by law when making the report. Additionally, HHs' procedure Reporting Abuse, Neglect and Exploitation shall be followed including notice to the program supervisor and appropriate documentation.

South Carolina law encourages others to report suspected child abuse and/or neglect. Reports by non-mandated reporters are "permissive" rather than statutorily required. As such, this type of reporting may constitute a breach of confidentiality under VAWA and is therefore not permitted by HH employees unless the report is made with the informed, written and time-limited consent of the client or in the context of required clinical supervision there is a "need to know" circumstance and the clinical supervisor is a mandated reporter.

**B. Vulnerable Adult Abuse, Neglect and Exploitation Reporting**

*SC Mandated Reporters if Reason to Believe Abuse, Neglect or Exploitation of a Vulnerable Adult*

Persons required to report when there is *reason to believe* that a vulnerable adult has been or is likely to be *abuse, neglect, or exploitation* of a *vulnerable adult* include:

- physician, nurse, dentist, optometrist, medical examiner, coroner, other medical, mental health or allied health professional,
- Christian Science practitioner, religious healer,
- school teacher,
- counselor, psychologist, mental health or intellectual disability specialist,
- social or public assistance worker,
- caregiver, staff or volunteer of an adult day care center or of a facility, or
- law enforcement officer

*SC Mandated Reporters if Actual Knowledge of Abuse, Neglect or Exploitation of a Vulnerable Adult*

- *Any other person* who has *actual knowledge* that a vulnerable adult has been abused, neglected, or exploited shall report the incident.

A person required to report under this section must report the incident after making a reasonable attempt to inform and safety plan with the client, but within twenty-four hours or the next working day. Additionally, HHs' procedure Reporting Abuse, Neglect and Exploitation shall be followed including notice to the program supervisor and appropriate documentation.

South Carolina law encourages others to report suspected abuse, neglect or exploitation of vulnerable adults. For non-mandated reporters, reporting without actual knowledge is "permissive" rather than statutorily required. As such, this type of reporting would constitute a breach of confidentiality under VAWA and is therefore not permitted by HH's non-mandated reporters unless the report is made with the informed, written and time-limited consent of the client and/or their guardian (as may be required by VAWA).

### **Communication and Training:**

HHS' employees and volunteers receive initial orientation inclusive of the organization's policy and procedure for mandatory reporting. As policies and procedures are reviewed and updated staff and volunteers shall receive information about related changes. Staff involved in direct treatment and services shall have additional annual training related to mandatory reporting requirements.

### **Definitions:**

1. Actual Knowledge: Differs from constructive knowledge in that a person '*has to have known*' instead of '*should have*' known about an event or condition. Actual knowledge can be proven by direct or circumstantial evidence. Actual knowledge includes what the person heard or saw.
2. Child: South Carolina law defines a child as a person under the age of eighteen. Note: (In *Whitner v. State*, 492 S.E.2d 777 (1997), the SC Supreme Court held that a viable fetus is included under this definition of a child.)
3. Abuse or Neglect or Harm of a Child: SC Code § 63-7-20(6) states that "abuse or neglect or harm" of a child occurs when:
  - a) the parent, guardian, or other person responsible for the child's welfare:
    - i) inflicts or allows to be inflicted upon the child ***physical or mental injury [see definitions below]*** or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment and physical discipline which:
      - (A) is administered by a parent or person in loco parentis;
      - (B) is perpetrated for the sole purpose of restraining or correcting the child;
      - (C) is reasonable in manner and moderate in degree;
      - (D) has not brought about permanent or lasting damage to the child; and is not reckless or grossly negligent behavior by the parents.
    - ii) commits or allows to be committed against the child a ***sexual offense*** as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child.
    - iii) ***fails to supply the child with adequate food, clothing, shelter, or education*** as required by state law, supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absence from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate;
    - iv) ***abandons the child***;
    - v) encourages, condones, or approves the commission of ***delinquent acts by the child***, including but not limited to sexual trafficking or exploitation, and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

vi) ***has committed abuse or neglect*** as described in subsections (a) through (e) ***such that a child who subsequently becomes a part of the person's household is at substantial risk*** of one of those forms of abuse or neglect; or

b) a child is a ***victim of trafficking in persons*** as defined in Section 16-3-2010, including sex trafficking, ***regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child's welfare***. Identifying a child as a victim of trafficking in persons does not create a presumption that the parent, guardian, or other individual responsible for the child's welfare abused, neglected, or harmed the child.

4. Clinical Supervision: Supports trainee mental health professionals and unlicensed persons by offering oversight and support from a more experienced provider. To become licensed to practice, all mental health providers must complete a minimum number of therapy/treatment hours under clinical supervision. The specific requirements vary depending on the license a therapist seeks and the state in which they practice.

Clinical supervision may also refer to ongoing consultation with and support from other mental health professionals, though the technical term for this is consultation, not supervision. For example, therapists in the same practice may consult with one another about difficult cases or regularly review one another's work. In this context, supervision can sharpen a therapist's diagnostic skills, encourage self-care, and help them provide better treatment.

5. Confidentiality: The assurance that the access to information regarding a client utilizing HHs' service shall be strictly controlled and that any violation may not only be a breach of faith but has the potential to threaten the safety and life of the client and their children. Breach of confidentiality in the context of HHs' services is a potential violation of federal law and may compromise the organization's funding.
6. Exploitation of a Vulnerable Adult: " means:
  - a. causing or requiring a vulnerable adult to engage in activity or labor which is improper, unlawful, or against the reasonable and rational wishes of the vulnerable adult. Exploitation does not include requiring a vulnerable adult to participate in an activity or labor which is a part of a written plan of care, or which is prescribed or authorized by a licensed physician attending the patient;
  - b. an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a vulnerable adult by a person for the profit or advantage of that person or another person; or
  - c. causing a vulnerable adult to purchase goods or services for the profit or advantage of the seller or another person through: (i) undue influence, (ii) harassment, (iii) duress, (iv) force, (v) coercion, or (vi) swindling by overreaching, cheating, or defrauding the vulnerable adult through cunning arts or devices that delude the vulnerable adult and cause them to lose money or other property.
7. Informed Consent: means providing all relevant information about the nature and consequences of signing a release of information. This includes advising the client to consider how the information may be used once released from HHs' services to enhance client's safety

and the possibility of the abuser obtaining the information. Pursuant to HH's funding requirements, a client's informed consent must also be made in writing and be time limited.

8. **Mental Injury to a Child:** For purposes of determining child abuse, SC Code § 63-7-20(17) defines "mental injury" as "injury to the intellectual, emotional, or psychological capacity or functioning of a child as evidenced by a discernible and substantial impairment of the child's ability to function when the existence of that impairment is supported by the opinion of a mental health professional or medical professional."
9. **Need to Know:** A criterion used in service/treatment confidentiality that requires the custodian of confidential or private information to establish, prior to disclosure to another HH employee, that the intended recipient must have access to protected client information to perform his or her official duties as an employee of HH.
10. **Neglect of a Vulnerable Adult:** For purposes of determining neglect of a vulnerable adult, South Carolina Code § 43-35-10(6) defines "neglect" as "the failure or omission of a caregiver to provide the care, goods, or services necessary to maintain the health or safety of a vulnerable adult including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services and the failure or omission has caused, or presents a substantial risk of causing, physical or mental injury to the vulnerable adult. Noncompliance with regulatory standards alone does not constitute neglect. Neglect includes the inability of a vulnerable adult, in the absence of a caretaker, to provide for his or her own health or safety which produces or could reasonably be expected to produce serious physical or psychological harm or substantial risk of death."
11. **Physical Abuse of a Vulnerable Adult:** For purposes of determining physical abuse of a vulnerable adult, South Carolina Code § 43-35-10(8) defines "physical abuse" as "Intentionally inflicting or allowing to be inflicted physical injury on a vulnerable adult by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery as defined in Section 16-3-651, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that a therapeutic procedure prescribed by a licensed physician or other qualified professional or that is part of a written plan of care by a licensed physician or other qualified professional is not considered physical abuse. Physical abuse does not include altercations or acts of assault between vulnerable adults."
12. **Physical Injury to a Child:** For the purposes of determining child abuse, SC Code § 63-7-20(21) defines "physical injury" as "Death or permanent or temporary disfigurement or impairment of any bodily organ or function."
13. **Professional Capacity:** The South Carolina Attorney General's Office has concluded that "professional capacity" is not limited to a particular physical location but applies when mandated reporters are working within the scope of their employment when they receive the information.
14. **Psychological Abuse of a Vulnerable Adult:** For purposes of determining abuse of a vulnerable adult, South Carolina Code § 43-35-10(10) defines "psychological abuse as "Deliberately

subjecting a vulnerable adult to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.”

15. Vulnerable Adult: As defined by SC Code § 43-35-10(11), a “vulnerable adult” is “A person eighteen years of age or older who has a physical or mental condition which substantially impairs the person from adequately providing his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. A resident of a facility is a vulnerable adult.”

**Other Related Materials:**

Reporting Abuse, Neglect and Exploitation Procedure

**References/Legal Authority:**

[What is a Mandatory Reporter, National Association of Mandated Reporters](#)

[Child Protection and Permanency Section 63-7-310, SC Code of Laws. As amended 2018.](#)

[Adult Protection Section 43-35-25, Social Services, SC Code of Laws, 1993.](#)

[Mandated Reporter Guide: Understanding Your Legal Duty to Report Child Abuse and Neglect, Children’s Law Center, USC School of Law, June 2018.](#)

**Change Log:**

Date of Change	Description of Change	Responsible Party
09.2023	Updates to the policy template: Clarifies distinction in mandatory reporting obligations: Adds communication and training, references and definitions.	N. Miller, Prog. Eval. Consultant