

Mandatory Reporting for Human Trafficking Survivors in Colorado:

Definitions and Legal Considerations for Healthcare Providers



ABOUT MANDATORY REPORTERS

*****Suspicion of abuse (physical, psychological, sexual, financial) or neglect is all that is required for a mandatory reporter to report abuse of a child or an “at-risk” adult in Colorado.*****

State laws vary greatly; this is a summary of the laws in Colorado. To determine if you are a mandatory reporter, please visit coloradoaps.com/aboutmandatory-reporting.html or co4kids.org/mandatoryreporting .

> What are my legal responsibilities for reporting a suspected trafficking victim?

You must first know the age of the individual. If they are over 18 years old, you must determine if they meet “at-risk adult” criteria.

- **The individual is 0-17 years old.**

- Trafficking of a minor for sex was added to the Colorado definition of child abuse effective in January 2017. Trafficking of a minor for labor was not specifically added, but if you suspect the child has been subjected to physical, emotional/verbal/psychological abuse, or neglect, this should be reported as suspected child abuse.
- Healthcare providers are mandatory reporters for child abuse, and should call the Colorado child abuse hotline if they suspect their underaged patient is a victim of trafficking 844CO4KIDS. Failure to report can result in fines or jail time. Colorado law states that suspicion or known child abuse should be reported to CPS immediately.
- HIPAA is not a barrier when reporting to the child abuse hotline or to law enforcement; they are considered “need to know” individuals.
- Be up front with the minor about your mandatory reporting responsibilities, so that they don’t feel that you violated their trust by reporting your suspicions.

- **The individual is 18 years or older, and is considered an “at-risk” adult.**
 - Who is an at-risk adult in Colorado?
 - A person at least 18 years old who: is unable to provide or obtain services necessary for their health, safety, and welfare; lack the capacity to make or understand responsible decisions; is more than 70 years old; has intellectual or developmental disability (has an established neurological condition and demonstrates impairment of intellectual functioning and/or adaptive behavior, such as social, conceptual, and practical skills needed to function in daily life; may have an IQ below 70; may exhibit significant limitations in the ability to socialize, provide self-care, or communicate).
 - Suspected abuse of an at-risk adult must be reported to law enforcement **within 24 hours**. These reports are confidential.
 - Who MAY BE considered an at-risk adult in Colorado, and you are urged but not required to report?
 - Adults who are being mistreated or exploited; brain injury, Alzheimer’s, dementia, or other neurological or cognitive defect; adults with a major mental illness; frail or elderly persons unable to perform typical activities of daily living. For these individuals, you should call Adult Protective Services in the county where the adult lives.
 - Healthcare providers are mandatory reporters for at-risk adults. This individual should be reported to local law enforcement. Failure to report can result in fines or jail time. HIPAA is not a barrier when reporting to adult protective services or to law enforcement; they are considered “need to know” individuals.
 - Be up front with the individual about your mandatory reporting responsibilities, so that they don’t feel that you violated their trust by reporting your suspicions.
 - NOTE: Healthcare providers are also mandated to report if an adult discloses sexual abuse or assault that occurred while s/he was a minor.
- **The individual is 18 years or older, but is not considered an “at-risk” adult.**
 - If serious bodily injury is present, and you believe those injuries were inflicted by another person, you must report this to local law enforcement if those injuries are inflicted by a knife, gunshot or strangulation.
 - HIPAA is not a barrier when reporting to law enforcement; they are considered “need to know” individuals.
 - The exception to this is domestic violence the healthcare provider may ask the victim if s/he wants you to involve law enforcement, and you may take that into consideration in your decision to report.
 - You need consent of the individual to involve social services.
 - You may call the LCHT Hotline to describe the situation, while keeping the victim’s identity anonymous. Calling the LCHT Hotline is the best way to help healthcare providers determine if law enforcement needs to be notified.

> What if the individual does not want to report?

- If the adult victim is not under 18 years old or an at-risk adult per the above definition, and does not want law enforcement involved, you should talk to him/her about resources that may help them in the future.
- Consider making a safety plan with the individual; does s/he have copies of important documents hidden somewhere safe? Does s/he have a friend/family that they can stay with in an emergency? Can s/he memorize the phone number for the LCHT Hotline? Your safety plan may also include harm reduction strategies, and ways to stay safe on the street. Educate on the importance of condom use and needle exchanges, for their safety. Tell them where they can access an OB/GYN if pregnant. Be aware of local resources for safe spaces.
- Don't push them to involve law enforcement if they aren't ready. It may be too dangerous for them to leave their situation at that time. By establishing trust and respecting their wishes, you are letting them know that your healthcare facility is a safe place that they can go if they need help in the future. This is often distressing to healthcare providers, but we must be respectful of the individual's decisions at that time. The information you give them may protect them in the future, if and when they find themselves ready to seek help.

> How can I utilize the Laboratory to Combat Human Trafficking hotline to assist victims of trafficking?

LCHT's human trafficking hotline is available 24/7, with access to interpreting services for over 200 languages. All communication is strictly confidential; we don't need any identifying information for the suspected victim for callers to access our services. We help healthcare providers connect with resources in their local area, including shelters, law enforcement, legal service providers, social service agencies, and the FBI's Innocence Lost task force. We work closely with law enforcement and healthcare providers to treat victims in a trauma-informed manner. These advocates are mandatory reporters as well.

> What is the age of consent in Colorado?

In Colorado, the age of consent for sexual activity is 17 years old. Like many other states, where a minor is concerned, the age difference between the two parties becomes a big focus. **If sexual activity is being exchanged for money or goods, and the individual is under 18 years old, it is considered commercial sexual exploitation of children. This must be reported, even if the individual says the sexual activity is consensual.**

Close-in-age: In Colorado, a person who is under 15 can legally consent to have sex with someone who is no more than 4 years older. Additionally, a person under 17 can legally consent to sex with a person who is no more than 10 years older. Under this law, an individual who is 24 could legally have sex with a 15 year old, provided it is consensual.

Common Law marriage: Colorado is one of the few states that recognize Common Law marriage. When 2 people live together for a certain amount of time, and hold themselves out to the public to be married, they are treated as legally married in Colorado. The Colorado law on this subject does not state a minimum age for common law marriage, and a Colorado court recently held that a 15 year-old girl could legally enter a Common Law marriage. In such a situation, the age of consent laws would presumably not apply to her and her spouse, regardless of their respective ages.

Age of victim	Am I mandated to report?	Who do I call?	How soon should I call?
Under 18 years old	YES	Child Protective Services 844CO-4KIDS	Immediately
Between 18-69 years old, no IDD*	NO, but you are urged to report if they are unable to secure services, or unable to make decisions	Adult Protective Services in the county where the individual lives	Within 24 hours of observation or discovery (if you decide to call)
Over 18 years old with IDD*, or over 70 years old	YES	Local law enforcement, who will share the information with Adult Protective Services	Within 24 hours of observation or discovery

**IDD – Intellectual or Developmental Disability