

OFFICE OF THE ATTORNEY GENERAL



JEFF SESSIONS
ATTORNEY GENERAL
STATE OF ALABAMA

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ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (334) 242-7300

Honorable P. L. Corley
Acting Commissioner
State of Alabama
Department of Human Resources
S. Gordon Persons Building
50 Ripley Street
Montgomery, Alabama 36130-4000

Department of Mental Health -
Reporting Requirements -
Mental Retardation -
Department of Human Resources

Mandatory Adult Abuse Report-
ers, including physicians
employed by or under contract
with Alabama Department of
Mental Health and Mental
Retardation, remain mandatory
reporters under Act No.
94-615.

Dear Mr. Corley:

This opinion is issued in response to your request for
an opinion from the Attorney General.

QUESTION

Are mandatory reporters, including physi-
cians and other practitioners of the heal-
ing arts employed by or under contract
with the Alabama Department of Mental
Health and Mental Retardation, still
required to make the reports mandated by
Section 38-9-8, even in those situations
where the Department of Human Resources is

no longer required by Act No. 94-615 to investigate those reports?

FACTS AND ANALYSIS

Section 38-9-8, Code of Alabama 1975, which specifies the individuals who are required to report suspected abuse, neglect or exploitation requires certain mandatory reporters to make reports as follows:

"(a) All physicians and other practitioners of the healing arts or any caregiver having reasonable cause to believe that any protected person has been subjected to physical abuse, neglect, exploitation, sexual abuse, or emotional abuse shall report or cause a report to be made as follows:

"(1) An oral report, by telephone or otherwise, shall be made immediately, followed by a written report, to the county department of human resources or to the chief of police of the city or the city and county, or to the sheriff of the county if the observation is made in an unincorporated territory.

"(2) Within seven days following an oral report, an investigation of any alleged abuse, neglect, exploitation, sexual abuse, or emotional abuse shall be made by the county department of human resources or the law enforcement official, whichever receives the report, and a written report prepared which includes the following:

"a. Name, age, and address of the person.

"b. Nature and extent of injury suffered by the person.

"c. Any other facts or circumstances known to the reporter which may aid in the determination of appropriate action.

"(b) All reports prepared by a law enforcement official shall be forwarded to the county department of human resources within 24 hours."

By interagency agreement between the Department of Mental Health and Mental Retardation and the Department of Human Resources, designated administrators of the Department of Mental Health and Mental Retardation also made reports of adult abuse, neglect and exploitation directly to the Department of Human Resources.

Act No. 94-615, passed in the regular session of the 1994 legislature and approved by the Governor on April 26, 1994, amended Section 38-9-8 by adding the following:

"(c) The county department of human resources shall not be required to investigate any report of abuse, neglect, or exploitation that occurs in any facility owned and operated by the Alabama Department of Corrections or the Alabama Department of Mental Health and Mental Retardation."

Your opinion request indicated that a question has arisen as to whether it is still necessary for persons, including Department of Mental Health and Mental Retardation employees and contractors who are mandatory reporters under Section 38-9-8(a), to make reports of suspected abuse, neglect or exploitation to the Department of Human Resources even though the Department is no longer required to investigate reports concerning residential facilities owned and operated by Department of Mental Health and Mental Retardation.

The provisions of Section 38-9-8(a) and (b) which set forth requirements for mandatory reports and the entities to which such reports must be made were not altered by the amendments to the act contained in Act No. 94-615. Therefore, it is the opinion of this office that reports of suspected adult abuse, neglect, and exploitation must still be reported to the Department of Human Resources in the same manner in which those reports have previously been made. As your

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opinion request indicates, the Department still uses such information to make necessary referrals to other appropriate agencies such as Public Health, the Attorney General's Medicaid Fraud Unit, and the Alabama Medicaid Agency.

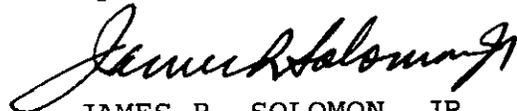
CONCLUSION

Mandatory reporters, including physicians and other practitioners of the healing arts employed by or under contract with the Alabama Department of Mental Health and Mental Retardation, are still required to make the reports mandated by Section 38-9-8 even in those situations where the Department of Human Resources is no longer required to investigate those reports.

I hope this sufficiently answers your question. If our office can be of further assistance, please contact Coleman Campbell, Legal Division, Department of Human Resources.

Sincerely,

JEFF SESSIONS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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