



ADULT PROTECTIVE SERVICES PROGRAM



STANDARDS AND PROCEDURES MANUAL

Revised 08/2018



State of Illinois
Illinois Department on Aging

TABLE OF CONTENTS

CHAPTER 1: INTRODUCTION

101: Scope of the Manual	1
102: Organization of the Manual	1
103: Clarifications, Revisions or Changes to the Manual	2

CHAPTER 2: OVERVIEW OF THE PROGRAM

201: Purpose of Chapter	1
202: Description of the Adult Protective Services Program	1
203: Defining Adult Abuse, Neglect, Financial Exploitation and Self-Neglect	2
204: Guiding Principles of the Program	3
205: Glossary of Terms.	5

CHAPTER 3: ORGANIZATION STANDARDS AND RESPONSIBILITIES

301: Purpose of Chapter	1
302: Illinois Department on Aging	1
303: Regional Administrative Agencies	3
304: Designation of Regional Administrative Agencies	5
305: Adult Protective Service Provider Agencies.	5
306: Minimum Staff Requirements for Adult Protective Service Provider Agencies	7
307: Designation of Adult Protective Service Provider Agencies	10
308: APS Provider Agency Designation Rationale	11

CHAPTER 4: INTAKE OF REPORTS

401: Purpose of Chapter	1
402: Agencies Authorized to Receive Reports	1
403: Receipt of Reports.	1
404: Criteria for Categorizing Reports	3
405: Determining the Priority Response	4
406: Relaying Reports to the APS Provider Agency	5
407: Priority I Reports Received During Non-Business Hours.	6
408: Reports Involving CCP or Title III Staff	7
409: Reports Involving APS PA Employee, Board or Advisory Council Member	7
410: Reports Involving RAA Employee, Board or Advisory Council Member	7
411: Reports Involving DHS Support Services Workers.	7
412: Reports Involving Private Pay Caregivers...	8

CHAPTER 5: ASSESSMENT OF ANE REPORTS

501: Purpose of Chapter	1
502: Types of Reports	1
503: Timeframes for Responding to ANE/SN Reports.	2
504: Preparation for the Assessment	5
505: Minimum Assessment Standards	6
506: Failure to Gain Entry	9
507: Immediate Interventions.	9
508: Referring to Law Enforcement, Coroner, Medical Examiner.	10
509: Classification of the ANE/SN Assessment	12
510: Closing Status of the Assessment/Final Investigative Report.	15
511: Reporting Cases Where the Abuser Works for the Aging Network	16
512: Notification of Cases Involving Clients Receiving Home Care Services....	16

CHAPTER 6: CASEWORK, FOLLOW-UP AND CASE CLOSURE

601: Purpose of Chapter	1
602: Long-Term Interventions.	1
603: Casework	1
604: Follow-Up Services.	2
605: Case Closure.	4
606: Case Transfer	5

CHAPTER 7: APS REGISTRY

701: Purpose of Chapter	1
702: Background of Registry	1
703: Access to and Use of APS Registry	1
704: Notice to Alleged Victim (Guardian or Agent)	2
705: Notice to Caregiver (Verified and Substantiated Finding - Placement on Registry)	3
706: Notice to Caregiver’s Employer	4
707: Notice to Long Term Care/Health Care Facilities and Regional Ombudsman	4
708: Initiation of Appeal	6
709: Confidentiality	7
710: Final Administrative Decision	7
711: Removal from APS Registry	8

CHAPTER 8: EARLY INTERVENTION SERVICES

801: Purpose of Chapter	1
802: Background Information	1
803: Client Eligibility.	1
804: Service Categories	2
805: Maximum Cost Per Case	2
806: Waiver of the Maximum Cost Per Case	3
807: Recovery of Early Intervention Service Funds	3
808: Procurement Requirements	4
809: Case Record Documentation and Review	4

CHAPTER 9: CASE RECORD ORGANIZATION AND DOCUMENTATION

901: Purpose of Chapter	1
902: Case Documentation	1
903: Establishing a Case Record	1
904: Contents of the Case Record.	1
905: Substitution of IDoA Forms	3
906: Case Record Retention	3

CHAPTER 10: MULTI-DISCIPLINARY TEAMS

1001: Purpose of Chapter	1
1002: Agencies Required to Develop M-Teams	1
1003: Timeframes for Developing M-Teams	1
1004: APS PA Responsibilities	1
1005: M-Team Membership and Responsibilities	2
1006: RAA Responsibilities	3

CHAPTER 11: FATALITY REVIEW TEAMS

1101: Purpose of Chapter	1
1102: State Policies	1
1103: Timeframes for Developing FRTs	1
1104: APS PA Responsibilities	2
1105: FRT Membership and Responsibilities	2
1106: FRT Confidentiality and Indemnification	4
1107: FRT Advisory Council	5

CHAPTER 12: CONFIDENTIALITY AND DISCLOSURE

1201: Purpose of Chapter	1
1202: Scope of Immunity	1
1203: Authority to Consent	7

CHAPTER 13: IMMUNITY PROVISIONS

1301: Purpose of Chapter	1
1302: Scope of Immunity	1
1303: Responses to Legal Summons	1

CHAPTER 14: MONITORING/QUALITY ASSURANCE STANDARDS AND PROCEDURES

1401: Purpose of Chapter 1
1402: RAA Peer Review 1
1403: APS PA Peer Review 1
1404: RAA Annual Program Operations Case Review (APOCR) 2
1405: APS PA (APOCR) 3
1406: RAA Periodic Program Operations Administrative Review (PPOAR) 3
1407: APS PA (PPOAR) 4
1408: Complaint Review regarding citizen complaints 4

CHAPTER 15: (RESERVED) FINANCIAL REPORTING

APPENDIX A: ADULT PROTECTIVE SERVICES ACT

APPENDIX B: ADMINISTRATIVE RULES

APPENDIX C: LEGAL INTEVENTIONS

APPENDIX D: DECISION TREE FOR CATEGORIZING INTAKE REPORTS



**CHAPTER 1:
INTRODUCTION**

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101: Scope of the Manual 1
102: Organization of the Manual 1
103: Clarifications, Revisions or Changes to the Manual 2

CHAPTER 1: INTRODUCTION

101: Scope of the Manual

The Adult Protective Services (APS) Program Standards and Procedures (S&P) Manual is the official document of the Illinois Department on Aging (IDoA) for conducting activities under the Adult Protective Services Act (320ILCS 20/1 *et seq.*) and supporting administrative rules. This manual provides standards and procedures for use by IDoA, Regional Administrative Agencies (RAAs), and APS Provider Agencies (PAs).

102: Organization of the Manual

The general organization of the Manual is as follows:

Chapter 1: Introduction – describes the organization of the Manual, outlines the procedures to follow in obtaining clarification on matters addressed in the Manual, and explains the process to be followed by IDoA in revising and changing portions of the Manual.

Chapter 2: Overview of the Program – provides a general description of the APS Program, its guiding principles, and lists and defines the terms used throughout the Manual.

Chapter 3: Organization, Standards and Responsibilities – describes the organization, standards and responsibilities of IDoA, the RAAs, and the APS Provider Agencies (PAs) in relation to the APS Program.

Chapter 4: Intake – provides the APS PAs with the minimum guidelines for screening intake reports of abuse, neglect, financial exploitation or self-neglect.

Chapter 5: Assessment – provides the APS PAs with the minimum guidelines for assessing reports of abuse, neglect, financial exploitation or self-neglect.

Chapter 6: Case Work, Follow-up, Closure & Case Transfer – describes the case work and follow-up activities to be undertaken by APS PAs to assist victims and describes the procedures to be followed when closing cases of abuse, neglect, financial exploitation or self-neglect.

Chapter 7: APS Registry – explains the purpose of reporting and access to the registry.

Chapter 8: Early Intervention Services (EIS) – outlines the eligibility criteria, services, and documentation for purchasing EIS.

Chapter 9: Case Record Organization and Documentation – describes the minimum requirements to be followed by APS PAs for documenting intake, assessment, case work, and follow-up activities.

Chapter 10: Multi-Disciplinary Teams (M-Teams) – explains the purpose, composition, and roles for establishing M-Teams through the APS PAs.

Chapter 11: Fatality Review Teams (FRTs) – explains the purpose, composition and role of Fatality Review Teams (FRTs).

Chapter 12: Confidentiality and Disclosure – describes the confidentiality and disclosure aspects of the program.

Chapter 13: Immunity Provisions – explains the immunity provisions provided to certain individuals and organizations under the Adult Protective Services Act. (320 ILCS 20/1 *et seq.*)

Chapter 14: Monitoring/Quality Assurance Standards and Procedures – outlines the different roles and responsibilities of IDoA, RAAs, and the APS PAs in assuring that the services and activities of the program are being provided in accordance with the program procedures and the guiding principles developed for the program.

Chapter 15: Program and Financial Reporting Requirements (Reserved) – describes the program and financial reporting requirements of the program and the timeframes for submitting reports.

Appendix A: Adult Protective Services Act – a copy of the Adult Protective Services Act (320 ILCS 20/1 *et seq.*)

Appendix B: Administrative Rules – a copy of the administrative rules governing the program.

Appendix C: Legal Interventions – a description of the legal interventions available in cases of ANE/SN. The legal interventions include referrals to law enforcement, guardianship and alternatives to guardianship, and other civil and criminal interventions.

Appendix D: Decision Tree for Categorizing Intake Reports – a flow chart outlining the differences between an initial intake report, a subsequent intake report, and a related information report.

103: Clarifications, Revisions, or Changes to the Manual

A. Standards, Policies, and Procedural Clarification Requests

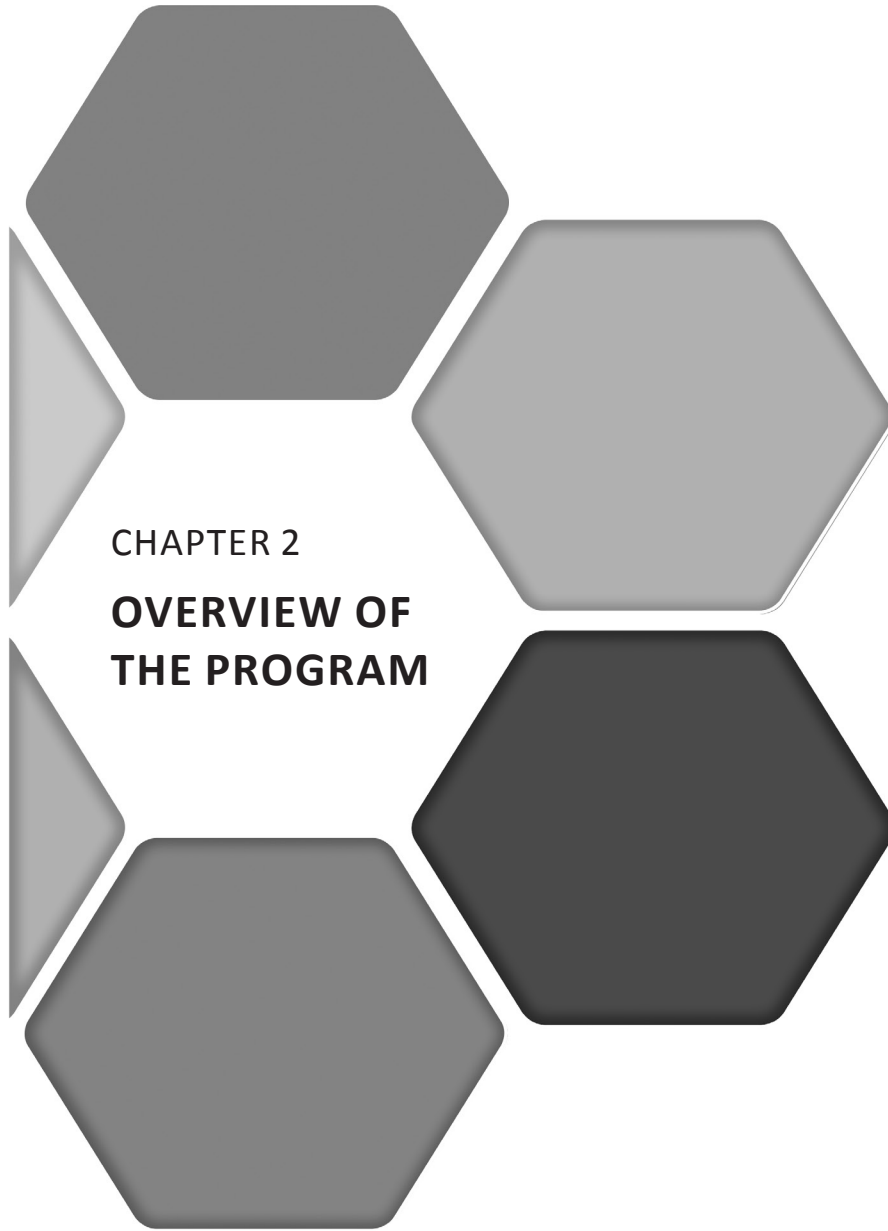
1. From time to time, users of this manual may find that certain standards, policies, or procedural instructions require additional clarification by IDoA. In order to systematically respond to these inquiries, IDoA has implemented a clarification process for the APS Program.
2. Policy Clarification Requests (PCRs) are to be submitted to IDoA via the Regional Administrative Agency (RAA) or directly to IDoA. PCRs received by IDoA will be logged in and routed to appropriate staff for research and response. A response to a PCR will be made within fifteen working days, either responding directly to the clarification or requesting further information. Depending upon the nature of the request, a PCR may be handled in one of two ways.
 - a. If the PCR refers to a subject that is unique to a specific RAA or APS PA, an individual response will be forwarded to the RAA or APS PA.
 - b. If the subject of the PCR, or a number of PCRs, suggests a need for statewide clarification or a need to modify the contents of the Manual, an information memorandum will be provided to RAAs and APS PAs. The information memorandum will clarify the pertinent issue, and if appropriate, outline the steps to be taken to initiate the changes to the Manual.

B. Procedural Changes to the Manual

1. New manual pages containing any information or changes to standards or procedures contained in this Manual, will be provided in sequentially numbered manual releases to all original manual recipients, with instructions to replace the affected pages. If necessary, an explanation will accompany the instructions outlining the purpose and need for the changes.
2. To the extent possible, procedural changes will be issued well enough in advance to allow RAAs and APS PAs to seek technical assistance prior to the implementation of such changes.

C. Policy Changes to the Manual

1. Changes to IDoA policy contained in this Manual will be made only after careful consideration and, if possible, with the review and input of the RAAs and APS PAs. Changes made to this Manual will be released to the RAA five (5) days prior to releasing the changes to the APS PAs.
2. Changes requiring adherence to the Administrative Procedures Act (5 ILCS 100/1-1 et seq.) process will follow normal rulemaking procedures, with manual changes provided after the required public review and comment period.



CHAPTER 2: OVERVIEW OF THE PROGRAM

201: Purpose of Chapter 1

202: Description of the Adult Protective Services Program 1

203: Defining Adult Abuse, Neglect, Financial Exploitation and Self-Neglect 2

204: Guiding Principles of the Program 3

205: Glossary of Terms. 5

CHAPTER 2: OVERVIEW OF THE PROGRAM

201: Purpose of Chapter

The purpose of this chapter is to provide a general description of the Adult Protective Services Program, its guiding principles, and to define the terms used throughout the remainder of the Manual.

202: Description of the Adult Protective Services Program

- A. The Adult Protective Services (APS) Program, administered through the Illinois Department on Aging (IDoA), is designed to respond to adults with disabilities and older adults who are victims of abuse, neglect, financial exploitation (ANE) or self-neglect (SN) by building on the existing legal, medical, and social service system to assure that it is more responsive to the needs of victims and their families. The service delivery components of the program are:
1. **Intake.** A screening process to determine if there is reasonable cause to suspect that abuse, neglect, financial exploitation or self-neglect has occurred.
 2. **Assessment.** A systematic, standardized method to respond to reports in order to determine whether ANE/SN has occurred, the degree of risk of harm to the eligible adult and to provide immediate interventions if the need exists.
 3. **Case Work.** Intensive case work activities on substantiated cases of ANE/SN. Case work includes working with the eligible adult on the development and implementation of a case plan for the purpose of stabilizing the situation and reducing risk of further harm to the eligible adult. The case plan could include legal, medical, social service and/or other assistance needed.
 4. **Follow-Up.** Because there are sometimes recurring problems even after intervention, a systematic method of follow-up on substantiated cases is essential to this program. Follow-up may be effective in preventing further risk of harm by working with the eligible adult in detecting recurring signs of problems before the situation becomes life-threatening.
 5. **Early Intervention Services (EIS).** While an array of services is usually available in communities, older adults and adults with disabilities who are victims of ANE/SN often face unique barriers, which prevent access to available resources. EIS are available for short term emergency assistance where resources are not available for the victim. These services include: legal assistance, housing and relocation assistance, respite care, and emergency aid (i.e., food, clothing, and medical care).

- B. There are two additional components of the APS Program that provide support to the program's service delivery activities:
1. **Multi-Disciplinary Teams (M-Teams).** An M-Team allows representatives from banking or finance, disability care, health care, legal, law enforcement, mental health care and clergy. In addition, optional members may be selected from the field of substance abuse, domestic violence, sexual assault or other related fields. M-Teams serve as a support system for APS PAs by providing professional knowledge and expertise in the handling of complex cases involving eligible adults
 2. **Public Awareness/Education.** Public awareness and education focuses on prevention efforts and identification of ANE/SN. In addition to general public awareness through posters, brochures, and public service announcements, educational efforts focus on those professional groups most likely to come into contact with victims.

203: Defining Abuse, Neglect, Financial Exploitation and Self-Neglect

- A. **ABUSE.** Abuse means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.
1. Physical Abuse means causing the infliction of physical pain or injury to an eligible adult.
 2. Sexual Abuse means touching, fondling, sexual threats, sexually inappropriate remarks, or any other sexual activity with an eligible adult when he or she is unable to understand, unwilling to consent, threatened, or physically forced to engage in sexual behavior.
 3. Emotional Abuse means verbal assaults, threats of maltreatment, harassment, or intimidation intended to compel the eligible adult to engage in conduct from which he or she wishes and has a right to abstain, or to refrain from conduct in which the eligible adult wishes and has a right to engage.
 4. Confinement means restraining or isolating, without legal authority, an eligible adult for other than medical reasons, as ordered by a physician.
 5. Financial Exploitation means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult.
- B. **NEGLECT.** Neglect means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care.
1. Passive Neglect means another individual's failure to provide an eligible adult with the necessities of life including, but not limited to, food, clothing, shelter, or medical care because of failure to understand the eligible adult's needs, lack

of awareness of services to help meet needs, or a lack of capacity to care for the eligible adult.

This definition does not create any new affirmative duty to provide support to eligible adults; nor shall it be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

2. **Willful Deprivation** means deliberate denial of medications, medical care, shelter, food therapeutic devices, or other physical assistance to a person who, because of age, health, or disability, requires such assistance and thereby exposes that person to the risk of physical, mental, or emotional harm because of such denial: except with respect to medical care or treatment when the dependent person has expressed an intent to forego such medical care or treatment and has the capacity to understand the consequences.
- C. **SELF-NEGLECT.** Self-neglect means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety.

204: Guiding Principles of the Program

- A. **ADVOCACY INTERVENTION MODEL.** After testing three intervention models used in other states to address elder abuse during a three year demonstration period, Illinois implemented an Advocacy Intervention Model. This model includes principles to guide the intervention, based on recognition that the victim of abuse, neglect and exploitation is an adult in a vulnerable position. Under this model, the responsible agency assists the victim through **interventions** on his or her behalf and serves as an **advocate**. As an advocate, the APS PA works to ensure that the rights of the adult are upheld while providing assistance in obtaining needed legal, medical, and social service supports.
- B. **LIMITED MANDATORY REPORTING.** Illinois adopted a law that combines voluntary reporting and mandatory reporting of suspected cases of ANE. The law requires that certain persons who provide services to older adults and adults with disabilities, including health professionals, Aging Network personnel and others, must report to the APS Program any suspicions of ANE of eligible adults who, because of a disability or other condition or impairment, cannot report for themselves. The law also encourages persons to report voluntarily and provides immunity from liability for anyone making an ANE report in good faith. Amendments to the Adult Protective Services Act, which added self-neglect, did not make reporting self-neglect mandatory for professionals, however, voluntary reporting is encouraged.

Note: For a list of mandatory reporters refer to the Adult Protective Services Act in Appendix A.

C. SELF- DETERMINATION. The concept of self-determination adopted by the Illinois APS Program includes certain civil rights to which competent adults are entitled. These rights do not diminish with age or disability. Competent adults have the right to:

1. decide where and how they will live;
2. choose whether to accept social services or other community assistance; and
3. make decisions different from those a reasonable adult would make, including “bad” decisions, which are not harmful to others.

When an adult with a disability or older adult is incapable of protecting himself or herself, under the law that person has the right to have protective measures taken on his or her behalf. Protective measures taken on behalf of the eligible adult are described in Appendix C (Legal Interventions).

D. INTERVENTION PRINCIPLES. The best practices listed below should be followed by the caseworker to support the adult’s right to self- determination.

1. Involve the older or disabled person in the development of the intervention or case plan. Take the time to explain the range of legal, medical, and social service options to them, beginning with the least restrictive alternatives in treatment and placement so that they exercise their maximum decision-making ability for his or her competence.
2. Consult with the family unit support system whenever possible. Often abused eligible adults live with a family member or receive some form of care from the family.
3. Assist the individual to live in the most independent setting.
4. Be direct in discussing the situation, the alternatives, and the consequences.
5. Respect the eligible adult’s right to confidentiality. Information about the eligible adult’s affairs should only be shared as authorized by the eligible adult or a guardian or others as permitted by law.
6. Recognize that inadequate or inappropriate intervention may be more harmful than none at all, and may greatly increase the risk to the eligible adult.
7. The eligible adult’s interests are to be the first concern of the program. Their welfare comes before that of family members or citizens of the community. The safety of the older adult or adult with a disability is the foremost concern when he or she is unable to decide or act on his or her own behalf.

205: Glossary of Terms

“Abuse” means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult’s financial resources.

“Abuser” means a person who abuses, neglects, or financially exploits an eligible adult.

“Act” means the Adult Protective Services Act [320 ILCS 20].

“Administrative hearing” means a formal review of an action made by the Department. Specifically, it means any hearing authorized to be held by the Department or other entity authorized by the Director to hold these hearings.

“Administrative law judge” or “ALJ” means an attorney, licensed to practice law in the State of Illinois, who is authorized by the Director to conduct the administrative hearing and related processes.

“Adult Protective Service Case Management System” means the electronic web-based system for completing and storing APS client records.

“Adult Protective Services Hotline” means IDoA’s 24-hour toll-free phone number (1-866-800-1409) Voice and (1-888-206-1327) TTY, which can be called to report suspected cases of abuse, neglect, financial exploitation or self-neglect.

“Adult Protective Services Program Coordinator” means the designated IDoA staff person who serves as a liaison between the RAA and APS PA within their planning and service area.

“Adult Protective Services Provider Agency” or “APS PA” means any public or nonprofit agency designated by the RAA, with prior approval by IDoA, in accordance with Section 307 of this Manual, to carry out the responsibilities described in Section 305 of this Manual.

“Adult with Disabilities” means a person aged 18 through 59 who resides in a domestic living situation and whose disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.

“Advisory Committee” means the APS Advisory Committee whose purpose is to provide advice on policy issues and to assist IDoA in responding to concerns regarding the program. The Committee is composed of representatives from RAA’s and APS PA’s appointed by IDoA for three-year terms. The Committee meets once every quarter.

“Advisory Council” means the Illinois Fatality Review Team Advisory Council consisting of one member from each of the review teams in Illinois.

“Aging Network” means the comprehensive and coordinated system of agencies, which includes IDoA, the Area Agencies on Aging (AAA) and numerous service provider agencies which are responsible for serving or representing the needs of older adults and adults with disabilities in the State of Illinois.

“Allegation” means, as used generally, a charge or a claim of fact in a report of abuse, neglect, financial exploitation or self-neglect which must be proven if the report is to be found true or substantiated.

“Alleged abuser” means the person who is reported to be abusing, neglecting, or financially exploiting the eligible adult. It is important that this person be continually defined as “alleged” until there is sufficient evidence to substantiate that this person is an abuser.

“Alleged victim” means the eligible adult who is reported as being abused, neglected, financially exploited or is self-neglecting. It is important that this person be continually defined as “alleged” until evidence shows that this person has or has not been abused, neglected, financially exploited or has neglected himself or herself.

“ANE” is an acronym for abuse, neglect, and exploitation.

“Appeal” means a request to contest placement of a caregiver’s identity on the Registry.

“APOAR” is an acronym for Annual Program Operations Administrative Review. “APOCR” is an acronym for Annual Program Operations Case Review.

“APSCW” is an acronym for an Adult Protective Services Caseworker.

“Authorized representative” means any person, including an attorney, authorized in writing by a party to act on behalf of the party in the administrative hearing process.

“Assessment” means the stage of obtaining and documenting detailed information about the case, which is sufficient to determine whether abuse, neglect, financial exploitation or self-neglect is occurring, or has occurred and the continued risk of future abuse or harm. Often intervention must begin with the client before the assessment process is complete, and before the substantiation decision is made.

“APSCW Registry” means the registry maintained by IDoA of individuals who have completed required certification training.

“Business day” means a day, Monday through Friday, when State agency offices are open. The following are not business days: Saturdays, Sundays, State holidays, and any other day from time to time declared by the President of the United States or the Governor of Illinois to be a day during which the agencies of the State of Illinois that are ordinarily open to do business with the public will be closed for business.

“Caregiver” means a person who as a result of a family relationship, voluntarily or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living.

“Centers for Independent Living” (CIL) means a non-residential community based organization, directed and managed by persons with disabilities. They provide peer counseling, information and referral, interpreters for hearing impaired, and readers for people who are visually impaired. They serve as role models, mentors and advocates. They focus on assisting persons with disabilities to live independently. They provide education about disabilities.

“Case Work” is the development and implementation of a services plan for the client, which minimally includes: the identification of the needs, problems, limitations and capacities of the client; interventions to protect the health, welfare and safety of the client; assisting the client in obtaining needed services; and respecting the self-determination and independence of the client.

“Classification” means the major decision point of the assessment process where it is decided, based on information obtained and documented in writing, whether the report of ANE/SN is substantiated, unsubstantiated, or unable to be substantiated.

“Clear and convincing” is the standard of the burden of proof that must be met to reach a substantiation decision of “verified.” This standard of the burden of proof is met when the credible evidence, weighed in its entirety, creates at least a 75% certainty that the abuse, neglect or financial exploitation is occurring or has occurred.

“Client” means an eligible adult who is receiving services from an Adult Protective Services Provider Agency (APS PA).

“Collateral Contact” means a person, who is not a subject of the report, who can provide evidence or supportive testimony. Collateral contacts can provide important information about how to best approach the alleged victim or alleged abuser, as well as their personality, behavioral patterns, and/or interdependencies. These individuals can help the worker determine consequences of inadequate intervention and possible dangers to the worker. “Collateral Contact” also refers to the action by the Adult Protective Services Caseworker (APSCW) in contacting such a person with information.

“Continuance” means a decision to proceed with a hearing at a later date than scheduled.

“Community Care Program” or “(CCP)” means IDoA’s home and community- based services designed to prevent or delay unnecessary or inappropriate institutionalization of persons 60 years of age or older.

“Community Integrated Living Arrangement” (CILA) means a living arrangement for adults (age 18 and older) in a group home, family home or apartment where 8 or fewer unrelated adults with developmental disabilities live under supervision of the community developmental services agency. Residents receive complete and individualized residential habilitation, and personal support services. CILAs fall under the jurisdiction of the Illinois Department of Human Services.

“Competency” means the legal state of the capability of an individual to manage his or her own affairs.

“Confinement” means restraining or isolating, without legal authority, an eligible adult for other than valid medical reasons.

“Department” means the Department on Aging of the State of Illinois.

“Department of Healthcare and Family Services” (HFS) means the Illinois agency that is responsible for overseeing Medicaid.

“Department of Human Services” means the Illinois agency that provides state’s residents with streamlined access to integrated services, especially those striving to move from welfare to work and economic independence, and others who face multiple challenges to self-sufficiency.

“Deposition” means the giving of testimony, under oath and on the record, prior to trial, under questioning by the attorneys for one of the parties. The purpose of a deposition is for each party to determine the essential facts of the case prior to trial.

“Direct care agency” means a State agency listed in Section 270.404(a) and any entity or provider agency of direct care.

“Director” means the Director of the Department on Aging.

“Disability” means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under the Mental Health and Developmental Disabilities Code, or dementia as defined under the Alzheimer’s Disease Assistance Act.

“Domestic Living Situation” or “DLS” means a residence where the eligible adult at the time of the report, lives in a private residence alone, or with his or her family or a caregiver, or others, or other community-based unlicensed facility. DLS does not include an eligible adult living in:

1. a licensed facility as defined in Section 1-113 of the Nursing Home Care Act
2. a facility licensed under the ID/DD Community Care Act;
3. a facility licensed under the Specialized Mental Health Rehabilitation Act;
4. a “life care facility” as defined in the Life Care Facilities Act;
5. a home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;
6. a hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;
7. a “community living facility” as defined in the Community Living Facilities Licensing Act;
8. a “community-integrated living arrangement” as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a Community Residential Alternative as licensed under that Act;
9. “an assisted living or shared housing establishment” as defined in the Assisted Living and Shared Housing Act; or
10. “a supportive living facility” as described in Section 5-5.01a of the Illinois Public Aid Code.

“Determination of Need” or “(DON)” means the screening instrument used by the State of Illinois to determine need for long term care, including Community Care Program services and Medicaid nursing home care.

“Direct Care” includes, but is not limited to, direct access to an individual (not limited to) his or her living quarters, or his or her personal, financial, or medical records for the purpose of providing nursing care or assistance with feeding, dressing, movement, bathing, toileting, or other personal needs and activities of daily living, or assistance with financial transactions.

“Early Intervention Services” or “(EIS)” are services purchased by the APS PA for specified temporary short term or emergency services needed to secure the health and safety of an eligible client when existing resources are unavailable. See Chapter 8.

“Eligible Adult” means either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be abused, neglected, or financially exploited by another individual or who neglects himself or herself.

“Emergency” means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental, or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

“Emotional Abuse” means verbal assaults, threats of maltreatment, harassment, or intimidation intended to compel the eligible adult to engage in conduct from which he or she wishes and has a right to abstain or to refrain from conduct in which the he or she wishes and has a right to engage.

“Exploitation” or “financial exploitation” means the use of an eligible adult’s resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult.

“Filed” means conveyed to the Department/other entity authorized to conduct hearings. A valid document or request will be considered filed on the business day it is received or, if mailed, on the date it is postmarked. Contact in person, by phone, fax, e-mail, via an electronic account, or other acceptable means will be considered filed on a business day if it is received prior to 5:00 p.m. on that date. If receipt is after 5:00 p.m., the action will be deemed filed on the next business day.

“Final administrative decision” means the final determination by the IDoA Director regarding whether or not placement of a caregiver’s identity on the Registry is in the public interest.

“Final Investigative Report” means a Provider Agency’s report prepared upon completion or closure of an investigation, for all cases of reported abuse, neglect, financial exploitation, or self-neglect of an eligible adult, whether or not there is a substantiated finding.

“Follow-up” means the monitoring of substantiated cases in which the victim has consented to services, including a face-to-face visit with the victim at least once every three months. Monthly contact with the victim can be by telephone.

“Guardian” means a person appointed by the court who is legally responsible for the care and management of the property and person of one who has been adjudicated disabled by virtue of physical or mental disability, mental illness, or physical incapacity.

“Health care facility” means any residential facility licensed, certified, or regulated by the Department of Public Health, the Department of Healthcare and Family Services, or the Department of Human Services.

“IDoA” means the Illinois Department on Aging, including the Office of Adult Protective Services, which administers the APS Program. IDoA also administers the Community Care Program.

“Illinois Assistive Technology Project” (IATP) is a statewide, not for profit agency whose mission is to break down barriers that prevent people with disabilities from accessing assistive technology that lets them play and live in the community. IATP has a technology device loan program, a low interest cash loan program and newsletter.

“Illinois Attorney General’s Disability Rights Bureau” enforces the Environmental Barriers Act, IL Human Rights Act, and other state and federal laws that protect the rights of individuals with disabilities. The Bureau also conducts disability rights training for courts, law enforcement, and other groups.

“Independent Service Coordinator” (ISC) is the person who does the screenings for Developmental Disability (DD) clients for in-home services.

“Individual Service and Support Advocacy” (ISSA) is the agency within the Department of Human Services Division of Developmental Disabilities’ quality assurance program that monitors the client’s Individual Service Plan and responds to complaints regarding services provided through Medicaid Waiver services such as CILA, HBS, Child Group Homes, or day programs.

“Intake” means the receipt of a report of suspected or alleged abuse, neglect, financial exploitation or self-neglect.

“Intervention” means an action initiated by the Adult Protective Services Caseworker (APSCW) or the APS PA to provide medical, social, economic, legal, housing, law enforcement, or other protective, emergency, or supportive services to, or on behalf of, the Adult Protective Services victim.

“Long term care facility” means any residential facility licensed, certified, or regulated by the Department of Public Health.

“MMSE” means the Mini-Mental State Examination.

“Multi-Disciplinary Team” or “M-Team” is a group of selected professionals, from a variety of disciplines (including banking or finance, disability care, health care, legal, law enforcement, mental health care, clergy, substance abuse, domestic violence and sexual assault) who meet minimally eight times per year, with the APS caseworkers and supervisors, to discuss and provide consultation on specific cases of abuse, neglect, financial exploitation or self-neglect. The purpose is to use the varied backgrounds, training and philosophies of the different professions to explore the best service plan for the cases involved.

“Neglect” (See passive neglect or willful deprivation.) means another individual’s failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. It shall also not be construed to mean that an eligible adult is the victim of neglect because of health care services provided or not provided by licensed health care professionals.

“No Indication” means that the credible evidence, when weighed in its entirety, indicates a 50% or less certainty that ANE/SN has occurred or is occurring.

“Older Americans Act” means the Older Americans Act of 1965 (Public Law 89-73, as amended; 42 U.S.C. 3001 *et seq.*), which is the federal law that funds Aging Network services. It includes “Title III and Title VII” grants for state and community programs on aging.

“Other entity” means an Illinois State agency or its qualified designee with the administrative capacity to handle all hearing functions.

“Participant” means an individual who uses the services of an in-home care or community-based program funded through the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health.

“Party” means an individual or entity, including the Department, that has standing to participate and is participating in a proceeding. For purposes of filing and service, “party” also means an appropriately designated agent for receipt of service.

“Passive Neglect” means another individual’s failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. It shall also not be construed to mean that an eligible adult is the victim of neglect because of health care services provided or not provided by licensed health care professionals.

“Peer Review” is an internal assessment completed by an APS PA utilizing the APOCR.

“Physical Abuse” means causing the infliction of physical pain or injury to an eligible adult.

“Pre-Admission Screening (PAS) Agent” means the person who screens for admission to Department of Human Services’ facilities.

“Preponderance of the Evidence” is the standard of the burden of proof that must be met to reach a substantiation decision of “some indication.” This standard of the burden of proof is met when the credible evidence, weighed in its entirety, creates a certainty of more than 50%, that abuse, neglect, financial exploitation or self-neglect is or has occurred.

“Prioritization for Urgency of Need Services” or “PUNS” is the Department of Human Services’ statewide data base that records information about individuals with development disabilities who are in need of services as funding is available.

“Privately Paid Caregiver” means any caregiver who has been paid with resources other than public funds, regardless of licensure, certification, or regulation by the State of Illinois and any Department thereof. A privately paid caregiver does not include any caregiver that has been licensed, certified, or regulated by a State agency, or paid with public funds.

“Provider Agency” or “PA” means any public or nonprofit agency in a planning and service area appointed by the regional administrative agency abuse, neglect, financial exploitation, or self-neglect. with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, financial exploitation or self-neglect.

“Regional Administrative Agency” or “RAA” means any public or non-profit agency in a planning and service area so designated by IDoA, to carry out the responsibilities described in Section 303 of this Manual, provided that the AAA shall be designated the RAA if it so desires according to Section 304 of this Manual.

“Registry” means the Adult Protective Service Registry.

“Relevant Contact Information” means the current contact information, including, but not limited to, address, phone number and email address that allows the Department/other entity authorized to conduct hearings under this Subpart to contact the party as necessary during the course of a proceeding.

“Reporter” means the person who calls or visits an authorized intake agency to convey allegations or suspicions that an eligible adult has been, or is being, abused, neglected, financially exploited, or self-neglects.

“Review Team” means a regional interagency at-risk adult fatality review team in each of the Department’s planning and service areas.

“Self-Neglect” means a condition that is the result of an eligible adult’s inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety.

“Senior Helpline” means IDoA’s toll-free, statewide number (1-800-252-8966) Voice and (1-888-206-1327) TTY that can be called to find out additional information about services available to eligible adults.

“Sexual Abuse” means touching, fondling, sexual threats, sexually inappropriate remarks, or any other sexual activity with an eligible adult when the eligible adult is unable to understand, unwilling to consent, threatened, or physically forced to engage in sexual behavior.

“Significant” means a finding of abuse, neglect, or financial exploitation as determined by the Department that (1) represents a meaningful failure to adequately provide for, or a material indifference to, the financial, health, safety, or medical needs of an eligible adult or (2) results in an eligible adult’s death or other serious deterioration of an eligible adult’s financial resources, physical condition, or mental condition.

“Some Indication” means a determination that there is a “preponderance of the evidence” that the specific injury or harm alleged was the result of ANE/SN.

“SN” is an acronym for self-neglect.

“Substantiation” is the process by which an APS provider agency determines, after a review of all available information, that abuse, neglect, financial exploitation or self-neglect of an eligible adult has occurred.

“Substantiated Case” means a reported case of alleged or suspected abuse, neglect, financial exploitation, or self-neglect in which a provider agency, after an assessment, determines that there is reason to believe abuse, neglect, financial exploitation or self-neglect has occurred.

“Uncompensated Caregiver” means a caregiver who, in an informal capacity, assists an eligible adult with activities of daily living, financial transactions, or chore housekeeping type duties. This definition does not include an individual serving in a formal capacity as a volunteer with a provider licensed, certified, or regulated by a State agency.

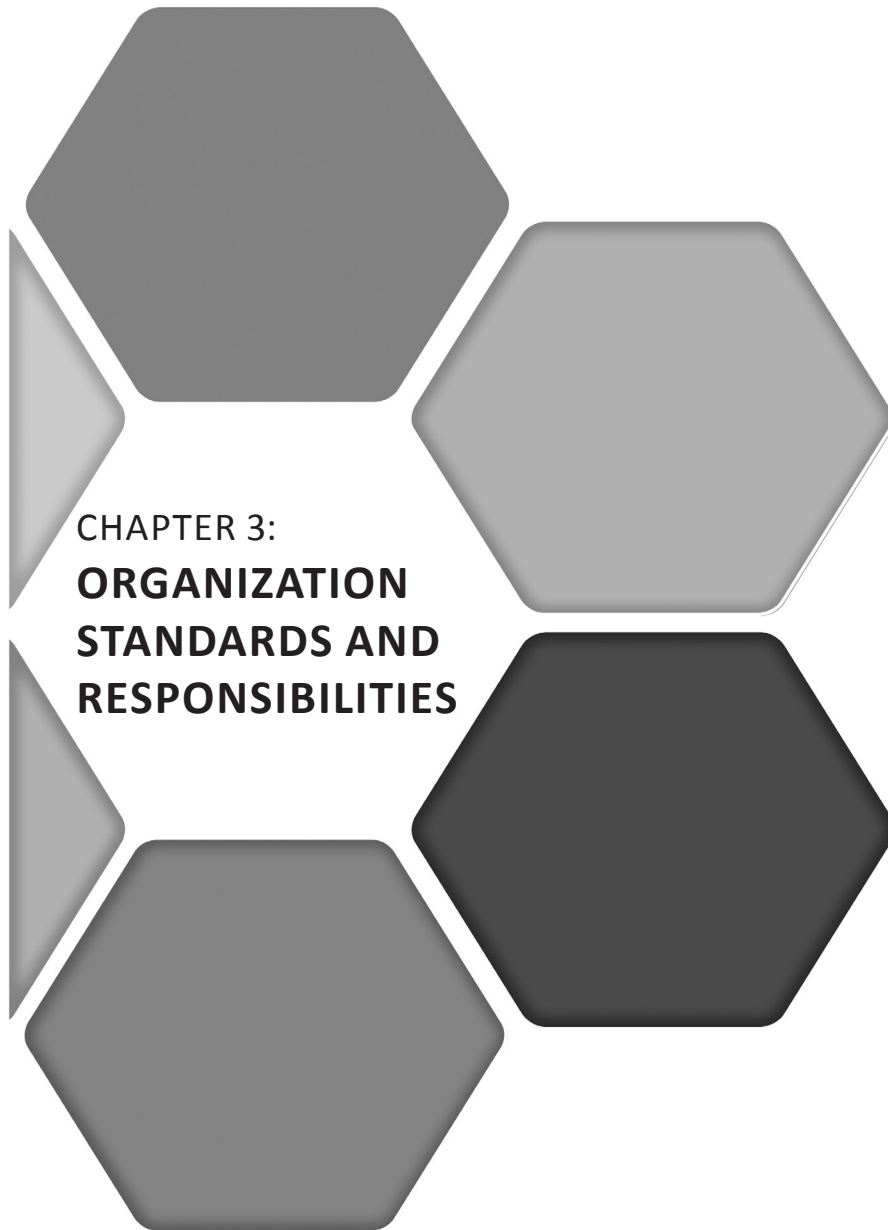
“Undue Influence” means any improper persuasion whereby the will of a person is overpowered and he or she is induced to do, or is kept from doing, an act which he would not do or would do if left to act freely.

“Verified” means a determination that there is “clear and convincing evidence” that the specific injury or harm was the result of abuse, neglect, or financial exploitation.

“Victim” means an eligible adult who is the subject of a substantiated report of abuse, neglect, financial exploitation or self-neglect.

“Vulnerable Adult” (VA) is the preferred term to describe an individual who self-neglects.

“Willful Deprivation” means deliberate denial of medications, medical care, shelter, food therapeutic devices, or other physical assistance to a person who, because of age, health, or disability, requires such assistance and thereby exposes that person to the risk of physical, mental, or emotional harm because of such denial: except with respect to medical care or treatment when the dependent person has expressed an intent to forego such medical care or treatment and has the capacity to understand the consequences.



CHAPTER 3: ORGANIZATION STANDARDS AND RESPONSIBILITIES

301: Purpose of Chapter 1

302: Illinois Department on Aging 1

303: Regional Administrative Agencies 3

304: Designation of Regional Administrative Agencies 5

305: Adult Protective Service Provider Agencies 5

306: Minimum Staff Requirements for Adult Protective Service Provider Agencies 7

307: Designation of Adult Protective Service Provider Agencies 10

308: APS Provider Agency Designation Rationale 11

301: Purpose of Chapter

The purpose of this chapter is to outline the standards, functions and responsibilities of the Illinois Department on Aging (IDoA), Regional Administrative Agencies (RAAs), and Adult Protective Service Provider Agencies (APS PAs) in operating the Adult Protective Services Program.

302: Illinois Department on Aging

- A. IDoA has the overall responsibility for designing and managing the APS Program.
- B. IDoA shall designate RAAs in accordance with Section 304 and approve the designation by the RAA, of APS PAs in accordance with Section 307.
- C. IDoA shall enter into an agreement with each designated RAA to perform the responsibilities outlined in Section 303.
- D. IDoA shall establish and maintain written standards and procedures for the operation of the program.
- E. IDoA shall develop standards for minimum staffing levels and staff qualifications.
- F. IDoA shall establish mandatory standards for the investigation of ANE/SN of eligible adults and mandatory procedures for linking eligible adults to appropriate services and supports.
- G. IDoA shall submit an annual budget for the program to the Governor's office and establish reimbursement rates for APS Providers and RAA responsibilities.
- H. IDoA shall design the programmatic and financial reporting system for the program.
- I. IDoA shall develop a system to monitor the performance of the program, reporting any findings and recommendations for change to the Director. The APS PA subject to a review and the RAA of such APS PA shall receive copies of the findings and recommendations.
- J. IDoA shall, contingent upon adequate funding, promote a wide range of endeavors to prevent ANE/SN including, but not limited to, promotion of public and professional education to increase awareness of abuse, neglect, financial exploitation, and self-neglect, to increase reports, to establish access to and use of the Registry and to improve response by various legal, financial, social, and health systems.
- K. IDoA shall prepare and submit to the Governor and General Assembly a report describing the activities of the APS Program in a format developed by IDoA within 270 days after the end of each fiscal year.
- L. IDoA shall establish an Advisory Committee whose purpose is to provide advice on policy issues and to assist IDoA in responding to concerns regarding the program. The committee shall be composed of representatives appointed by IDoA for three-year terms, and will include RAA and APS PA representatives. The committee will meet once every quarter.
- M. IDoA shall establish a Fatality Review Team (FRT) Advisory Council whose purpose is to serve as the voice of review teams in Illinois and oversee the review teams regarding coordination and compliance issues. The committee shall be composed of one member from each review team. The Director may appoint to the FRT Advisory Council any ex-officio members deemed necessary.

- N. The Director, in consultation with the FRT Advisory Council, law enforcement, and other professionals, shall appoint members to a minimum of one regional interagency fatality review team in each of the Department's planning and service areas. Each member of a review team shall be appointed for a 2-year term and shall be eligible for reappointment upon expiration of the term. FRTs shall review cases of deaths of at-risk adults occurring in its planning and service area.
- O. IDoA shall coordinate with other agencies, councils and like entities, including, but not limited to, the Administrative Office of the Illinois Courts, the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training Standards Board, the State TRIAD, the Illinois Criminal Justice Information Authority, the Departments of Public Health, Healthcare and Family Services, and Human Services, the Illinois Guardianship and Advocacy Commission, the Family Violence Coordinating Council and other entities which may impact awareness of, and response to abuse, neglect, financial exploitation, and self-neglect.
- P. IDoA shall provide technical assistance, policy clarifications or interpretations to RAAs on adherence to the rules, standards, and procedures established for the program.
- Q. IDoA shall provide updates to policy changes through correspondence with RAAs and APS PAs.
- R. IDoA may provide technical assistance directly to the APS PAs in case handling. The technical assistance provided by IDoA may include legal advice and consultation.
- S. IDoA shall maintain a registry of all APS PA and RAA staff that have successfully completed IDoA sponsored certification training and are assessing reports of ANE/SN.
- T. IDoA shall, upon request, provide information to public agencies, legislators, and others about older adults and adults with disabilities affected by ANE/SN.
- U. IDoA shall provide training to RAA staff. IDoA shall also provide training to APS Program staff who assess reports of ANE/SN.
- V. IDoA shall establish and coordinate an aggressive training program on the unique nature of adult abuse cases with other agencies, councils, and like entities, to include but not be limited to the Illinois Office of the Attorney General, the Illinois State Police, the Illinois Law Enforcement Training and Standards Board, the Illinois State TRIAD, the Illinois Criminal Justice Information Authority, the Illinois State Departments of Public Health, Illinois Healthcare and Family Services and Human Services, the Illinois Family Violence Coordinating Councils, the agency designated by the Governor under Section 1 of the Protection and Advocacy for Developmentally Disabled Persons Act, and other entities that may impact awareness of and response to ANE/SN.
- W. IDoA shall be responsible for collection and analysis of data from the APS Program.
- X. IDoA's Senior HelpLine shall receive reports of ANE/SN and relay such reports to the appropriate APS Program in accordance with Chapter 4.
- Y. Senior HelpLine staff who receive reports of ANE/SN shall attend IDoA- sponsored training. Successful completion of the above training shall be established by certification.

303: Regional Administrative Agencies

- A. The RAA shall designate, with prior approval from IDoA, APS PAs in accordance with Section 307.
- B. The RAA shall designate RAA staff to attend IDoA-sponsored training and meetings pertaining to the APS Program. RAA staff that have successfully completed the APSCW certification, the Phase II certification, and the Supervisor's certification may be added to the registry as back-up to provider agencies.
- C. The designated RAA staff shall meet the following in-service training requirements: Fourteen (14) hours of documented in-service training on abuse of older adults and adults with disabilities, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year. For partial years of employment, training shall be prorated to one (1) hour for each full month of employment. Documented participation in RAA, state, regional, or national conferences on abuse of older adults and adults with disabilities, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects will qualify as in-service training. Documented hours would be the time spent in actual attendance at specific sessions. This time should be included in the employee's personnel file. The documented number of hours and name of the conference will suffice.
- D. The designated RAA staff shall complete eleven (11) hours of qualifying Recertification training every three years. Completion of training must be documented in the liaison's personnel file. RAA staff is required to complete Recertification training in order to remain on the APSCW registry.
- E. The RAA must return to IDoA, within 15 days, any photo identification and/or certification cards issued by the APS Program upon RAA staff leaving the agency.
- F. The RAA shall provide technical assistance to APS PAs on established standards and procedures for the program and shall seek from IDoA staff policy clarifications and interpretations of established standards and procedures. In the event that there is a conflict between IDoA staff and the RAA concerning a policy clarification or interpretation, IDoA staff's clarification or interpretation shall prevail.
- G. The RAA shall conduct quarterly meetings with the APS PAs in the Planning and Service Areas for the primary purpose of discussing implementation issues of the program. The RAA shall submit notice to IDoA of the time and date of the meeting at least three weeks in advance to allow IDoA staff to attend the meetings. If an IDoA sponsored supervisor's meeting is held, it may count as a quarterly meeting and the RAA would not be required to hold one during the same quarter.
- H. The RAA may assist IDoA and the APS PA in providing public awareness and education on the issues related to ANE/SN of older adults and adults with disabilities.
- I. The RAA may receive reports of ANE/SN; however, the RAA shall not publicize its agency or phone number for the purpose of receiving such reports and shall not require that the APS PAs publicize the RAA or the RAA's phone number for the purpose of receiving reports. If the RAA wishes to receive reports, the RAA shall:

1. inform IDoA in writing of its intent to receive reports;
 2. assure that staff receiving reports and who have not attended IDoA-sponsored training shall receive documented training from the designated RAA staff person who attended IDoA-sponsored training; and
 3. have procedures for receiving and relaying reports.
- J. RAAs shall assist IDoA in establishing APS M-Teams in each APS PA consistent with Chapter 10.
- K. RAAs shall authorize provider agency EIS expenditures in accordance with Chapter 8 of this Manual.
- L. RAAs shall monitor the performance of APS PAs consistent with the APS Standards and Procedures Manual.
- M. RAAs shall, when producing any public information or education materials on abuse of older adults and adults with disabilities, include in the materials the IDoA's Adult Protective Service Hotline at 1-866-800- 1409 (Voice) and 1-888-206-1327 (TTY), and reference to the fact that it or the local program(s) are part of IDoA's statewide APS Program. Any written materials shall also include the IDoA non-discrimination clause.
- N. The RAA shall retain any case records for ten full years from the date of case closure. Following the ten-year period, the case records may be purged. The Agency must insure that any purged records are completely shredded, incinerated or if stored electronically, permanently deleted.
- O. The RAA shall not serve as agent, as designated under the Power of Attorney Act, a temporary, limited, or plenary guardian designated under the Probate Act, or as a representative payee, for any clients served by the APS Program. A waiver to this standard shall be allowed only if the APS PA has documented evidence that no other qualified person or entity exists to serve as agent, guardian, or representative payee on behalf of a client of the APS Program, and the RAA is willing and qualified to serve. The RAA shall submit a quarterly report, no later than 10 days following the end of the quarter, to the Department's Office of Adult Protective Services, listing all open and closed APS Program cases for which the RAA is serving as agent or guardian, at the time the report is submitted.
- P. The RAA shall not serve as agent, as designated under the Power of Attorney Act, a temporary, limited or plenary guardian designated under the Probate Act, or as a representative payee, for any clients served by the APS Program. A waiver to this standard shall be allowed only if the APS PA has documented evidence that no other qualified person or entity exists to serve as agent, guardian or representative payee on behalf of a client of the APS Program, and the RAA is willing and qualified to serve. The RAA shall submit a quarterly report, no later than 10 days following the end of the quarter, to the Department's Office of Adult Protective Services, listing all open and closed APS Program cases for whom the RAA is serving as agent or guardian, at the time the report is submitted.

304: Designation of Regional Administrative Agencies

- A. The AAA may serve as the RAA as set forth in Title 89 Chapter II, Section 230.47 (Designation of Planning and Services Areas) of the Illinois Administrative Code.
- B. If an AAA refuses designation as a RAA, the AAA shall notify IDoA in writing, and IDoA shall either:
 - 1. select, through a competitive procurement process, another public or nonprofit agency within the planning and service area to function as the RAA, or
 - 2. IDoA shall assume the functions of the RAA for any planning and service area where another agency is not so designated.

305: Adult Protective Service Provider Agencies

- A. To be appointed as an APS PA, an agency shall be designated by the RAA, with prior approval from IDoA, in accordance with Section 307, for a specific geographic area in the RAA's planning and service area.
- B. The APS PA shall be open for business and available to receive ANE/SN reports directly or from IDoA's Senior HelpLine at least seven hours each working day, and shall not be closed for more than four consecutive days unless an alternative method of receiving ANE/SN reports is approved by and on file with the RAA and IDoA. If a recorded message is activated, during business hours, there must be an option to talk to a person at that time rather than leaving a message on voice mail. Persons calling in to make an ANE/SN report must have the opportunity to talk directly to an intake worker. In addition, each APS PA shall be open for business not less than 246 working days per calendar year.
- C. The APS PA shall ensure that it is capable of responding to a priority one report, 24 hours per day, 7 days per week. A provider agency may use an on-call system to respond to reports of alleged or suspected ANE/SN after hours and on weekends.
- D. The APS PA shall have and observe written policies and procedures:
 - 1. confidentiality of client records consistent with Chapter 12;
 - 2. the assignment of an APSCW for each ANE/SN Intake Report (IL-402-0709) received, and back-up procedures for assigning a substitute APSCW, who meets the minimum requirements, in the absence of the assigned APSCW;
 - 3. providing services to adults with physical or mental disabilities including a developmental disability, an intellectual disability, a mental illness and non-English speaking, reporters, alleged victims, and clients of the program; and
 - 4. providing those service activities outlined in Chapters 4, 5, 6, 7, 8, 9, 10, and 11 and for which the APS PA has an agreement to perform; such policies and procedures to be in place not later than three months after the contract implementation date.

- E. Personnel records shall be maintained for each employee and shall include at least the following:
 - 1. an employee application or résumé;
 - 2. annual performance evaluation;
 - 3. supervisory reports regarding the employee;
 - 4. documentation of the following items:
 - a. that a copy of that particular employee's job description has been provided to the employee;
 - b. that the employee has received a copy of current written personnel policies for his or her job category at the time of employment and any subsequent revisions;
 - c. that the paid employee has been informed of the salary range for the specific job category at the time of employment and any subsequent revisions;
 - d. that paid employee benefits and grievance procedures have been clearly stated and provided in writing to each employee; and
 - e. documentation of all participation of the employee in IDoA-provided or approved training.
- F. The agency shall be accessible to older adults, adults with disabilities and their families and other organizations providing services to older adults and adults with disabilities in the agency's jurisdiction.
- G. The agency shall carry the types of insurance coverage listed below:
 - 1. workers' compensation as required by state law,
 - 2. unemployment compensation as required by state law, and
 - 3. general liability insurance in the single limit minimum of \$100,000 per occurrence.
- H. The APS PA shall have available medical and legal resources to provide professional advice on individual cases as well as advice on matters pertaining to the overall program. The APS PA may obtain these consultative services through the establishment of a multi-disciplinary consultation team, through letters of agreement, or through direct employment
- I. The APS PA shall have APS staff attend quarterly meetings conducted by the RAA and training sessions as required by the RAA and IDoA.
- J. The APS PA may request technical assistance from the RAA on established standards and procedures and shall seek from the RAA clarifications and interpretations on the standards and procedures. The APS PA may also request from the RAA, or may directly request from IDoA staff, technical assistance in handling specific ANE/SN reports or cases including, but not limited to, legal advice and consultation.

- K. The APS PA shall assure that staff in the agency receiving reports of ANE/SN who have not attended IDoA sponsored training shall receive documented training from either the designated RAA staff person who attended IDoA sponsored training or the APS PA supervisor who has successfully completed IDoA sponsored APS training.
- L. No subcontract, assignments or other arrangement for the transfer of direct provision of service(s) defined in Chapters 4, 5, 6, 7, 8, 9, 10 and 11, or the responsibilities outlined in Chapter 14 are authorized unless approved in writing by the RAA and IDoA.
- M. The APS PA agrees to retain all books, records, electronic records and other documents relevant to the operation of the program for ten full years after final payment on the agreement and all other pending matters are closed, unless transfer is authorized in writing from IDoA. Federal and State auditors and any persons duly authorized by IDoA shall have the right to full access and to examine any of said materials during period or until resolution of all financial matters unless otherwise prohibited by state law and regulations. The case record shall be retained for ten full years from the date of case closure. Following the ten-year period, the case records may be purged. The Agency must ensure that any purged records are shredded, incinerated or if stored electronically, permanently deleted.
- N. The APS PA shall, when producing any public information or education materials on adult protective services, include in the materials IDoA's Adult Protective Service's Hotline at 1-866-800-1409 (Voice) and 1-888- 206-1327 (TTY) and reference to the fact that it is part of IDoA's statewide APS Program. Any written materials for the public on adult protective services shall also include the IDoA nondiscrimination clause.
- O. The APS PA shall not serve as agent, as designated under the Power of Attorney Act, or temporary, limited, or plenary guardian designated under the Probate Act, for any clients in the APS Program.

306: Minimum Staff Requirements for Adult Protective Service Provider Agencies

- A. Pursuant to the terms of their contracts, the APS PAs shall have sufficient staff to perform all duties and responsibilities of the program for which an agreement is in effect.
 - B. The APS supervisor must be involved in guiding and directing ANE/SN cases and share responsibility in the APSCW's decisions and actions. APS supervisor activities shall include:
 1. general supervision of all daily service delivery aspects of the program;
 2. assigning an APSCW to each ANE/SN Intake Report received;
 3. discussing each ANE/SN Intake Report requiring an assessment with the assigned APSCW to develop strategies for initiating the investigation;
 4. discussing assessment results with the APSCW and approving, signing and dating the Client Assessment Form found in the web-based APS CM system;
 5. discussing the initial, substantiated, and each three-month risk assessment and case plan with the APSCW to ensure that appropriate actions are being taken to meet identified problems/needs and closure risk assessments;

6. discussing referrals to law enforcement and the coroner regarding suspicious deaths of eligible adults;
 7. reviewing and approving the expenditure of EIS funds before referral for services;
 8. approving, signing, and dating case closures to ensure that cases are closed according to the requirements specified in this Manual;
 9. ensuring that supervisory consultation on individual cases is documented in Case Recording;
 10. approving case legal action such as:
 - a. providing immediate consultation to the APSCW;
 - b. approving planned legal actions before the caseworker initiates the actions; and
 - c. accompanying the APSCW to court proceedings, if appropriate.
 11. ensuring that each APSCW has an updated and complete copy of the APS S&P Manual and access to the APS CM system.
- C. APS supervisor minimum and continuing qualifications and requirements shall be as follows:
1. Each person employed as a supervisor of an APSCW shall have either:
 - a. a Master's Degree in health, social sciences, social work, health care administration, gerontology, criminal justice, or public administration, and one year experience in health or human services; or
 - b. a RN license, or a B.S.N. or a BA/B.S. in health, social sciences, social work, health care administration, gerontology, or criminal justice, and three years' experience in health or human services, including either one year of supervisory experience or one year of experience in aging, adults with disabilities or domestic violence programs or services.
 2. Each person employed as a supervisor of APSCWs shall successfully complete all of the following in order to conduct APS Program Services:
 - a. IDoA sponsored APSCW certification and on-line forms training to be placed on the Department's temporary registry;
 - b. IDoA sponsored Phase II certification training within six months of the APSCW certification, to be placed on the Department's official registry; and
 - c. IDoA sponsored APS Program Supervisors' certification training as documented in the supervisor's personnel file.
 3. Persons serving in the capacity of supervisor of APSCWs and listed on the APSCW Registry prior to the date the APS Program was implemented in the service area, who have received the training listed in Section 306: C.2.a., are waived from the above cited requirements in Section 306:C.1.

4. Each person employed as a supervisor of APSCWs shall meet the following in-service training requirements: fourteen (14) hours of documented in-service training on abuse of older adults and adults with disabilities, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year.

For partial years of employment, training shall be prorated to one (1) hour for each full month of employment. Documented participation in RAA, state, regional, or national conferences on abuse of older adults and adults with disabilities, rights of older adults and adults with disabilities, self-neglect, and domestic violence subject will qualify as in-service training.

Documented hours would be the time spent in actual attendance at specific sessions. This time should be included in the employee's personnel file. The documented number of hours and name of the conference will suffice.
 5. An APS Program Supervisor must successfully complete, eleven (11) hours of qualifying Recertification training every three years. Completion of training must be documented in the supervisor's personnel file.
- D. An APSCW shall carry out, but may not be limited to, the following activities;
1. assessment of ANE/SN reports;
 2. case work and follow-up of substantiated ANE/SN cases;
 3. reporting suspicious deaths of eligible adults to law enforcement and the coroner or medical examiner;
 4. determining the need for EIS; and
 5. completion of all documentation related to ANE/SN reports and cases.
- E. APSCW minimum and continuing qualifications and requirements shall be as follows:
1. Each person employed as an APSCW shall have either:
 - a. a Master's Degree in health, social services, social work, health care administration, gerontology, criminal justice, public administration; or
 - b. a RN license, or a B.S.N. or a BA or a B.S. in health, social sciences, social work, health care administration, gerontology, or criminal justice, and one year experience in health or human services; or
 - c. a LPN license, with two years' experience in health or human services.
 2. Each person employed as an APSCW shall successfully complete all of the following in order to conduct APS Program Services:
 - a. IDoA sponsored APSCW certification to be placed on the Department's temporary registry; and
 - b. IDoA sponsored Phase II certification training within six months of the APSCW certification, to be placed on the Department's official registry.

3. Each person employed as an APSCW shall meet the following minimum in-service training requirements: twelve (12) hours of documented in-service training on abuse of older adults and adults with disabilities, rights of older adults and adults with disabilities, self-neglect, or domestic violence subjects within a calendar year. For partial years of employment, training shall be prorated to one (1) hour for each full month of employment. Documented participation in RAA, state, regional, or national conferences on abuse of older adults and adults with disabilities, rights of older adults and adults with disabilities, self-neglect or domestic violence subjects will qualify as in-service training. Documented hours would be the time spent in actual attendance at specific sessions. The documented number of hours and name of the conference will suffice.
 4. An APSCW must successfully complete eleven (11) hours of qualifying Recertification training every three years. Completion of training must be documented in the APSCW's personnel file.
- F. Prior to performing the activities listed in Section 306: D., an individual must complete the training listed in 306:E.2.a and be listed on the APSCW Registry.
 - G. IDoA reserves the right to suspend or remove from the Registry any APSCW or supervisor who fails or refuses to perform the duties of an APSCW or supervisor in accordance with this Manual.
 - H. The APS PA must return to IDoA, within 15 days, any identification card which has been returned by a caseworker or supervisor upon the separation of his or her employment from the APSPA.

307: Designation of Adult Protective Service Provider Agencies

- A. The RAA is responsible for designating APS PAs within its planning and service area, with prior approval by IDoA.
- B. The RAA is required to provide information to IDoA concerning the selection of the agency(s) to be designated as APS PAs. In order to meet this requirement, the RAA must establish and follow a process for procuring adult protective service program services. The process may be completed annually or on a multi-year basis, not exceeding a six year period. The RAA shall offer a contract for a one-year period, with the option to extend the contract for a maximum of five additional one-year periods, totaling six years. If the RAA establishes a procurement process on a multi-year basis, the time frame must be set in policy prior to procuring adult protective service program services. In addition, when procuring adult protective service program services, the RAA may not impose, as a prerequisite to funding, the provision of other services administered by the RAA.
- C. An APS PA may be any public or not-for-profit agency. The RAA shall award contracts to successful applicants based primarily upon the evaluation of a written proposal, submitted to the RAA during a competitive procurement process. When the RAA submits an agency for designation as an APS PA, the RAA must assure IDoA that the proposed agency exhibits the program and fiscal capacity to provide adult protective service program services in accordance with the APS Program Standards, Policies and Procedures Manual.

- D. If the RAA submits more than one agency to be designated as an APS PA, each agency must receive a subcontract from the RAA for adult protective service program services, and each agency must serve a unique, specified geographic area within the planning and service area.
- E. IDoA shall provide written notification to the RAA of its approval of each agency proposed by the RAA for APS PA designation. The RAA shall award subcontracts to the APS PA only after receipt of Department approval of the proposed designation(s).

308: Adult Protective Service Provider Agency Designation Rationale

- A. The RAA is required to submit to IDoA, within 30 days of its decision, a summary describing the process used to select the agency(s), including the following:
 - 1. the method used for notification of the availability of adult protective service funding;
 - 2. a listing of the agencies who responded to the notification and those who were sent an application;
 - 3. a listing of the agencies that submitted proposals;
 - 4. the criteria used by the RAA to evaluate the proposals; and
 - 5. the rationale for selecting or rejecting each proposal.
- B. If no agencies respond to the RAA procurement process and the RAA proposes to provide adult protective services directly, the RAA must document what other agencies in the service area could provide this service, what alternative arrangements were considered, and how the RAA determined that it should provide the service directly.
- C. If there is an agency that submits an application and the RAA proposes to directly provide adult protective services, the RAA must establish that it can provide the service substantially more effectively than any other applicant.
- D. If IDoA approves the designation of the AAA as the APS PA, IDoA will function as the RAA for the relevant planning and service area.



CHAPTER 4: INTAKE OF REPORTS

401: Purpose of Chapter 1

402: Agencies Authorized to Receive Reports 1

403: Receipt of Reports. 1

404: Criteria for Categorizing Intake Reports..... 3

405: Determining the Priority Response 4

406: Relaying Reports to the Adult Protective Services Provider Agency 5

407: Priority I Reports Received During Non-Business Hours..... 6

408: Reports Involving CCP, Title III, and Private Paid Staff..... 7

409: Reports Involving APS PA Employee, Board or Advisory Council Member 7

410: Reports Involving RAA Employee, Board or Advisory Council Member 7

411: Reports Involving Department of Human Services Support Services Workers 7

412: Reports Involving Private Pay Caregivers (reserved) 8

CHAPTER 4: INTAKE OF REPORTS

401: Purpose of Chapter

The purpose of this chapter is to provide guidelines to authorized agencies and staff as they receive reports of ANE/SN as it relates to the Illinois Adult Protective Services (APS) Program.

402: Agencies Authorized to Receive Reports

- A. Designated APS Provider Agencies shall have primary responsibility for receiving ANE/SN reports in their service areas.
- B. The following agencies are also authorized to receive ANE/SN reports:
 - 1. the Department's toll free 24-hour Adult Protective Services Hotline;
 - 2. the Department's Senior HelpLine;
 - 3. RAAs; and
 - 4. APS provider agencies
- C. Any staff persons of authorized agencies assigned to receive ANE/SN reports (hereinafter referred to as report takers) must have received training according to Section 305:K of this manual.

403: Receipt of Reports

- A. When a report taker receives a call or visit regarding alleged ANE/SN, the authorized agency will use the information to:
 - 1. record the exact allegation, including the nature, extent, and urgency of the alleged victim's condition;
 - 2. determine whether it meets the criteria established by IDoA to categorize it as an alleged ANE/SN report (see Section 404 of this Manual);
 - 3. determine the priority response (see Section 405 of this Manual); and
 - 4. relay the report to the appropriate APS PA for assessment services. An agency that is not an APS PA shall forward the report to the appropriate APS PA within two hours of the intake.
- B. The report taker shall attempt to secure all of the information requested on the ANE/SN Intake Form, and complete the intake. In addition, the report taker shall attempt to elicit the following information from the reporter:
 - 1. whether the reporter may be contacted by the APSCW for further information and determine how the APSCW can get in contact with the reporter for information. The report taker shall inform the reporter of the APS PA that will be assigned to the ANE/SN report. The report taker shall provide the reporter with contact information for the APS PA;

2. the reasons why the reporter has reasonable cause to believe the older adult or adult with a disability has been abused, neglected, or financially exploited or is neglecting himself or herself;
 3. any knowledge the reporter has regarding current risk of harm to the older adult or adult with a disability;
 4. any knowledge the reporter has about any potential danger to the APS PA staff;
 5. any knowledge the reporter has about the mental and physical condition of the alleged victim and the alleged abuser;
 6. the identity and location of possible witnesses to, or persons with knowledge of, the ANE/SN; and
 7. directions to any rural route, apartment number or other addresses.
- C. The report taker shall be prepared to explain to the reporter, if appropriate, that:
1. the reporter should contact the appropriate law enforcement agency immediately if the alleged victim is in immediate danger and inform the reporter that the report taker may also contact the law enforcement agency;
 2. anonymous reports are accepted;
 3. the reporter's identity is held confidential and, by law, may not be disclosed except by court order or by written consent from the reporter (see Section 1202);
 4. The APS PA has a legal responsibility to assess allegations of ANE/SN of adults with a disability, and adults 60 years of age and older who reside in a domestic living situation; and
 5. the reporter is immune from civil or criminal liability if the report is being made in good faith.
- D. The APS PA shall maintain a record of all incoming calls related to the APS Program.
- E. Based on the priority established as per Section 405, the timeline begins when the APS PA receives the report.
- F. Upon receipt of a report, if the staff person of the receiving agency questions the assigned priority given by the intake agency, the staff of the APS PA shall immediately notify the APSCW supervisor. If the APSCW supervisor agrees that a different priority should have been assigned, it will be the APSCW supervisor's responsibility to immediately notify the intake agency's supervisor to propose a reassignment of priority. If the intake agency's supervisor agrees to change the priority level, the APSPA will handle the assessment with in the revised priority timeframes.

However, if the intake agency's supervisor does not agree to change the priority assignment, the APS PA must respond within the timeframes of the assigned priority. In this case, if the APSCW supervisor believes the provider agency has justification to appeal the priority assigned to the report, the agency may appeal to IDoA's Springfield Office, Office of Adult Protective Service, which will in turn either deny the appeal or

approve the reassignment of priority. Any changes to the assigned priority shall be documented by the receiving agency in the APS CM system.

404: Criteria for Categorizing ANE Reports

- A. The following criteria must be met in order to be categorized as an ANE/SN report:
 - 1. there must be an alleged victim who is 60 years of age or older or an adult aged 18-59 with a disability;
 - 2. an allegation or allegations must be made, which if true, would constitute ANE/SN;
 - 3. the allegations must have occurred within the past 12 months, or, if the allegations occurred prior to twelve months previous, the effects of the allegations must continue to adversely affect the alleged victim;
 - 4. the alleged victim must reside in a domestic setting at the time of the report; and
 - 5. the alleged ANE must have been caused by an identifiable person other than the alleged victim who has continued access to the alleged victim.
- B. When a call is received from a reporter who has reason to believe that the death of an older adult or adult with a disability was the result of abuse or neglect, the report taker shall promptly report the matter to the APS PA. The APS PA shall immediately report the matter to law enforcement and the coroner or medical examiner.
 - 1. The APS PA shall immediately inform law enforcement and the coroner or medical examiner about the reported death. The APS PA shall document the reasons for the referral in the APS CM System and on the Suspicious Death Reporting Form Part I, along with the date and time of the referral, the agency to which the referral was made, and the person or persons at the agency to whom the APSCW spoke.
 - 2. Between 30 and 45 days after making a report to law enforcement and the coroner or medical examiner, the APS PA shall again contact law enforcement and the coroner or medical examiner to determine if any further action was taken. The APS PA shall document in the APS CM System and on the Suspicious Death Reporting Form Part II any further activity relative to the case.
- C. ANE does not include cases of crimes by strangers such as telemarketing fraud, consumer fraud, internet fraud, home repair, muggings, burglaries and landlord tenant complaints.
- D. If the reporter believes the alleged victim is 60 years of age or older or an adult aged 18-59 with a disability but is unable to clearly establish that, the report taker must make the assumption that the report is being made in "good faith" and take the report if the other criteria are met.
- E. If the criteria listed in 404:A are met, the information constitutes a report of ANE/SN and an ANE/SN Intake Form shall be completed.
- F. When the report taker concludes that the allegations do not meet the criteria of an ANE/SN report, the report taker shall inform the caller of this decision. If other services are requested or needed, the report taker shall refer the reporter to the appropriate agency for assistance.

405: Determining the Priority Response

- A. The APS Program has established categories of priorities for the provision of assessment services. Based on these priorities and the possibility of harm to the alleged victim, time frames for initiating the assessment and conducting a face-to-face interview with the alleged victim have been established.
- B. The agency receiving the report of ANE/SN shall assign a priority to the report according to the following criteria:
 1. **PRIORITY ONE:** Reports of abuse, neglect or self-neglect where the alleged victim is reported to be in imminent danger of death or serious physical harm. Priority one intake reports include, but are not limited to reports in which the following circumstances have been alleged by the reporter:
 - a. physical abuse or self-neglect, causing injuries such as fractures, head injuries, internal injuries, or burns when the reported injury is of a serious nature (e.g., such as to require medical treatment or death may result);
 - b. verbal threats of serious injury or death;
 - c. lack of basic physical necessities severe enough to result in freezing, serious heat stress, or starvation;
 - d. there is a need for immediate medical attention to treat conditions that could result in irreversible physical damage such as unconsciousness, acute pain, and severe respiratory distress;
 - e. alleged sexual abuse that has occurred within the last 72 hours;
 - f. threats of sexual abuse where the alleged abuser has access to the alleged victim; and
 - g. punishment by the alleged abuser, such as being locked in a closet.
 2. **PRIORITY TWO:** Reports that an alleged victim is being abused, neglected financially exploited or is neglecting himself or herself and the report taker has reason to believe that the health and safety consequences to the alleged victim are less serious than priority one reports. Priority two intake reports include, but are not limited to, reports in which the following circumstances have been alleged by the reporter:
 - a. physical abuse or self-neglect involving bruises or scratches;
 - b. verbal threats of physical harm;
 - c. inadequate attention to physical needs such as insufficient food, shelter or medicine;
 - d. unreasonable confinement; and
 - e. the probability of a rapid or complete liquidation and depletion of an alleged victim's income and assets.
 3. **PRIORITY THREE:** Reports that an alleged victim is being emotionally abused or the alleged victim's financial resources are being misused or withheld and the report taker has reason to believe that there is no immediate or serious threat of harm to the alleged victim. **SN Reports will not be assigned this priority.**

- C. If a report includes allegations or conditions of more than one priority, the agency who received the report will assign the report the higher priority.
- D. The priority assigned to the report will determine the timeframe for requiring an APSCW to attempt a face-to-face visit with the alleged victim. The timeframe for response is based on the actual date and time the report is made. The following time frames are required for each priority:
 - 1. Priority I – within 24 hours of the intake of the report;
 - 2. Priority II – within 72 hours of the intake of the report;
 - 3. Priority III – within 7 calendar days (with day 1 being the intake day) of the intake of the report.

406: Relaying Reports to the Adult Protective Service Provider Agency

- A. When a report is received by IDoA's Senior HelpLine, After Hours Provider, or a RAA, the following steps shall be taken:
 - 1. During regular office hours, Senior HelpLine staff shall:
 - a. Login to the APS CM System to complete and submit the new intake and
 - b. make arrangements to discuss the report with either the APSCW assigned to assess the report or another designated staff person. "Designated staff person" would include trained adult protective service intake workers and other certified caseworkers/supervisors.
 - 2. After regular working hours, Senior HelpLine staff, or After-Hours Provider staff, shall login to the APS CM System to complete and submit the new intake. The Senior HelpLine or After-Hours Provider staff will:
 - a. make arrangements to discuss the report with either the APSCW assigned to assess the report or another designated staff person.
- B. When a Priority I report is received requiring immediate action, the Senior HelpLine, or After-Hours Provider, shall telephone the APS PA or the designated "on call" staff immediately or, if the APS PA or staff cannot be located, the local law enforcement unit regardless of time or day. The ANE/SN Intake shall be relayed to the APS PA following the procedures listed under Section A.2 above.
- C. When a report is received about ANE/SN that occurred outside the receiving agency's service area, the receiving agency is to follow the steps in Section 406:A of this Manual to inform the appropriate agency of the report.

407: Priority I Reports Received During Non-Business Hours

- A. When a report is received by IDoA's Senior HelpLine or the After-Hours Intake Line, during non-business hours, the following steps shall be taken:
1. IDoA Senior HelpLine staff, or the After-Hours Intake Line staff, shall contact the appropriate APS PA at the designated on-call telephone number as soon as possible, but not to exceed two hours. The report taker shall:
 - a. inform the APS PA that a Priority I intake was received and discuss the report with the staff assigned to accept the after-hours report. Priority II and Priority III intakes received during non-business hours will be transmitted in accordance with Section 406;
 - b. verbally relay intake information to the on call-staff. IDoA Senior HelpLine staff or the After-Hours Intake Line will login to the APS CM System to complete and submit the new Intake; and
 - c. call local law enforcement, as necessary, regardless of time or day, if after one hour the IDoA Senior HelpLine or After-Hours Intake Line is not able to establish personal contact with the APS PA.
 2. APS PAs have a maximum of two hours to call back the Senior HelpLine or After-Hours Intake Line after being notified that a Priority I intake has been received. After receiving the intake information, the APS PA shall:
 - a. conduct a staff conference in person or by telephone, which includes the on-call caseworker and his/her supervisor to discuss the intake report and strategies for initiating the investigation. (If time does not permit such a staffing, or the supervisor is the on-call staff the conference is not required.);
 - b. contact the reporter, if known, to gather additional information and to assure the report is being investigated. The first face-to-face shall not be delayed if the reporter is unavailable;
 - c. attempt a face-to-face visit with the alleged victim within 24 hours of the intake. The only exception to the Priority I response timeframe is if the alleged victim has been ADMITTED into the hospital. If the exception is met, the timeframe is extended 24 hours; (Section 503:B.1) and
 - d. document all activities that were initiated during non- business hours related to the Priority I report as early as possible the following work day.
- B. All timeframes shall begin from the date and time recorded on the ANE/SN Intake by the IDoA Senior HelpLine or After-Hours Intake Line staff.
- C. APS PAs will be reimbursed at an enhanced assessment rate when conducting an initial face-to-face assessment for Priority I reports during non-business hours.
- D. If an APS PA receives a report of alleged ANE/SN and the alleged victim lives in the APS PA's service area but is hospitalized outside the APS PA's service area, the provider agency shall follow procedures listed in Section 503:C. The APS PA shall relay the intake information by telephone during non-business hours.

- E. If an APS PA receives a report of alleged ANE/SN, and the alleged victim lives in the APS PA's service area, but is in a hospital out-of-state, the APS PA shall follow procedures listed in Section 503:D.

408: Reports Involving Community Care Program (CCP) or Title III Staff:

When a report is received naming a CCP or Title III direct service worker as the alleged abuser, the APS PA shall open an adult protective service case and investigate all allegations of ANE by an in-home worker, Adult Day Care Center staff, or other direct service staff.

409: Reports Involving an Adult Protective Service Provider Agency Employee Board Member, or Advisory Council Member:

When a report is received naming an APS PA employee, Board of Directors member, or Advisory Council member as the alleged abuser, the APS PA shall notify the RAA and IDoA within 24 hours of the report. IDoA, in consultation with the RAA, shall determine how the report will be investigated. IDoA may request another APS PA to conduct the assessment, and if so, shall reimburse it through procedures established by IDoA.

410: Reports Involving Regional Administrative Agency Employees, Board Members or Advisory Council Members

When a report is received naming a RAA employee, Board of Directors member, or Advisory Council member as the alleged abuser, and the APS PA is aware of the alleged abuser's position with the RAA, the APS PA shall notify IDoA of the report within 24 hours. IDoA shall determine how the report will be investigated, which may include requesting an APS PA from another Planning and Service Area to conduct the assessment, and if so, shall reimburse it through procedures established by IDoA.

411: Reports Involving Department of Human Services (DHS) Support Services Workers

When a report is received naming a Department of Human Services (DHS) support services worker as the alleged abuser, the APS PA shall open an adult protective services case and investigate all allegations of ANE. Support services include homemakers, individual providers, and personal support workers.

- A. APS PAs shall utilize the Notice of Investigation Form to immediately notify DHS, Division of Rehabilitation Services (DRS) or Division of Developmental Disabilities (DDD) when a report is received of alleged abuse, neglect or financial exploitation of a current customer receiving support services through DHS.
- B. APS PAs shall utilize the Report of Substantiation Decision to notify (DHS) (DRS) or (DDD) when abuse, neglect or financial exploitation of a current customer receiving support services through DHS is substantiated, unable to substantiate or no indication.

The APS PA must, within two (2) working days of the substantiation decision, submit this form, along with the Client Assessment for all cases involving a DHS employee to DRS or DDD.

412: Reports Involving Private Pay Caregivers

(RESERVED)



**CHAPTER 5:
ASSESSMENT**

CHAPTER 5: ASSESSMENT

501: Purpose of Chapter 1

502: Types of Reports 1

503: Timeframes for Responding to ANE/SN Reports..... 2

504: Preparation for the Assessment 5

505: Minimum Assessment Standards 6

506: Failure to Gain Entry 9

507: Immediate Interventions..... 9

508: Referring to Law Enforcement, Coroner, Medical Examiner..... 10

509: Classification of the ANE/SN Assessment 12

510: Closing Status of the Assessment/Final Investigative Report..... 15

511: Reporting Cases Where the Abuser Works for the Aging Network 16

512: Notification of Cases Involving Clients Receiving Home Care Services..... 16

CHAPTER 5: ASSESSMENT

501: Purpose of Chapter

The purpose of this chapter is to provide APS PAs with minimum guidelines for assessing reports of ANE. The assessment process is designed to collect sufficient information to conclude whether a report is “substantiated,” “unsubstantiated,” or “unable to substantiate” and to assess the immediate and long-term risk to the alleged victim of future ANE.

502: Types of Reports

- A. Upon receiving an intake report directly or from the Senior HelpLine, After-Hours 800 Line, or RAA, the APS PA shall review its records to determine the type of report and document the type in the APS CM System. Refer to Appendix D – Decision Tree for Categorizing Intake Reports. A report may be:
 1. an Initial Intake Report (IIR); or
 2. a Subsequent Intake Report (SIR); or
 3. a Related Information Report (RIR).
- B. **INITIAL INTAKE REPORT.** A report is determined to be an IIR if it is the first report involving an older adult or adult with a disability who is not known to the APS PA through a report of ANE. An IIR requires a complete, separate assessment by the APS PA.
- C. **SUBSEQUENT INTAKE REPORT.** A SIR is a report of a new set of circumstances of ANE or new alleged abusers involving an older adult or adult with a disability known to the APS PA through a previously classified report of ANE. A SIR requires a complete, separate investigation by the APS PA.
- D. **RELATED INFORMATION REPORT.**
 1. A RIR is based on one or more of the following:
 - a. the same reporter of a pending or previous intake report is calling an intake agency to relate additional information about the original report; or
 - b. a different reporter is calling to report the same incident or set of circumstances that was in the original report, of a pending report, or of a previous intake report; or
 - c. the same or a different reporter of a pending intake report (i.e., assessment has not been classified) is calling to report new or additional allegations or additional alleged abusers.
 2. If the intake worker knows a report meets one of the criteria for a RIR as listed above in Section D:1, it is not necessary to complete an APS Intake. The information may be documented on the Case Recording Form (IL-402-0712) in lieu of the Intake.
 3. If the intake worker does not know if the report meets one of the criteria of Section D:1, the Intake should be completed. Upon a determination that the case does meet the above criteria of Section D:1, it shall be classified as a RIR.

4. A RIR does not require a complete, separate investigation by the APS PA; however, if the circumstances in Section D.1c apply based on the information obtained through the RIR, the APS PA shall make a face-to-face visit with the alleged victim. The RIR is to be included in the case record.
5. New or additional allegations or additional alleged abusers may not be added to a previously classified report via a RIR; instead, a SIR is to be completed.

503: Timeframes for Responding to ANE Reports

- A. An APSCW must make a documented good faith attempt (as described in Section 1303.C) to conduct a face-to-face visit with the alleged victim within the timeframe specified by the priority assigned to the report by the intake agency for all IIRs and SIRs, unless the exceptions listed in Section 503.C apply. The following are the required time frames for each priority:
 1. Priority I – within 24 hours of the receipt of the report;
 2. Priority II – within 72 hours of the receipt of the report;
 3. Priority III – within 7 calendar days (with day 1 being the intake day) of the receipt of the report.
- B. The following exceptions shall apply and extend, as necessary, the timeframes specified by the priority:
 1. The alleged victim of a Priority I report has been admitted to a hospital. The required response time for a face-to-face visit is then extended an additional 24 hours.
 2. The alleged victim of a Priority II or III report, where the APSCW is likely to be in danger, and a police escort is needed, or when a translator or another appropriate person is called in to investigate or escort the worker. Another appropriate person may be, but is not limited to, a mental health professional, health professional, disability care worker or significant relative. The required response time for a face-to-face visit is then extended until the police officer or other person is available, not to exceed three days beyond the required response time established for the priority
 3. The alleged victim does not wish a face-to-face visit within the timeframe.
- C. The APS PA shall respond to out of service area cases in the following manner under the specified circumstances:
 1. If the APS PA receives a report of alleged ANE and the alleged victim lives in the APS PA's service area but is hospitalized outside the APS PA's service area, the provider agency must, on the same day as the report:
 - a. make documented good faith efforts to confirm that the alleged victim is in a specific hospital, and
 - b. either choose to initiate the assessment and visit the alleged victim in the hospital whereby all timeframes and requirements of this manual shall apply; or

- c. inform the APS PA serving the area where the hospital is located about the report, providing all relevant facts about the abuse, the alleged victim's situation, the priority, etc. The supervisor of the agency that received the report shall:
 1. telephone the supervisor in the appropriate agency to discuss the report;
 2. transfer the Intake within the APS CM system;
 3. if the supervisor in either agency is not available, an APSCW shall transmit and/or receive the information.
2. If an APS PA receives a report that an alleged victim of ANE is in a hospital in its service area but lives in a different APS PA service area, the APS PA in the service area where the hospital is located shall take the report of suspected ANE and follow the steps outlined below:
 - a. Upon receipt of the report, the APS PA serving the area where the hospital is located shall initiate a face-to-face visit with the alleged victim in compliance with the priority assigned to the report.
 - b. The supervisor of the agency shall telephone the supervisor of the agency in the service area where the alleged victim lives to inform him or her of the report, informing him or her all relevant facts about the alleged victim's situation, the priority, etc.

The APS PA shall try to obtain the alleged victim's Social Security number. If the alleged victim's Social Security number is not available, the case number shall be a temporary number assigned by the APS PA serving the area where the alleged victim lives.

- c. If the alleged victim is discharged from the hospital back to his or her home, and the alleged victim consents, the supervisor in the area the hospital is located shall call the supervisor at the APS PA in the alleged victim's home area, to relay all relevant information, adhering to the following timelines:
 - within one (1) work day for Priority I cases; and
 - within five (5) work days for all other cases.
- d. The supervisor in the area the hospital is located shall transfer the client's case within the APS CM System.

If during the assessment period it is necessary to close the case while the alleged victim is still in the hospital because the alleged victim refuses the assessment, or because the alleged victim dies, the supervisor at the APS PA in the area where the hospital is located shall discuss the closure with the supervisor at the APS PA in the alleged victim's home area.

If the APS PA has reason to believe that the death of the alleged victim may be the result of abuse or neglect, the APS PA shall immediately report the death to the law enforcement agency with jurisdiction where the alleged crime occurred and the coroner or medical examiner where the death occurred. The APS PA shall

document the reasons for the referral in Case Recording and on the Suspicious Death Reporting Form Part I, along with the date and time of the referral, the agency to which the referral was made, and the person or persons at the agency to whom the APSCW spoke.

Between 30 and 45 days after making a report to law enforcement and the coroner or medical examiner, the APS PA shall again contact law enforcement and the coroner or medical examiner to determine if any further action was taken. The APS PA shall document in Case Recording and on the Suspicious Death Reporting Form Part II any further activity relative to the case.

If the alleged victim is discharged from the hospital to a long-term care facility for permanent placement and is no longer at risk, the APS PA shall inform the alleged victim of the Long-Term Care Ombudsman Program and shall close the case, again notifying the APS PA in the alleged victim's home area.

If the alleged victim is discharged back home during the 30-day assessment period, the APS PA in the alleged victim's home area shall complete the investigation. The APS PA shall consider the information obtained by the APS PA in the area where the hospital is located. The APS PA shall complete the required records, and shall make the substantiation decision. If the alleged victim remains in the hospital for more than 30 days, the APS PA in the service area where the hospital is located shall complete the investigation, shall complete the required records and shall make the substantiation decision.

3. All confidentiality and immunity provisions under the Adult Protective Services Act and this Manual shall apply to the APS PA that works with the alleged victim in the hospital as well as to the APS PA in the alleged victim's home area.

D. Responding to Out-of-State Cases

If an APS PA receives a report of alleged ANE, and the alleged victim lives in the APS PA's service area, but is in a hospital out-of-state, the APS PA may choose to initiate the investigation and visit the alleged victim. All relevant timeframes and requirements of this Manual shall apply. If the APS PA chooses not to initiate the investigation, it must comply with the following procedures:

1. The APS PA must make several good faith attempts to confirm and document that the alleged victim is in a specific hospital.
2. The APS PA must call a report of suspected ANE in to the other state's adult protective service system (Telephone numbers are available through the IDoA Senior HelpLine). The call can also be referred to the IDoA Senior HelpLine for forwarding to the other state. (No alleged victim records shall be transferred.)
3. The APS PA must attempt to determine when the alleged victim will be discharged back home. This may be done through contacting the hospital social worker, the reporter, other collaterals, or by telephoning the alleged victim's home periodically. In Priority I cases, these steps must be taken daily or until a satisfactory arrangement regarding notification of the discharge is made.

4. The APS PA must initiate a face-to-face visit with the alleged victim within the established priority timeframes starting from the date the alleged victim returns home.
5. If the alleged victim is discharged to a Veteran's Nursing Home operated by the State, the APS PA may refer the case to the Long- Term Care Ombudsman Program.

504: Preparation for the Assessment

A. The APS PA shall:

1. Assign an APSCW to conduct the assessment of Initial and Subsequent Intake Reports relative to the ANE Intake Report received, according to procedures established by the APS PA. The APSCW shall discuss the ANE/SN Intake Report with the report taker.
2. Check all prior reports and other available information known to the APS PA.
3. If the alleged abuser is a homemaker or personal assistant paid through the DHS, DRS, Home Services Program, the APSCW shall notify the DRS HSP Central Support.
4. Collect information from collateral sources that are listed on the ANE Intake when appropriate, and if time permits.

B. The assigned APSCW shall:

1. Contact the reporter, if known, to gather additional information and to assure the reporter that the report is being investigated. The APSCW shall make at least one good faith attempt to contact the reporter before the first face-to-face visit to the alleged victim. The first face-to-face visit shall not be delayed if the reporter is unavailable.
2. Refrain from contacting the reporter prior to the first face-to-face, under the following circumstances:
 - a. when there is reason to believe that contacting the reporter is unwise or unsafe for the alleged victim, the APSCW shall note those concerns in the case file; or
 - b. when an agency or reporter, i.e., a law enforcement agency, has indicated that such contacts are unnecessary or unwelcome. The APS PA shall document this information in the case file.
3. Conduct a staff conference, in person or over the telephone, which shall include the APSCW and his/her supervisor to discuss the Intake and strategies for initiating the investigation. If the report is a Priority I and time does not permit such a staffing, or the supervisor is also the caseworker, the staff conference is not required. If the

- supervisor is the caseworker, he or she shall make reasonable attempts to conduct a conference. Areas to discuss and review include, but are not limited to:
- a. the information obtained by completing the activities listed under Sections 504.B, C, and D;
 - b. available resources when the Intake indicates a need for services, whether emergency or non-emergency; or
 - c. the possible risk to the APSCW or the alleged victim.
- C. Under the following circumstances, the APS PA shall request aid from law enforcement or assign more than one APSCW to conduct the initial face- to-face visit:
1. the Intake indicates a serious and immediate threat to the alleged victim; or
 2. the Intake indicates that the situation will pose a serious and immediate threat to the APSCW; or
 3. the Intake indicates that law enforcement involvement is necessary to preserve the peace.
- D. Additional information gained from talking with the reporter, report taker, and collaterals must be documented in Case Recording .
- E. For any intake where Priority I allegations have been made against a worker known to be paid through the Aging Network or through DHS Division of Rehabilitation Services' (DRS) Home Services Program (HSP), the APS PA must, within one business day of receiving the intake, notify the Office of Adult Protective Services. If the alleged abuser is paid through the Community Care Program (CCP), the Office of Adult Protective Services shall notify the Office of Community Care Services. If the worker is paid through the Older Americans Act, the Office of Adult Protective Services shall notify the appropriate AAA, who shall inform the employing agency that the worker may not provide direct services funded by Title III pending the outcome of the investigation. If the alleged abuser is paid through the DRS' HSP, the Office of Adult Protective Services shall notify the DRS' HSP Central Support.

505: Minimum Assessment Standards

- A. Initiation of the Assessment
1. The investigation will be initiated by establishing face-to-face contact with the alleged victim within the timeframes established in Section 503. A "good faith attempt" to initiate a face-to-face interview with the alleged victim that includes a visit to the residence of the alleged victim is generally recommended. However, the following situations may prevent an APSCW from visiting the alleged victim's residence:
 - a. the alleged victim is hospitalized and enters a facility upon release;
 - b. the alleged victim resides with the alleged abuser and a visit to residence may pose a danger to the alleged victim; or
 - c. the alleged victim did not give consent for the APSCW to visit his or her residence.

The reason for not visiting the alleged victim's residence shall be documented in the case record.

2. The following circumstances constitute a "good faith attempt" to initiate a face-to-face visit with the alleged victim within the established timeframe:
 - a. the APSCW learns, upon proceeding to the location given for the alleged victim on the ANE Intake, that the alleged victim is not there, the address does not exist, the alleged victim cannot be located, the alleged victim does not reside at the address, no one is at the location, or the alleged victim is unable to communicate due to a medical condition;
 - b. the APSCW, upon proceeding to the location given for the alleged victim on the ANE Intake, is denied access to see or speak to the alleged victim (for the steps to follow under circumstances where the APSCW is refused entry, refer to Section 506); or
 - c. the APSCW learns that the alleged victim is deceased. If the APSCW learns that the alleged victim is deceased and it is suspected that the death of the alleged victim may be the result of the alleged ANE, the APSCW shall immediately report the matter to both the appropriate law enforcement agency and the coroner or medical examiner (See 503.C.2.e).
3. If the circumstances under a) or b) exist, the APSCW must make diligent attempts to make a face-to-face contact with the alleged victim in a timely manner.
4. The general policy of the program is that the initial face-to-face visit with the alleged victim should be unannounced. In those cases, when an interview must be scheduled, the length of time between the call to set the interview and the interview itself should, if possible, be short enough to preclude the alleged abuser from concealing the evidence.
5. If the alleged victim enters a licensed facility during the assessment period, the APS PA shall complete the assessment. If the case is substantiated with consent to services, the APS PA may choose to keep the case open. During the casework period the APS PA must document the reason for keeping the case open, and must make the required face-to-face visits with the victim. The case should be closed at low risk level.

B. Interview the Alleged Abuser

1. The caseworker shall initiate, contingent upon alleged victim consent, a face-to-face or telephone contact with the alleged abuser within the 30-day assessment period. If a face-to-face or telephone contact is not completed with the alleged abuser, the APSCW must document the decision process used to determine why a face-to-face or telephone contact with the alleged abuser was not made.
2. In all cases in which the alleged abuser is paid through the Aging Network or the Department of Human Services DRS' HSP, the APSCW must interview the worker about the allegations and thoroughly document their responses. The caseworker shall inform the alleged victim that the worker will be interviewed and a thorough assessment will be conducted.

The caseworker shall make and document at least two good faith attempts to reach the worker for the interview. When the APSCW needs the paid worker's employer to provide the paid worker's address and telephone number in order to be able to conduct the interview, and is unable to obtain the information from the worker's employing agency, the caseworker's supervisor shall contact the Office of Adult Protective Services which will request assistance from the employing agency's funder.

3. In making any contact with the alleged abuser, the APSCW shall ensure that the alleged victim's rights to privacy and confidentiality are protected and the reporter's identity is protected, pursuant to Chapter 12, Section 1202.

C. Interview Collateral Contacts or Witnesses

1. Prior to contacting the alleged victim for a face-to-face interview, the APSCW may make collateral contacts with persons named or indicated by the reporter as having relevant information. This may include information about how to best approach the alleged victim or alleged abuser, as well as their personalities, behavioral patterns, and interdependencies, and information important for the safety of the APSCW. Collateral contacts should be made prior to obtaining the victim's consent only when information obtained during the intake indicates that it would be in the victim's best interest or that there is some possibility of danger to the caseworker. Collateral contacts may be able to help the worker determine possible dangers. The collateral contacts should be no more than necessary to determine the background information prior to making a face-to-face interview.
2. When making collateral contacts, the APSCW shall ensure that the alleged victim's rights to privacy and confidentiality are protected and the reporter's identity is protected. (see Chapter 12)
3. If, during the case, the APSCW learns that the alleged victim has a guardian who is not the alleged abuser, the APSCW should attempt to obtain a written release of information signed by the guardian. If, under those circumstances, the collaterals have information about the financial matters of the alleged victim, the consent should come from the guardian of the estate. Consent to speak to all other collateral contacts should come from the guardian of the person. If the alleged abuser is the guardian, refer to Section 1203.

- D. If the initial face-to-face visit reveals the alleged victim does not meet the eligibility criteria of the program, the APSCW will terminate the assessment, document in Case Recording and classify the report as "no jurisdiction." The APSCW shall refer the alleged victim to the appropriate agency for assistance if needed.

- E. The APSCW shall record in Client Status and Alleged Abuser(s) all information that is relevant to the case, which shall include, at a minimum, client Social Security Number and information on the alleged victim and the alleged abuser.

506: Failure to Gain Entry

- A. The Adult Protective Services Act does not grant an APSCW any special authority to enter a residence without the occupant's permission absent a court order. Should that permission be denied by an occupant of the residence, the APSCW should not attempt to gain entry by force.
- B. When refused entry to the residence, the APSCW may wish to gain the cooperation of the reporter to accompany the APSCW in seeking to gain access to the reported victim of ANE.
- C. If the report is a Priority I, the APSCW shall immediately seek police assistance in accessing the alleged victim.
- D. If the report is a Priority II or III, the APSCW will make one to four additional efforts in a seven (7) day period, to gain access to the residence prior to seeking police assistance. When police assistance is needed, the required response time for a face-to-face visit can be extended up to an additional three (3) days.
- E. A report may not be classified as "Unable to Substantiate – Unable to Access" unless the APS PA has sought the assistance of law enforcement to gain entry.
- F. The APS PA shall seek a civil court order to allow access if all attempts to gain access to the alleged victim have failed because:
 - 1. a caregiver or third party has interfered with the assessment or service plan, or
 - 2. the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future ANE.

IDoA's Legal Services Developer shall be available to provide technical assistance. This section does not apply when an apparently competent alleged victim refuses access except under Section 506 F.2. above.

507: Immediate Interventions

- A. Immediate interventions are services or resources arranged by the APSCW to resolve the alleged victim's immediate problems prior to classification of the report and assigning the closing status.
- B. If the alleged victim appears to be at risk of serious injury or death and it reasonably appears that he or she lacks the capacity to consent to necessary services, the APS PA shall provide services to the alleged victim without the alleged victim's consent to ameliorate the risk of harm. The agency is to follow procedures outlined in Appendix C. The alleged victim's consent or the consent of the alleged victim's guardian is required for all other services, except as provided in Section 508.

- C. Immediate interventions may include, but not be limited to:
 - 1. Early Intervention Services (EIS) as described in Chapter 8;
 - 2. medical care;
 - 3. law enforcement intervention;
 - 4. Orders of Protection; and
 - 5. any other service or resource arranged by the APSCW to meet the needs of the alleged victim.
- D. During the case, the APSCW may learn that the alleged victim has been identified as meeting the CCP's spousal impoverishment requirements. If the APSCW believes that submitting the CCP application would result in the victim being at risk of ANE, the following steps should be taken:
 - 1. the APSCW shall contact the victim's CCP care coordinator requesting the waiver; and
 - 2. the APSCW shall document the request in Case Recording.

508: Referring to Law Enforcement, the Coroner or Medical Examiner

- A. The caseworker shall immediately report the following circumstances to the appropriate law enforcement agency:
 - 1. death which may have been the result of abuse or neglect;
 - 2. brain damage;
 - 3. loss or substantial impairment of a bodily function or organ;
 - 4. bone fracture;
 - 5. extensive burns;
 - 6. substantial disfigurement;
 - 7. sexual assault or aggravated sexual abuse;
 - 8. serious bodily injury as the result of a pattern of repetitive violent actions;
 - 9. extensive swelling or bruising, depending on such factors as the older adult or adult with a disability's physical condition, circumstances under which the injury occurred, and the number and location of bruises;
 - 10. serious symptoms the APSCW has reason to believe resulted from the use of medications or chemical restraints, or the withholding of life sustaining medications (i.e., insulin);
 - 11. evidence of severe neglect, such as unreasonable decubiti; or
 - 12. any other injuries which place the older adult or adult with a disability in imminent danger of death or serious bodily harm.

- C. The caseworker must complete the following steps when referring a case to law enforcement:
1. Consult with the APS program supervisor, and document the discussion and the supervisor's approval in the Case Recording Form.
 2. Inform the alleged victim that he or she appears to have been the victim of a crime(s), and that the APSCW must report the alleged crime(s) to law enforcement. Attempt to secure a competent client's consent whenever possible.
 3. Document the reasons for the referral in Case Recording and the Law Enforcement Tracking Instrument, along with the date and time of the referral, the agency to which the referral was made, and the person or persons at the agency to whom the APSCW spoke.
 4. Provide the law enforcement agency with case records in the investigation, upon request, with exception of the reporter's identity.
 5. Between 30 and 45 days after making a report to law enforcement for which a case has been referred for investigation, the APS PA shall again contact the law enforcement agency to determine if any further action was taken. The APS PA shall document in Case Recording and on Law Enforcement Tracking Instrument Part II any further activity relative to the criminal case.
 6. In cases where the victim is not at imminent risk of serious injury or death, and where the APSCW and supervisor are unsure of whether the case should be referred to law enforcement, the case should be referred to the agency's M-Team for advice. If advice is needed before a regularly scheduled meeting of the M-Team, individual M-Team members, the RAA, or IDoA may be contacted.
- C. In less serious cases that do not immediately threaten serious harm to the victim, and when the alleged victim is competent, he or she has the right to decide whether he or she wishes to report the crime(s) to the authorities. The APSCW may inform the alleged victim that the behavior in question may be criminal in nature and that the alleged victim has the right to refer it to the police or to the State's Attorney. Such efforts must be noted in Case Recording. In addition to the MMSE and other assessment tools, the APSCW may use the following criteria to determine if the victim is able to understand the situation:
1. Does the victim understand the facts of the situation?
 2. Is the victim making her or his own choices free of fear or intimidation?
 3. Does the victim understand the risks and benefits of the decision?
- D. In addition to reporting to Law Enforcement, where an APS PA has reason to believe that the death of an older adult or adult with a disability may be a result of abuse or neglect, the APS PA shall immediately report the matter to the coroner or medical examiner.
1. The APS PA shall document the reasons for the referral in Case Recording and on the Suspicious Death Reporting Form Part I, along with the date and time of the referral, the agency to which the referral was made, and the person or persons at the agency to whom the APSCW spoke.

2. Between 30 and 45 days after making a report to the coroner or medical examiner, the APS PA shall again contact the coroner or medical examiner to determine if any further action was taken. The APS PA shall document Case Recording and on the Suspicious Death Reporting Form Part II any further activity relative to the case.
- E. If an APSCW or supervisor is the victim of a crime (i.e., assault or battery), it is up to that person to decide whether to report the crime to the authorities. In cases where the APS PA's insurance requires a report to law enforcement, the agency may require the worker to report the crime as a condition of reimbursement for injuries.
- F. An APSCW or supervisor who suspects child abuse shall make a report of the child abuse or neglect to the Department of Children and Family Services Child Abuse Hotline: 1-800-252-2873; 1-800-358-5117 (TTY).

509: Classification of the ANE Assessment

- A. The ANE assessment must be completed and the report classified within 30 days from the date of the intake. See 509 A.10 regarding a request for a 15-day extension to the assessment and classification.

The classification shall include:

1. Determining whether ANE occurred as documented in the Client Assessment Form, Case Recording and other supporting documentation.
2. Determining the level of risk to the alleged victim for all reports received, regardless of whether the report is ultimately determined to be substantiated, by completing the ANE Overall Initial Risk Assessment.
 - a. The Overall Initial Risk Assessment should reflect the alleged victim's condition and circumstances as the APSCW first found them, before ANE interventions occurred. The overall level of risk associated with the alleged victim's condition and circumstances should determine if the alleged victim is at risk in his or her environment.
 - b. Completing the Overall Initial Risk Assessment Form is not required if the APSCW is investigating a SIR on an open case, if the alleged victim declines the investigation, if the APSCW is not able to make a face-to-face contact with the victim, if the victim is deceased, or if the APSCW is unable to locate the alleged victim.
3. Conducting a comprehensive assessment of alleged victim's total situation. Depending on the alleged victim's situation (i.e., the case notes indicate that the alleged victim's competency is questioned or the alleged victim appears depressed), such an assessment should include an MMSE, and may include a Yesavage Geriatric Depression Scale, and other similar assessment tools.

4. When an alleged victim reasonably appears to lack decisional capacity to consent to an assessment or to needed services, the APSCW shall notify the Illinois Guardianship and Advocacy Commission, the Office of State Guardian, or any other appropriate agency, of the potential need for appointment of a temporary guardian for the purpose of consenting to an assessment and services. Evidence of the alleged victim's lack of decisional capacity shall be documented in the case file.
5. An alleged victim who appears to lack the capacity to consent to an assessment must be assessed as either (i) unable to receive and evaluate information related to the assessment or services or (ii) is unable to communicate in any manner decisions related to the assessment of the reported incident or services.
6. A Guardian of the person of an alleged victim may consent to an assessment of the reported incident and to services being provided according to the case plan.
7. If an alleged victim lacks the capacity to consent to an assessment, an agent having authority under a power of attorney may consent to an assessment of the reported incident and to services.
8. If the guardian or agent is the alleged abuser and he or she withdraws consent for the assessment of the reported incident, or refuses to allow services to be provided, the Department, an APS PA, or the Office of the Attorney General may request a court order seeking remedies, and may in addition request removal of the guardian and appointment of a successor guardian or request removal of the agent and appointment of a guardian.
9. When an alleged victim appears to lack the capacity to consent to an assessment or necessary services and appears to be at risk of serious injury or death, the Department or APS PA shall take action necessary to ameliorate the alleged victim's risk of harm.
10. A request to delay the assessment and report classification up to an additional 15 days can be approved by the APS supervisor. This exception does not affect the required timeframe of 90 days for casework (from date of Intake). Supervisory approval of a delay must be based on one or more of the following criteria:
 - a. Awaiting further documentation (financial, medical, etc.) to complete assessment
 - b. Recent receipt of additional information/allegations through Related Information Report
 - c. Awaiting further review(s) with AV, AA, or key collateral contact(s)
 - d. Attempts to locate alleged victim unsuccessful
 - e. Attempts to locate alleged abuser unsuccessful
 - f. Awaiting stabilization of alleged victim's condition
 - g. Assessment delayed due to alleged victim reluctance.

The caseworker's request to delay the ANE assessment and report classification should be discussed with the supervisor and approved by the APS supervisor prior to the standard 30-day deadline from the date of Intake. Documentation of the discussion and rationale for approval should be included in Case Recording, and signed by the Supervisor.

- B. Upon completion of the assessment and prior to classification of the report, a determination must be reached regarding each specific allegation of ANE alleged on the ANE Intake and any other specific ANE allegation that emerged during the assessment process and documented in the Client Assessment. The substantiation determination for each type of ANE/SN shall be one of the following:
1. **Verified** – “Verified” indicates that there is “clear and convincing evidence” resulting in a determination that the specific injury or harm alleged was the result of ANE.
 2. **Some Indication** – “Some Indication” indicates that there is a “preponderance of the evidence” the specific injury or harm alleged was the result of ANE.
 3. **No Indication** – “No Indication” indicates that there is a “lack of credible evidence” that ANE exists.
- C. Each IIR and SIR report must be classified as either “substantiated,” “unsubstantiated,” or “unable to substantiate” as follows:
1. **Substantiated.** The report will be classified as “substantiated” if all the specific allegations of ANE were classified as either “verified” or “some indication.”
 2. **Unsubstantiated.** The report will be classified as “unsubstantiated” if each of the specific allegations of ANE were classified as “no indication,” unless the reason for the “no indication” finding was that the APSCW was “unable to substantiate” for one of the reasons listed below.
 3. **Unable to Substantiate.** The report will be classified as “unable to substantiate” if there was a finding of any of the following circumstances:
 - a. No Jurisdiction – The APS PA had no jurisdiction to initiate an assessment of the ANE report according to the Adult Protective Service Act. “No jurisdiction” classifications would occur when the alleged victim was determined not to be an eligible adult or was not living in a domestic living situation.
 - b. Unable to Locate – After documented “good faith” efforts, the APS PA was unable to locate the alleged victim.
 - c. Unable to Access – After documented “good faith” efforts to gain access to the alleged victim including those listed in Section 506, the APS PA was unable to access the alleged victim.
 - d. Assessment Refused – After documented “good faith” efforts, the alleged victim declined assessment.
- D. The supervisor of the APSCW shall review the case and discuss with and approve the classification made by the APSCW by signing and dating the Client Assessment.

510: Closing Status of the Assessment / Final Investigative Report

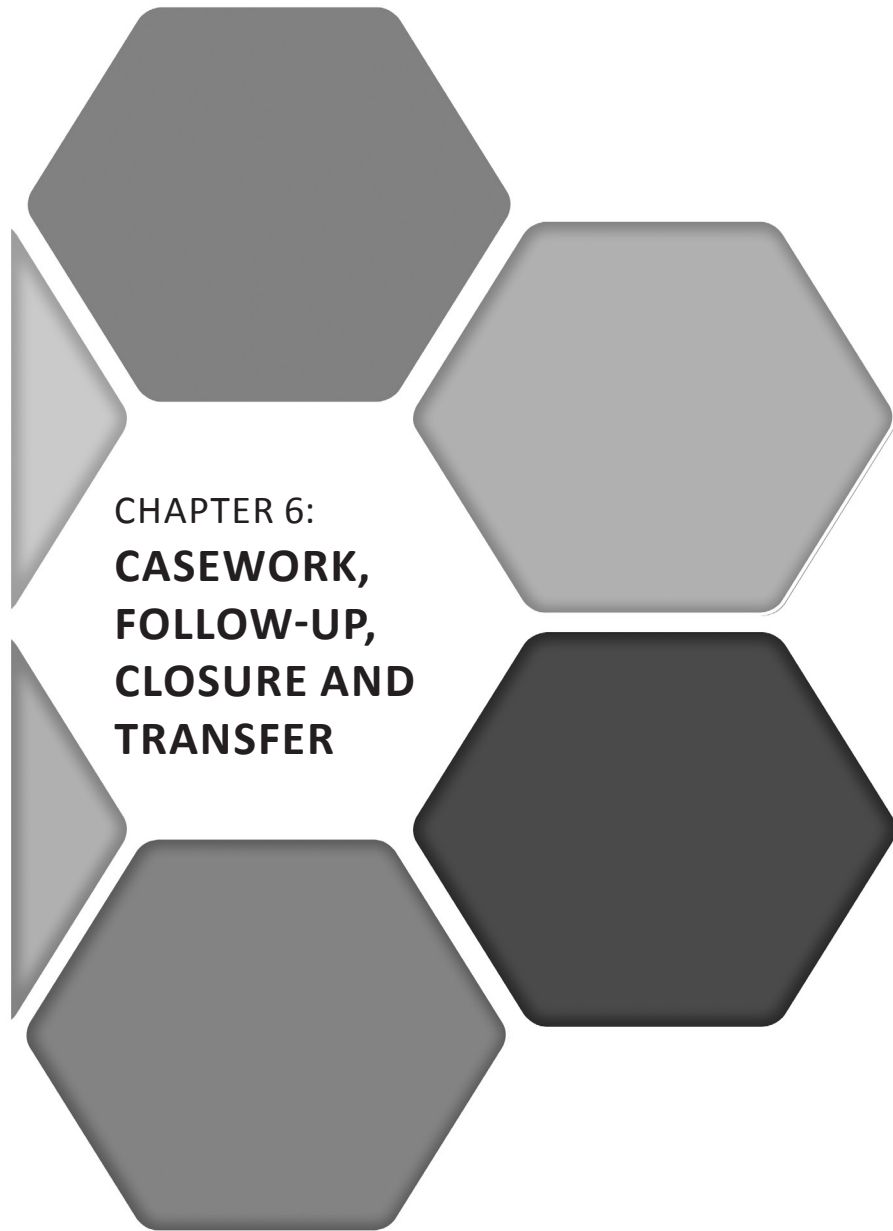
- A. Substantiated reports of ANE shall have a closing status at the completion of the assessment which shall be included as part of the final investigative report.
1. The closing status shall determine the level of risk to the victim of further injury or harm by completing the Overall Substantiated Risk Assessment.
 2. The Supervisor of the APSCW who completes the Overall Substantiated Risk Assessment Form shall sign and date the form indicating that the overall level of assessed risk assigned by the APSCW has been discussed and approved.
 3. As part of the final investigative report, the closing status of the assessment shall include documenting:
 - a. Victim Consents to Services: If a victim consents to continued services, the APSCW shall prepare a case plan and provide casework and follow-up services. The victim's consent to services may minimally include continued contact with the APSCW, which is considered consent to provide case work and follow-up services. (See Chapter 6)
 - b. Victim Declines Services: If a victim who is capable of giving consent refuses all services offered, the APS PA shall close the case; however, the agency shall inform the victim of ways to contact the APS PA in the future. If the victim is incapable of giving consent, the guardian may refuse services as long as the guardian is not the abuser.
 - c. Victim Deceased: If the victim is deceased, the APSCW shall close the case unless the death is suspected to be the result of the ANE, in which case the APS PA follows the procedures identified in Section 508.
 - d. Victim Entered LTC Facility: If the victim is discharged from the hospital to a long-term care facility for permanent placement and is no longer at risk, the provider agency shall inform the victim of the Ombudsman Program and shall close the case.
 - e. Victim Moved Out of the Area: If the victim has moved out of the area and the victim is no longer at risk, the APSCW closes the case. If the victim remains at risk, the provider agency shall refer the case to the APS PA in the location of the new residence according the Section 606.
 - f. Victim No Longer at Risk: If the victim is not at risk because the abuser has died, moved out of state, or has been incarcerated, the APSCW shall close the case using this closing status.
- B. The APS PA shall close any case that is not classified as "Substantiated Victim Consents to Services," and include a closing status as part of the final investigative report.
- C. The supervisor of the APSCW who completes the assessment must review the case and approve the classification decision by signing and dating the Client Assessment.

511: Reporting Substantiated Cases Where the Abuser Works for the Aging Network

- A. All substantiated reports that name an APS PA employee, board member, or advisory council member, RAA employee, board member, or advisory council member must be reported to IDoA. The Office of Adult Protective Services shall review the case and provide a recommendation on further action to the APS PA, RAA, or advisory council.

512: Notification of Cases Involving Clients Receiving Home Care Services:

- A. Reports involving a Community Care Participant (CCP)
The APS PA will notify the IDoA's Office of Community Care Services (OCCS) regarding any case of ANE/SN involving a CCP participant that is substantiated, unable to substantiate, or no ANE is substantiated. Notification includes completion and submittal of the Client Assessment and Report of Substantiation within the APS CM System.
- B. Reports involving an Illinois Department of Human Services (DHS) Customer
Notification to DHS either Division of Rehabilitation Services (DRS) or Division of Developmental Disabilities (DDD) is required when a report of ANE/SN of a current customer receiving support services through DHS is substantiated, unable to substantiate, or no ANE/SN is substantiated. Support services include individual provider (IP), homemakers (HM), and personal support workers (PSW). Notification to DHS should be made when the APS PA has information that an APS client is either a current DHS customer or applying for DHS services. Notification should also be made involving a DRS or DDD worker who is named an alleged abuser regardless of whom they are abusing in the home and whether that person or person is receiving state-supported services. Notification includes completion and submittal of the Client Assessment and Report of Substantiation within the APS CM System.
- C. Reports involving clients receiving services through the University of Illinois at Chicago's (UIC) Division of Specialized Care for Children (DSCC):
Notification to UIC DSCC is required when a report of ANE of a client receiving services through YIC DSCC is substantiated, unable to substantiate, or no ANE/SN is substantiated. Notification includes completion and submittal of the Client Assessment and Report of Substantiation within the APS CM System.
- D. Reports involving clients receiving services through a Managed Care Organization (MCO):
Notification to an MCO is required when a report of ANE/SN of a current participant of a MCO is substantiated, unable to substantiate, or no ANE is substantiated. Notification includes completion and submittal of the Client Assessment and Report of Substantiation within the APS CM System.



CHAPTER 6: CASEWORK, FOLLOW-UP, CLOSURE AND TRANSFER

601: Purpose of Chapter 1

602: Long-Term Interventions..... 1

603: Casework 1

604: Follow-Up Services..... 2

605: Case Closure 4

606: Case Transfer 5

CHAPTER 6: CASEWORK, FOLLOW-UP, CLOSURE AND TRANSFER

601: Purpose of Chapter

The purpose of this chapter is to describe the minimum requirements of casework and follow-up activities to be undertaken by APS PAs to assist victims of ANE/SN and to describe the procedures to follow when closing and transferring ANE/SN cases.

602: Long Term Interventions

- A. Casework and follow-up services are provided to victims of ANE/SN with the goal of providing long term support and intervention to alleviate and prevent further ANE/SN.
- B. Long term interventions occur after the closing status of the ANE/SN Assessment and include the development of a case plan, arranging for services/interventions, and making sure that the services are being provided in the intended fashion.

603: Casework

- A. The APS PA shall provide casework activities to victims of ANE/SN whose closing assessment status was substantiated with “consent to services” **and** when the victim was the subject of:
 1. an Initial Intake Report (IIR); or
 2. a Subsequent Intake Report (SIR), when the case was no longer active at the time the report was taken.
- B. Casework activities occur during the period beginning with the closing status/disposition date of the Assessment and continuing until ninety (90) days have elapsed since the date of the Intake Report.
 1. The time period of casework may be reduced when there is case closure according to Section 605. However, in cases of ANE, a case may not be closed during the casework period because the client is no longer at risk.
 2. When the case is closed prior to ninety (90) days from the date of the Intake Report, the completion of each activity listed in Section 603:C. may not be required.
- C. Casework activities minimally include:
 1. Development of a case plan based on information obtained during the assessment process to meet those identified problems/needs of the Overall Substantiated Risk Assessment and documented on the Case Plan. Client self-determination is the foundation of case plan development. The plan should focus on interventions which support self-determination.
 2. During the first required face-to-face visit during the casework period, the APSCW shall describe long term intervention options to the client including legal, medical and social support service options to meet his/her identified problems and needs, including Early Intervention Services (see Chapter 8). When the APSCW believes that the victim of ANE/SN may also be a victim of a crime, the APSCW must inform the

client of the legal and law enforcement options available to him or her, and document the discussion (see Chapter 10 on confidentiality and disclosure and Chapter 5 section 508).

3. Assisting the client in obtaining needed services or interventions, which he or she has consented to receive and, if appropriate, assisting abusers in obtaining needed assistance. The APSCW should always attempt to obtain a written Release of Information when assisting a client to obtain needed services. However, verbal permission is accepted as long as the APSCW has adequately documented the client's verbal consent in the case record. The APS PA or the APSCW can petition the court for certain legal interventions. The APS PA, RAA, or APSCW cannot serve as a Representative Payee (except with approval from the Money Management Program), Agent under a Power of Attorney, or Guardian.

The APS PA shall not petition the court for the RAA, or the RAA's individual employees, to serve as a Guardian, except as allowed under Section 303:P of the Adult Protective Services Program Standards. Any waiver to Section 303:P of the Adult Protective Services Program Standards must be documented in the client's case record, showing evidence that no other qualified person or entity exists to serve as guardian on behalf of the client.

4. Counseling the victim and/or the abuser(s) on how to reduce risk factors related to ANE/SN.
5. Conducting a face-to-face follow-up assessment within ninety (90) days (plus or minus 15 days) from the date of intake to determine the level of risk to the client from further injury or harm and completing an Overall Risk Assessment Update (IL-402- 1091). This shall occur during the second required face- to-face visit during the casework period.
6. A minimum of two face-to-face visits with the client are required during the casework period. The nature of the case and client's needs should determine if additional face-to-face visits are needed.

604: Follow-Up Services

- A. The APS PA shall provide up to twelve (12) months of "uninterrupted" follow-up services to victims of ANE/SN which shall begin:
 1. at the conclusion of the casework period unless the case is closed in accordance with Section 605; or
 2. when a SIR on an open case was received and the closing assessment status was a substantiation with "consent to services." Follow-up services shall be provided until the case is closed in accordance with Section 605. Casework is not provided under these circumstances since a case plan has already been developed.
- B. "Uninterrupted" follow-up services means the client has not been a subject of a substantiated Intake Report for twelve months, and continuous follow-up services, which meet the minimum requirements of Section 604:C, have been provided.

- C. Where the APS PA has determined that the best interest, safety and well-being of the client require the provision of follow-up services for longer than 12 months, the APS PA may petition IDoA, through its RAA, for a waiver. This waiver shall allow follow-up services to continue for up to an additional 12 months. The waiver request shall specify why continued services are necessary.
- D. Follow-up services shall include at a minimum:
 - 1. monthly contact, every 30 days with the client (which may be by telephone), and
 - 2. a documented face-to-face visit with the client within 90 days (plus or minus 15 days) from the date the last risk assessment was due (calculated from the date of intake).
- E. The following circumstances may require an exception to the minimum follow-up requirement:
 - 1. Client does not wish monthly contact or a face-to-face visit within the timeframe.
 - 2. Making the face-to-face visit or monthly contact could pose a danger to the client.
 - 3. The client is temporarily out of the service area or is otherwise not accessible.
 - 4. A court order was entered prohibiting contact or a face-to-face visit.

If the APSCW is aware that the circumstances leading to the exception have changed, the APSCW must, within fifteen (15) days, contact the client to determine if follow-up services should be initiated.

- F. Purposes of follow-up services include:
 - 1. Describing new or different long term goals and interventions with the client, as appropriate. The options presented to the client may include legal, medical and social support services to meet his or her identified problems and needs, including Early Intervention Services (see Chapter 8). When the APSCW believes that the victim of ANE/SN may also be a victim of a crime, the APSCW must inform the client of the legal and law enforcement options available to him or her, and document the discussion (see Chapter 10 on confidentiality and disclosure and Chapter 5 section 508).
 - 2. Monitoring to make sure that services and interventions are being provided in the intended fashion. The APSCW shall, if necessary, modify the Case Plan based on information obtained during follow-up.
 - 3. Assisting the client in continuing to receive needed services or interventions to which he or she has consented. When appropriate, assist abusers in obtaining needed assistance.
 - 4. Counseling the client and in cases of ANE, the abuser, on alleviating high risk factors which may lead to ANE/SN.
 - 5. Monitoring the level of risk to the client of further injury or harm by completing an Overall Risk Assessment Update (IL-402-1091) within 90 days (plus or minus 15 days) since the previous risk assessment was due (calculated from the date of intake).

6. When follow-up services are provided following a SIR as described in Section 604:A.2., a follow-up visit is to be conducted within ninety (90) days (plus or minus 15 days) following the SIR date, provided the SIR did not come in during the original report casework period. For SIRs received during follow-up, the APS PA can bill for assessment and follow-up the same month the substantiation decision is made.

605: Case Closure

- A. An APS PA shall close a case under the following circumstances:
 1. Client Refuses Services – If a client who has the capacity to consent refuses all services offered, the APS PA shall close the case; however, the APS PA shall inform the client of methods to contact the APS PA in the future. If the client appears to lack the capacity to consent (meaning that the client is unable to receive and evaluate information related to services or is unable to communicate in any manner decisions related to services), the guardian or an agent having authority under a power of attorney may refuse services as long as he or she is not the abuser (see Appendix B).
 2. Client is Deceased – If the client is deceased, the APSCW shall close the case unless the death is suspected to be the result of the ANE, in which case the APS PA follows the procedures specified in Section 508.
 3. Client Moved Out of the Area – If the client moves out of the area, the APS PA shall close the case. If the client remains at risk, and the APS PA is aware of the new location, the APS PA shall refer the case to the APS PA in the location of the new residence.
 4. Client is No Longer at Risk of ANE/SN – The APS PA may close the case within ten (10) calendar days after a face-to-face visit where an Overall Risk Assessment Update was completed, if the Risk Assessment score indicates the client is at no risk or low risk of further injury or harm.
 5. Administrative Closure – The APS PA shall close the case when the client has received “uninterrupted” follow-up services for 12 months, unless the APS PA has requested, and the Department has approved, in accordance with Section 604:C, a waiver to continue providing follow-up services for up to an additional 12 months.
- B. The APSCW shall make a final judgment as to the level of risk of further injury or harm prior to closing the case in accordance with the Risk Assessment. The supervisor of the APSCW must approve, sign, and date the case closure entries in Case Recording.
- C. An ANE/SN Overall Risk Assessment Update is to be completed during each follow-up period and at case closure. If the case is closed due to client death, moving out of service area, or a client refusing services, the APSCW shall complete Section V, on page 1 of the Overall Risk Assessment Update form, mark the “At Closure” box, mark the appropriate risk level based on the last completed risk assessment, and note the rationale that the client is deceased, refused services, etc. Both the APSCW and supervisor signatures are required on the form.

- D. If the client continues to be in need of community based services at case closure, the APS PA shall refer him or her to the appropriate service provider in the area where he or she resides.

606: Case Transfer

- A. With client consent, an APS PA shall transfer an open case when the client moves out of its service area to another APS PA's service area. If the APS PA is notified in advance of the move, the transfer shall be made at the approximate time of the client's move to the new service area.

For all other transfer cases the transferring APS PA shall transfer the case upon becoming aware of the client's move out of its service area subject to the following timeframes:

1. a Priority I case in the assessment period must be transferred within 24 hours;
 2. Priority 2 and 3 cases, in the assessment period must be transferred within five (5) calendar days and
 3. Cases transferred during the casework or follow-up period must be transferred within five (5) calendar days. In situations where an emergency arises in which the client could be in potential harm, the case must be transferred within 24 hours.
- C. In order for the original APS PA to transfer a case, the APS PA shall refer the case to the appropriate APS PA in the client's new service area. The supervisor of the transferring APS PA shall call the supervisor of the receiving agency to inform the latter of the pending transfer. The transferring supervisor shall inform the receiving supervisor of the client's name, number, general nature of the allegations or substantiated ANE/SN, status of the case, what types of actions the APS PA has taken to date and any other appropriate information. If a supervisor is unavailable in either APS PA, an APSCW shall transmit and/or receive the information.
 - D. Upon transfer of the case during the assessment period, the receiving APS PA shall initiate a face-to-face visit with the client based on the priority assigned. For cases transferred during casework or follow-up the receiving APS PA shall initiate a face-to-face visit with the client according to the most recent risk level:
 1. within 24 hours for Priority I or Risk Level 3 clients,
 2. within 72 hours for Priority II or Risk Level 2 clients, and
 3. within 7 calendar days for Priority III or Risk Level 1 clients.As soon as possible, but within at least one (1) business day for Priority I cases in the assessment period and five (5) business days of the telephone conversation in all other cases, the transferring agency shall transfer the client's record in the APS CM System.
 - E. A client with the capacity to consent may refuse a transfer of the case or may refuse services from the receiving agency. In either situation, the case shall be closed.

- F. If a client moves without a forwarding address, the APS PA shall take (and document) reasonable steps to locate the client's whereabouts while respecting the client's right to confidentiality, e.g. by contacting other persons whom it has consent to talk with such as family members, the client's physician, a PAS agent, the DHS DRS Home Services Program, the CCP vendor or the CCU, etc. If after a reasonable effort the APS PA is unable to locate the client, it shall close the case.
- G. If a client moves out-of-state, the APS PA shall report the case to the other state's adult protective service system, following the guidelines above regarding consent and determining location. However, the client case records shall not be transferred.



**CHAPTER 7:
APS REGISTRY**

CHAPTER 7: ADULT PROTECTIVE SERVICES (APS) REGISTRY

701: Purpose of Chapter 1
702: Background of Registry 1
703: Access to and Use of APS Registry 1
704: Notice to Alleged Victim (Guardian or Agent) 2
705: Notice to Caregiver (Verified and Substantiated Finding - Placement on Registry) . . 3
706: Notice to Caregiver’s Employer 4
707: Notice to Long Term Care/Health Care Facilities and Regional Ombudsman 4
708: Initiation of Appeal 6
709: Confidentiality 7
710: Final Administrative Decision 7
711: Removal from APS Registry. 8

CHAPTER 7: ADULT PROTECTIVE SERVICES (APS) REGISTRY

701: Purpose of Chapter

The purpose of the chapter is to provide guidance associated with the Illinois Department on Aging's (IDoA) Adult Protective Services (APS) Registry. The chapter will provide background information on the APS Registry; access and use of the APS Registry; notices sent to various entities throughout the APS Registry process; IDoA's Office of APS review process of the APS Provider Agency's verified and substantiated finding, which may result in caregiver's placement on the APS Registry; and caregiver's appeal process, confidentiality of records, Final Administrative Decision from IDoA Director, and removal process from APS Registry.

702: Background of Registry

The APS Registry was enabled through Public Act 98-49 and developed and implemented to protect victims or potential victims receiving in-home or community-based services from caregivers against whom a verified and substantiated finding of abuse, neglect, or financial exploitation was made by the APS Provider Agency (PA).

The APS Registry will include the identity of caregivers who are found, as a result of the APS PA investigation, to have abused, neglected, or financially exploited persons age 60 or over and adults with a disability age 18-59 who reside in or were visiting a domestic living situation, at the time of report.

The APS Registry makes the caregiver's identity available to the Illinois Department on Aging, Illinois Department of Public Health, Illinois Department of Human Services, Illinois Department of Healthcare and Family Services, and direct care entities or provider agencies that are licensed, certified, or regulated by or paid with public funds from any of these state departments. By these direct care provider agencies accessing and using the APS Registry, they will make better-informed hiring decisions of potential candidates for direct care positions. The APS Registry is intended to limit caregivers with verified and substantiated determinations from moving from one direct care agency to another.

Should an on-line check of the APS Registry indicate the name of a caregiver, the direct care agency cannot retain, hire, compensate (either directly or on behalf of a victim), or use the services of a caregiver to provide direct care for individuals. This also applies to direct care providers that gain knowledge of placement of a caregiver on the APS Registry.

703: Access to and Use of APS Registry

- A. The following state of Illinois agencies and direct care entities are to obtain credentials from the Illinois Department of Public Health to access IDoA's APS Registry.
 1. Illinois Department on Aging (IDoA);
 2. Illinois Department of Healthcare and Family Services (IDHFS);
 3. Illinois Department of Human Services (IDHS);
 4. Illinois Department of Public Health (IDPH); and
 5. any direct care entity or provider agency that is licensed, certified, or regulated by or paid with public funds from any of these state agencies.

- B. Direct care agencies cannot retain, hire, compensate (either directly or on behalf of a victim), or use the services of a caregiver to provide direct care if the online check indicates that the name of that caregiver has been placed on the APS Registry or when the direct care agency otherwise gains knowledge of the placement on the APS Registry.
- C. Direct care agencies are to conduct an online check:
 - 1. prior to hiring an individual in a caregiving role to determine whether the individual's identity has been placed on the APS Registry; and
 - 2. on an annual basis for purposes of retention.
- D. Direct care agencies funded by state departments are to maintain a copy of the results of the online check to demonstrate compliance.

704: Notice to Alleged Victim (Guardian or Agent)

- A. As part of the APS investigation process, the APS PA caseworker will provide the "*Know Your Rights*" brochure to the alleged victim or alleged victim's guardian or agent under a valid Power of Attorney, as may be applicable and as noted in the alleged victim's case record, that his or her caregiver's identity may be placed on the APS Registry based on a verified and substantiated finding of abuse, neglect, or financial exploitation by the APS PA.
- B. During the APS PA's investigation, the APS caseworker (APSCW) will take the following action regarding the "*Know Your Rights*" brochure.
 - 1. Summarize the content of the "*Know Your Rights*" brochure with the alleged victim (guardian or agent). [See exceptions below in item C.]
 - 2. Give a copy of the "*Know Your Rights*" brochure to the alleged victim (guardian or agent) during a face-to-face visit.
 - 3. Document this communication with the alleged victim (guardian or agent) in the case record.

The APSCW does not need to secure the alleged victim's (guardian or agent) signature on the "*Know Your Rights*" brochure to confirm the content was shared with and a copy given to the alleged victim (guardian or agent).

- C. While the APSCW will complete 704 (B) (1. & 3.) noted above, the APSCW will not leave a copy of the "*Know Your Rights*" brochure when the:
 - 1. alleged victim may be in harm's way if a copy of the "*Know Your Rights*" brochure is left; and
 - 2. guardian or an agent is an alleged or a substantiated abuser.

705: Notice to Caregiver (Verified and Substantiated Finding – Placement on Registry)

- A. APS PA will send a complete copy of the victim’s case record to the IDoA Office of APS within 24 hours after the verified and substantiated finding of abuse, neglect, or financial exploitation against the caregiver, when there is *an imminent risk of danger* to the victim or an *imminent risk of misuse* of his or her personal, medical, or financial information. The IDoA may request clarification from the APS PA.
- B. APS PA will send a complete copy of the victim’s case record to the IDoA Office of APS within five (5) business days after the verified and substantiated finding of abuse, neglect, or financial exploitation against a caregiver. The IDoA may request clarification from the APS PA.
- C. Upon receipt of the victim’s case record from the APS PA, the IDoA Office of APS Liaison will review the case record as a Quality Assurance measure to ensure correct interpretation and application of:
 1. the Adult Protective Services Act, administrative rules, and standards; and
 2. sufficient documented evidence of verified and substantiated abuse, neglect, or financial exploitation.
- D. Notice to Caregiver
 1. If the IDoA’s Office of APS **concur**s with the APS PA’s verified and substantiated finding, the IDoA will notify the caregiver within 30 calendar days after IDoA’s receipt of the case record that his/her name will be recommended for placement on Registry. The notice will include:
 - a. statement of allegation(s) from the abuse report and the substantiation decision from the final investigative report contained in the victim’s case record;
 - b. statement the IDoA intends to place the caregiver’s identity on the APS Registry;
 - c. information about the caregiver’s right to contest placement on the APS Registry, including grounds for appeal and applicable legal burden; and
 - d. identification number assigned by IDoA
 2. If the IDoA Office of APS **does not concur** with the verified and substantiated finding, IDoA will inform the caregiver and his or her employer, if applicable, within 30 calendar days after receipt of the case record that his or her name **will not** be recommended for APS Registry placement.
 3. Notice to the caregiver is presumed to have been received four calendar days after the date on the notice.
 4. Notice will be sent via regular pre-paid, first-class mail to the caregiver’s last known address.

706: Notice to the Caregiver's Employer

- A. Imminent Risk
1. The APS PA will notify the IDoA's Office of APS within 24 hours of the verified and substantiated finding of abuse, neglect, or financial exploitation against the caregiver, if there is an imminent risk of danger to an alleged victim or a victim or an imminent risk of misuse of his or her personal, medical, or financial information.
 2. IDoA is responsible for and will use reasonable efforts to promptly notify the direct care agency employing the caregiver of the APS PA's verified and substantiated finding against the caregiver.
 3. As set forth by the direct care agency's funding entity, the direct care agency shall immediately bar the caregiver from providing direct care to any alleged victim or victim pending the outcome of any challenge, review, appeal, criminal prosecution, or other type of collateral action.
 4. The bar to providing direct care to any alleged victim or victim is **not** a basis for an IDoA appeal.
 5. IDoA will use reasonable efforts to promptly notify the employer if a determination is made on appeal that the caregiver's identity **will not** be placed on the APS Registry.

707: APS PA Notice to Long Term Care or Health Care Facility and Regional Ombudsman

- A. The APS PA will use reasonable efforts to promptly inform the Health Care or Long-Term Care facility and appropriate Regional Long-Term Care Ombudsman about any placement of a caregiver on the APS Registry relevant to the alleged victim or victim, if an alleged victim or a victim transitions from a domestic living situation to a Health Care or Long-Term Care facility during an APS investigation or while receiving APS-funded services.

Reasonable efforts refer to steps taken in good-faith by the APS PA to achieve the objective or carry out the process to its logical conclusion. Reasonable efforts do not mean "all efforts" nor efforts to the point of undue hardship to the APS PA.

- B. The written notification to the Health Care or Long-Term Care facility and appropriate Regional Long-Term Care Ombudsman shall be written on the APS Provider Agency's letterhead and shall include the following (see next page):

Date: _____

RE: Notice to Facility and Regional Ombudsman

Dear _____:

We have been informed that _____
has transitioned from a domestic living setting to _____

This letter is to inform you that a verified and substantiated finding of abuse, neglect, or financial exploitation relating to this adult has been reported to the Illinois Department on Aging’s Adult Protective Services (APS) Registry involving the following caregiver. APS Registry information is confidential.

Caregiver Name	Date of Birth

If you need additional information about the APS Registry, please email Aging.APSRegistry@illinois.gov.

Sincerely,

_____, Supervisor

Cc: _____, Regional Ombudsman
IDoA, Office of APS

C. Examples of Health Care and Long-Term Care facilities include, but are not limited to:

- Licensed Nursing Homes
- Assisted Living Establishments
- Skilled Nursing Facilities
- Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)
- Licensed Specialized Mental Health Rehabilitation Facility (SMHRF)

708: Caregiver's Appeal of Placement on APS Registry

- A. Appeals are governed by rule. For details on the appeal process, see 270.414 and 270.422 through 270.476.
- B. Generally, the IDoA's Notice to Caregiver regarding placement on the APS Registry includes the following:
 - 1. instructions to the caregiver on how to initiate an appeal to contest placement of the caregiver's identity on the APS Registry; and
 - 2. a statement of allegation(s) in the abuse report and the substantiation decision in the final APS PA investigative report, which will be admitted into evidence without further proof from IDoA.
- C. Requests for appeal are to be submitted to IDoA Office of General Counsel per 270.414 of Title 89. The request will be forwarded to the ALJ.
 - 1. Requests are to be made in writing and signed by the caregiver within 30 calendar days after the date of IDoA's Notice to Caregiver regarding placement of caregiver's identity on the APS Registry.
 - 2. The caregiver's request to appeal is to be sent via regular pre-paid, first-class mail, email, facsimile, or other acceptable means as specified in the IDoA notice.

The sole issue on appeal is whether placement of the caregiver's identity on the APS Registry is in the public interest.

- D. The burden of proof belongs to the caregiver to establish by a preponderance of evidence that placement of his or her identity on the APS Registry is not in the public interest, based on the following factors:
 - 1. length of time the caregiver has been providing care to the victim;
 - 2. relationship between the caregiver and victim;
 - 3. whether placement of the caregiver's identity on the APS Registry is in the victim's best interest or that of other participants;
 - 4. whether additional training for the caregiver could remediate the abuse, neglect, or financial exploitation;
 - 5. in the case of financial exploitation, the value of the assets at issue and whether restitution was made; or
 - 6. whether criminal charges were filed against a caregiver and any related outcome.
- E. The ALJ will schedule and conduct the hearing, weigh the evidence, and issue a recommendation for Final Administrative Decision by the IDoA Director (or designee) in accordance with the rules. Hearing rules address, but are not limited to, the following:
 - 1. IDOA will be represented at the hearing by a person designated by the Director.
 - 2. Caregiver may self-represent, have an attorney, or other representative for purposes of the appeal.

3. Evidence, witness testimony, subpoenas, and need for interpreters.
4. No party or other individual or entity legally interested in the outcome of the appeal may make any written or oral communication, directly or indirectly, imparting or requesting material information or making a material argument regarding potential action concerning the hearing, without including all parties to the hearing.
5. A collateral action challenging the adverse employment action resulting from the verified and substantiated finding of abuse, neglect, or financial exploitation may stay the appeal process.

709: Confidentiality for APS Registry

- A. Except as otherwise authorized by law, the IDoA or ALJ authorized to conduct hearings under Part 270.418 of Title 89 have an affirmative duty to protect the confidentiality of records protected under the Adult Protective Services Act, including:
 1. verified and substantiated finding of abuse, neglect, or financial exploitation of a victim by a caregiver;
 2. all records concerning reports of abuse, neglect, or financial exploitation and all case notes and records generated because of those reports;
 3. name of, and personal information about, the victim;
 4. names of, and identifying information about, the reporters;
 5. confidential, identifying, or personal information, which has been redacted to the extent possible, in the Final Administrative Decision of the ALJ consistent with Sections 4(c) and 8 of the Adult Protective Services Act and under 270.275 of Title 89; and
 6. access to and use of the APS Registry.
- B. None of the information and documents in the victim's case record or in the appeal record, including the Final Administrative Decision of the IDoA Director under 270.474 of Title 89 will be subject to the Freedom of Information Act [5 ILCS 140].
- C. Requests for records concerning the APS Registry received by the APS PA should be forwarded to the applicable IDoA Office of APS Liaison.

710: Final Administrative Decision

- A. The Final Administrative Decision will include a written order setting out the factual and legal reasons for the final decision. All findings of fact will be based exclusively on the record. The order will state it is a Final Administrative Decision and will fully advise the parties of any right to judicial review.
- B. The Final Administrative Decision will be served on all parties within 40 calendar days after the record has closed.

- C. When the ALJ issues a recommendation for Final Administrative Decision:
 - 1. the recommendation shall be in writing and set forth proposed findings of fact and recommended conclusions of law for review by the IDoA Director.
 - 2. the recommendation shall be provided to the IDoA Director within 20 calendar days after the close of the record.
 - 3. the IDoA Director shall consider the recommendation in issuing a Final Administrative Decision.
 - 4. the IDoA Director shall issue a decision accepting, rejecting, or modifying the recommendation of the IDoA or other entity within 20 calendar days after receipt of the recommendation.
 - 5. to the extent the IDoA Director does not accept the recommendation, the decision shall set out in writing the rationale.
 - 6. IDoA or other entity shall then serve all parties with the Final Administrative Decision.
- D. All parties or their designees shall take appropriate action and comply with all terms and conditions set forth in the Final Administrative Decision. All parties are responsible for ensuring the appropriate action is undertaken in the designated timeframe.
- E. Absent notice of judicial appeal, IDoA will place the caregiver's identity on the APS Registry within 45 calendar days after the Final Administrative Decision.
- F. The Final Administration Decision is confidential and not open to the public pursuant to Section 7.5(y) of the Freedom of Information Act.
- G. The Final Administrative Decision under Title 89 270. 474 is not subject to the Illinois Administrative Review Law [735 ILCS 5/Art. III].

711: Removal from APS Registry

- A. At any time after a caregiver's identity has been placed on the APS Registry, a caregiver may request removal of his or her name from the APS Registry by submitting a written request to IDoA.
 - 1. A caregiver's request for removal from APS Registry . . .
 - a. may only be made in relation to a single APS Registry placement decision;
 - b. cannot be made requesting removal of multiple APS Registry placement decisions; and
 - c. is not to be made more than once in each successive 3-year period after placement, with a maximum of 3 such requests.

- B. Within 60 calendar days after receiving a removal request, IDoA will review and consider any written supporting material provided by the caregiver. The caregiver is to provide, by a preponderance of the evidence, that removal of his or her name from the APS Registry is in the public interest.
1. IDoA's review will not include in-person testimony.
 2. IDoA may consider the following factors in making its determination on whether to remove a caregiver's identity from the Registry.
 - a. length of time the caregiver provided care to the victim;
 - b. relationship between the caregiver and victim;
 - c. whether inclusion of the caregiver's identity on the APS Registry remains in the victim's best interest or that of other participants;
 - d. whether the caregiver completed training to remediate the abuse, neglect, or financial exploitation;
 - e. in the case of financial exploitation, the value of the assets at issue and whether restitution was made;
 - f. whether criminal charges were filed against a caregiver and any related outcome.
 3. Within 30 calendar days after completion of the IDoA review, IDoA will issue a written decision either granting or denying removal of the caregiver's identity from the APS Registry.
 4. In the event IDoA decides the caregiver's identity should be removed from the APS Registry, IDoA will take all necessary steps to remove the caregiver's identity from the APS Registry.
 5. The removal decision by IDoA is not subject to the Administrative Review Law [735 ILCS 5/Art. III].



**CHAPTER 8:
EARLY
INTERVENTION
SERVICES**

CHAPTER 8: EARLY INTERVENTION SERVICES

801: Purpose of Chapter 1
802: Background Information 1
803: Client Eligibility 1
804: Service Categories. 2
805: Maximum Cost Per Case. 2
806: Waiver of the Maximum Cost Per Case. 3
807: Recovery of Early Intervention Services Funds. 3
808: Procurement Requirements. 4
809: Case Record Documentation and Review 4

CHAPTER 8: EARLY INTERVENTION SERVICES

801: Purpose of Chapter

The purpose of this chapter is to outline the eligibility criteria, services and documentation required for purchasing Early Intervention Services (EIS) for alleged and substantiated victims of elder abuse, neglect and exploitation (ANE/SN).

Victims of ANE/SN are likely to have a range of problems, which may include serious mental and physical disabilities, chronic health problems, social isolation, dysfunctional family situations, unskilled caregivers and limited economic resources. These problems often make it difficult for vulnerable seniors to access necessary programs and services. Each individual case of ANE represents a unique combination of client needs and available services. EIS funding can secure those temporary and emergency services, including medical, housing, emergency aid, respite services or legal resources, which the client clearly needs for his/her safety and well-being.

802: Background Information

Victims of ANE/SN are, as a sub-group, likely to be frail adults with an accumulation of health, social, economic and environmental problems which impede their independent living. While an array of medical, housing and personal services are usually available in the community, often victims of elder abuse face unique barriers which prevent access to available resources. Abuse victims may have difficulty accessing services because they lack personal resources or because they have lost the ability to tap those resources that they have available. Compounding this situation are gaps in publicly supported services of application and processing delays that threaten the health and safety of clients. Temporary short term or emergency measures are often needed to secure the health and safety of clients until more durable and lasting solutions can be put into place.

803: Client Eligibility

- A. The criteria which persons may be eligible to receive EIS are as follows:
 1. there is a victim who is age sixty (60) or older, or 18-59 with a disability;
 2. there is an alleged or substantiated case of ANE/SN;
 3. there is an imminent threat to the health and safety of the client if the service is not available; and
 4. the community services and resources available for the client cannot be mobilized in a timely manner, would be insufficient to protect the client's health or safety, or the client's resources are insufficient or unavailable to purchase needed services.
- B. The case record must fully document the need for EIS and attempts made by the APS PA to obtain the services through other available resources.

804: Service Categories

Services which may be purchased by the APS PA for eligible older adults are:

- A. "Emergency Aid" which can include:
 - 1. food, clothing or furniture;
 - 2. medicine, medical evaluations or hospital expenses;
 - 3. psychiatric or mental health evaluations;
 - 4. transportation and ambulance services;
 - 5. minor household repairs, utility shut-offs, sanitation assistance;
 - 6. translation services; and
 - 7. other services (with prior approval of RAA).
- B. "Respite Care," which includes in-home or out-of-home care, and adult day care. Respite care can be purchased through EIS funds if there is a temporary loss of the caregiver or there is a need to separate the caregiver and the abused older adult. The need for respite care must be associated with the alleged or substantiated abuse and should not be made available through the APS for the sole purpose of socialization.
- C. "Legal Assistance" can include both services initiated by the client and those initiated for them. Allowable legal assistance costs include:
 - 1. court costs (i.e., filing fees);
 - 2. guardianship proceedings;
 - 3. preparation of Orders of Protection;
 - 4. recovery/restitution of damages;
 - 5. attorney fees; and
 - 6. witness fees.
- D. "Housing and Relocation Services." The use of EIS funds is allowable for emergency housing if a domestic violence shelter does not exist within the service area or the shelter is not equipped to serve the older adult or the shelter cannot admit the older adult because the shelter is at full capacity.

805: Maximum Cost Per Case

- A. EIS payments may not exceed \$1,000 per case per year, starting from the anniversary date of the intake of the report, unless a waiver has been granted.
- B. The expenditure of EIS funds must be approved by a designated supervisory level staff person at the provider agency and be in conformance with Section 807.

806: Waiver of the Maximum Cost Per Case

- A. A waiver for up to an additional \$1,000 in EIS funds may be granted with prior approval by the RAA if there are extenuating circumstances. Extenuating circumstances would include:
 - 1. multiple service demands to protect the life, safety and health of the older adult; and
 - 2. documented attempts to locate other resources have been unsuccessful.
- B. The RAA must designate which staff has the authority to grant a waiver to the maximum cost per case.
- C. The RAA may grant the waiver by telephone and the /RAA must follow-up with approval in the APS CM System.
- D. A request may be made to IDoA, through the RAA, to waive the \$2,000 limit under extraordinary circumstances. IDoA can grant the request only when the approval of additional funds will resolve the immediate emergency and enable a long-term care plan to be put into effect. The waiver granted by IDoA may be made by telephone; if so, it must be followed with approval within the APS CM System. The APS PA shall document on the EIS form any waivers granted via the telephone, the date, and the IDoA staff person granting the waiver. Written approval from IDoA must be transmitted to the APS PA and the RAA within 10 working days. The APS PA must then file the written approval in the case record.

807: Recovery of Early Intervention Services Funds

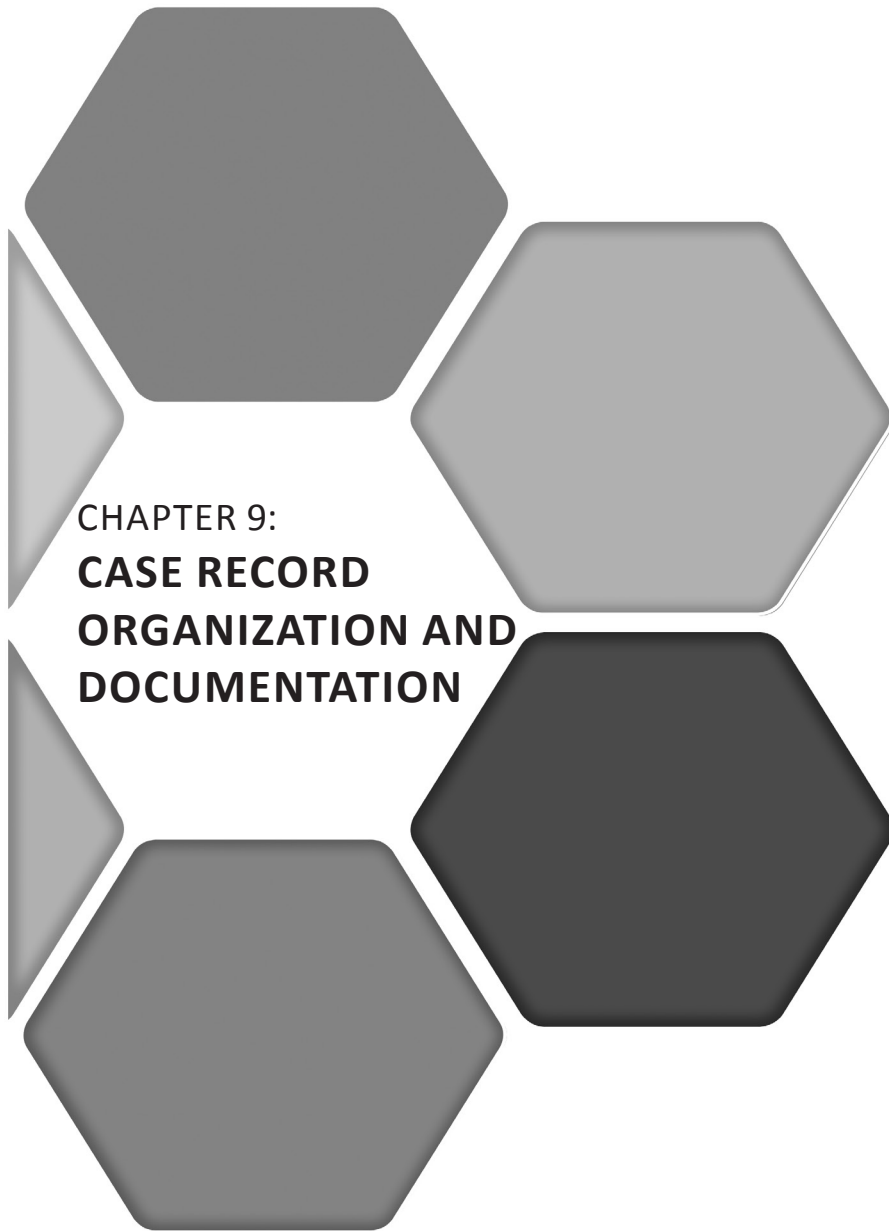
- A. The APS PA shall make a good faith effort to recover EIS funds from the client or client's representative in all cases where:
 - 1. there are potential funds available in the client's estate,
 - 2. the situation involving the client is resolved,
 - 3. the client's well-being will not be adversely affected, and
 - 4. the amount of EIS expended exceeds \$1,000.
- B. Where the expenditures of EIS funds exceeded \$1,000 for legal and court costs on behalf of a client, the elder abuse caseworker/supervisor shall request that the attorney representing the APS PA, petition the court for reimbursement of attorneys' fees and the costs associated with petitioning for guardianship. If reimbursement is not requested, the reason shall be documented in the case notes.
- C. Where the expenditures of EIS funds exceeded \$1,000 for emergency housing, medications or other similar allowable expenditures, the caseworker/supervisor may request that the client or the client's representative reimburse the APS PA for the amount expended. If reimbursement is not requested, the reason shall be documented in the case notes.
- D. All funds recovered by the provider agency shall be returned to the RAA. The RAA shall reimburse IDoA for the amount recovered. The RAA shall include the client name, I.D. number, and indicate that the check represents an EIS refund.

808: Procurement Requirements

- A. APS PAs may use their own procurement policies and procedures to purchase EIS.
- B. When time permits, a price or cost analysis should be conducted through a comparison of price quotations or market prices and similar indicia.
- C. The APS PA's procurement records and files shall include the basis for procurement selection.

809: Case Record Documentation and Review

- A. The case record must contain a completed copy of any documentation required by Sections 703 B., and 707 C., if applicable.
- B. Upon review of a case record, if the RAA finds expenditures that have not met the criteria or documentation requirements, the following steps shall be taken:
 - 1. The RAA, within ten (10) working days, shall transmit, in writing, to IDoA, the findings.
 - 2. IDoA shall review the findings of the RAA and, if IDoA concurs with the findings, shall disallow the expenditures made by the APS PA.



**CHAPTER 9:
CASE RECORD
ORGANIZATION AND
DOCUMENTATION**

CHAPTER 9: CASE RECORD ORGANIZATION AND DOCUMENTATION

901: Purpose of Chapter 1
902: Case Documentation 1
903: Establishing a Case Record 1
904: Contents of the Case Record 1
905: Substitution of IDoA Forms 3
906: Case Record Retention 3

CHAPTER 9: CASE RECORD ORGANIZATION AND DOCUMENTATION

901: Purpose of Chapter

The purpose of this chapter is to describe the minimum requirements to be followed by APS PAs for documenting intake, assessment, case work, and follow-up activities.

902: Case Documentation

- A. Documentation is the electronic entry of information into the APS CM System describing the actions and conclusions of the APS PA.
- B. All documentation must contain clear, concise, objective, accurate, and complete information regarding the assessment, the findings of the APS PA, the casework, and follow-up, and all decisions and actions that occur in a case.

903: Establishing a Case Record

- A. The APS PA shall establish a case record to document each IIR, SIR, and transfer case.
- B. All IDoA forms are to be completed according to their instructions.
- C. All case records printed from the APS CM System must be stamped in bold print, "CONFIDENTIAL", on the front of each file folder.
- D. All paper case records, both open and closed, must be stored in a designated and secured area within the APS PA offices. IDoA does not recommend storing paper records if possible.
- E. All electronic records must be stored in the APS CM System.
- F. Records shall be maintained separately from any other programmatic records the APS PA has on the same client.
- G. The APS PA shall have written procedures specific to electronic records, which protect client confidentiality. Procedures for ensuring confidentiality may include, but are not limited to, the use of passwords, or the file being saved on a portable electronic device and the device being stored in a locked cabinet.

904: Contents of the Case Record

- A. The case record shall minimally contain:
 - 1. ANE/SN Intake Form;
 - 2. Client Assessment Form;
 - 3. ANE/SN Overall Initial Risk Assessment;
 - 4. Assessment Preparation/Case Recording; and
 - 5. Client Status
 - 6. AA(s)/Abuser(s)
 - 7. Case Activity Tracker

- B. The case record of substantiated reports, including “some indication” or “verified,” shall also contain the following:
1. Overall Substantiated Risk Assessment;
 2. Overall Risk Assessment and Updated Risk Assessment;
 3. Case Plan; and
 4. Case Closure
- C. When the APS PA has expended Early Intervention Services (EIS) funds on the case, the case record shall contain the EIS Form (IL-402-0713)
- D. The case record shall also contain, if appropriate, the following:
1. ANE/SN Intake for Related Information Reports;
 2. Release of Information Form (IL-402-1246);
 3. Injury Location Chart Form (IL-402-0715);
 4. MMSE Form IL-402-0195 (If the competency of the alleged victim is in question per section “N” of the Risk Assessment form, at least one completed MMSE form must be in the case file; depending on the circumstances of the case and the MMSE guidelines, additional MMSEs may also be included in the file);
 5. Clox I & II Test;
 6. Referral Form (IL-402-1215);
 7. DHS Forms:
 - Notice of Investigation
 - Report of Substantiation Decision
 - Referral For DHS Services
 - Referral to DHS/Division of Mental Health
 8. Law Enforcement Tracking Instrument Form Part I and Part II;
 9. Suspicious Death Reporting Form Part I and Part II;
 10. Photographs;
 11. Relevant documents (medical records, etc.) and correspondence;
 12. Documents pertaining to interventions/services being received, (i.e., order of protection, police reports, etc.);
 13. A copy of the Yesavage Geriatric Scale; and
 14. Other assessment tools.

905: Substitution of IDoA Forms

- A. An APS PA must use IDoA APS CM System and Program forms. Substitute forms may be used for the following with prior approval from IDoA:
 - 1. Injury Location Chart Form (IL-402-0715); and
 - 2. Release of Information Form (IL-402-0717).
- B. To obtain approval to substitute forms, the APS PA shall submit a request for approval to the IDoA and RAA, with copies of the APS PA's proposed forms and instructions.
- C. The IDoA shall compare the forms and shall inform the RAA and APS PA of its decision within fifteen (15) business days of the receipt of the APS PA's request.

906: Case Record Retention

The APS PA agrees to retain all books, records, electronic records and other documents relevant to the operation of the program for ten full years after final payment on the agreement and all other pending matters are closed, unless transfer is authorized in writing from the IDoA. Federal and State auditors and any persons duly authorized by the IDoA shall have the right to full access and to examine any of said materials during that period or until resolution of all financial matters, unless otherwise prohibited by state law and regulations. The case record shall be retained for ten full years from the date of case closure.

Following the ten-year period the case records may be purged. The APS PA must insure that any purged records are shredded, incinerated or if stored electronically, permanently deleted.



**CHAPTER 10:
MULTI-DISCIPLINARY
TEAMS**

CHAPTER 10: MULTI-DISCIPLINARY TEAMS

1001: Purpose of Chapter 1

1002: APS PAs Required to Develop M-Teams 1

1003: Timeframes for Developing M-Teams..... 1

1004: APS PA Responsibilities 1

1005: M-Team Membership and Responsibilities 2

1006: RAA Responsibilities..... 3

CHAPTER 10: MULTI-DISCIPLINARY TEAMS**1001: Purpose of Chapter**

The purpose of this chapter is to outline the requirements for developing and implementing a volunteer M-Team, which will act in a technical advisory role to APS PAs.

1002: APS PAs Required to Develop M-Teams

- A. Each APS PA shall develop and maintain a M-Team, with the following exceptions:
 - 1. the APS PA has less than 7,200 older persons (age 60 years or older) residing in its designated service area; or
 - 2. the RAA recommends to the IDoA, in writing, that two or more service areas implement a combined M-Team, 90 days prior to the implementation date.
- B. If two or more areas share an M-Team, one APS PA shall be designated the lead agency, and will assume the responsibilities outlined in Section 1006 of this Chapter 10.

1003: Timeframes for Developing M-Teams

- A. An APS PA's M-Team shall begin operation no later than 120 calendar days after such APS PA has been funded to provide adult protective service activities. A M-Team must meet at least 8 times per calendar year.
- B. Initial M-Team meetings may be used to train members.

1004: APS PA Responsibilities

- A. The APS PA is responsible for recruiting M-Team members, providing an orientation and overview of the purpose of a M-Team to members and to APSCWs, and assuring that M-Team members are aware of the confidentiality requirements. The APS PA shall use the IDoA's training material.
- B. The APS PA is required to have written procedures for the following:
 - 1. recruiting M-Team members;
 - 2. preparing for and conducting M-Team meetings; and
 - 3. financial management of M-Team funds.
- C. The APS PA is responsible for having a written agreement with an individual or agency, whichever is appropriate, outlining the M-Team member's roles and responsibilities.
- D. It is the responsibility of the APS PA to request records from law enforcement, the coroner, or the medical examiner in the review of particular cases.

1005: M-Team Membership and Responsibilities

- A. M-Teams shall consist of one M-Team Coordinator who is appointed by the APS PA and who has completed the IDoA sponsored APSCW certification, and one individual from each of the following professions:
1. banking or finance;
 2. clergy or faith community;
 3. disability care;
 4. healthcare;
 5. law enforcement;
 6. legal; and
 7. mental health.

Optional members may be appointed from the fields of substance abuse, domestic violence, sexual assault, or other related fields.

- B. The objectives of the M-Team are to provide case consultation and assistance to the AP SCWs; provide support and insight in clarifying community awareness; and encourage cooperation among various service agencies. Specific M-Team member responsibilities include:
1. banking or finance member – responsible for providing expertise, advice, and information to resolve the client’s financial problems and conflicts;
 2. clergy or faith community member – responsible for providing expertise, advice, and information from a faith based perspective;
 3. disability care member – responsible for providing expertise, advice and information regarding adults with disabilities;
 4. health care member - responsible for providing expertise, advice and information regarding available medical resources, nursing home placement, insurance coverage, and other medical questions;
 5. law enforcement member - responsible for providing expertise, advice, and information regarding the law enforcement process and police interaction and when requested, provide records associated with the cases discussed within their jurisdiction;
 6. legal member – responsible for providing legal counsel/expertise, advice, and information;
 7. mental health care member - responsible for providing expertise, advice, and information from a mental health perspective; and
 8. optional members - responsible for providing expertise, advice, and information in this member’s profession or area of competency.

9. M-Team Coordinator - responsibilities include:
 - a. completing the M-Team training provided by IDoA or the RAA;
 - b. planning, organizing, and facilitating the M- Team meetings;
 - c. meeting with the APSCW and supervisor prior to the meeting to select and discuss the case presentation;
 - d. preparing minutes and an agenda for each meeting;
 - e. ensuring that each member receives information that is needed for the meeting;
 - f. acting as a liaison between the M-Team members and the APS PA; and
 - g. obtaining relevant records from coroners or medical examiners prior to meeting and discussion of a case.
10. APSCW – responsible for preparing case summaries and presenting them at M-Team meetings; and providing follow-up information to M-Team members on cases previously discussed by the M-Team.

1006: RAA Responsibilities

- A. The RAA is responsible for providing training to the APS PA's M- Team Coordinator. The training will include the following:
 1. providing information on the standards and procedures regarding M-Teams;
 2. recruitment of M-Team members;
 3. training M-Team Members;
 4. selecting cases to present;
 5. planning and organizing meetings;
 6. following up on recommendations of the M-Team members; and
 7. ensuring that confidentiality procedures are followed.
- B. The RAA is responsible for providing technical assistance and, if appropriate, training to the APS PAs.
- C. The RAA shall designate an RAA staff member who has successfully completed the IDoA sponsored APS APSCW and Supervisor certification.
- D. An RAA representative may attend no more than one M-Team meeting per year in each provider service area for monitoring purposes.
- E. If a RAA recommends that two or more APS PAs share a M-Team, the RAA shall appoint one lead agency to be responsible for appointing a M- Team Coordinator, and maintaining the M-Team funds.



**CHAPTER 11:
FATALITY REVIEW
TEAMS (FRTs)**

CHAPTER 11: FATALITY REVIEW TEAMS (FRTs)

1101: Purpose of Chapter 1

1102: State Policy and Agencies Required to Develop FRTs 1

1103: Timeframes for Developing FRTs 1

1104: APS PA Responsibilities 2

1105: FRT Membership and Responsibilities 2

1106: FRT Confidentiality and Indemnification 4

1107: FRT Advisory Council 5

CHAPTER 11: FATALITY REVIEW TEAMS (FRTs)**1101: Purpose of Chapter**

The purpose of this chapter is to outline the requirements for developing and implementing FRTs and the FRT Advisory Council.

1102: State Policy and Agencies Required to Develop FRTs

- A. Both the State and community maintain a commitment to preventing ANE of at-risk adults. This includes a charge to bring perpetrators of crimes against at-risk adults to justice and prevent untimely deaths in the community.

When an at-risk adult dies, the response to the death by the community, law enforcement, and the State must include an accurate and complete determination of the cause of death, and the development and implementation of measures to prevent future deaths from similar causes.

Multidisciplinary and multi-agency reviews of deaths can assist the State and counties in developing a greater understanding of the incidence and causes of premature deaths and the methods for preventing those deaths, improving methods for investigating deaths, and identifying gaps in services to at-risk adults.

Access to information regarding the deceased person and his or her family by multidisciplinary and multi-agency FRTs is necessary in order to fulfill their purposes and duties.

- B. A minimum of one regional interagency FRT shall be established in each of the Department's planning and service areas.

1103: Timeframes for Developing FRTs

- A. The chair of a review team shall apply to the Department for official designation under the APS Program. The application shall be in writing and must include:

1. the county or counties that will participate on the review team;
2. the names, offices, business addresses, and emergency contact information of the members of the review team;
3. a copy of the proposed procedures and protocols for the review team or a statement by the chair that the review team is adopting the statewide standard designated by the Department; and
4. the date on which, if a designation is approved, the review team proposes to begin its work.

- B. Upon receipt of an application, the Department will have 25 calendar days to respond. If the Department, in consultation with the FRT Advisory Council, refuses to approve a designation, the reason or reasons for that refusal will be promptly transmitted, in writing, to the chair. An application for official designation as a FRT that has been refused previously by the Department may be resubmitted, with appropriate changes, at any time.

- C. An FRT shall begin operation upon the appointment of team members by the Director. The AFR Team meetings are to be held at least 6 times per calendar year.
- D. Initial FRT meetings may be used to train members.

1104: APS PA Responsibilities

- A. The APS PA in consultation with law enforcement and other professionals who work in the field of investigating, treating or preventing ANE of at-risk adults may recruit FRT members.
- B. The APS PA shall conduct activities as required by statute and as referenced in the Illinois Department on Aging's Adult Protective Service FRT Manual.
- C. It is the responsibility of the APS PA to request records from law enforcement, the coroner or medical examiner in the review of suspicious deaths.

1105: FRT Membership and Responsibilities

- A. The Director, in consultation with the FRT Advisory Council, law enforcement, and other professionals who work in the field of adult protective services, shall appoint members to a 2-year term with a minimum of one FRT in each of the Department's planning and service areas. Each member shall be eligible for reappointment upon the expiration of the term.

FRTs shall consist of one designated coordinator, one chairperson and one co-chair. Unless the FRT selects, by majority vote, another member, the coroner or medical examiner of the county in which the FRT is located shall serve as chair. For teams in which more than one county is participating, the FRT shall select the chair by majority vote.

Each FRT shall be composed of representatives of entities and individuals including, but not limited to:

1. the Department on Aging;
2. coroners or medical examiners (or both);
3. State's Attorneys;
4. local police departments;
5. forensic units;
6. local health departments;
7. social service or health care agency that provides services to persons with mental illness in a program whose accreditation to provide such services is recognized by the Division of Mental Health within the Department of Human Services;
8. a social service or health care agency that provides services to persons with developmental disabilities in a program whose accreditation to provide such services is recognized by the Division of Developmental Disabilities within the Department of Human Services;

9. a local hospital, trauma center, or provider of emergency medicine;
 10. providers of services for eligible adults in domestic living situations; and
 11. a physician, psychiatrist, or other health care provider knowledgeable about abuse and neglect of at-risk adults.
- B. The designated coordinator shall:
1. serve as the recorder and shall keep minutes of all meetings;
 2. collect and disseminate all relevant case review materials to team members;
 3. oversee the collection and disposition of all case review materials upon completion of the review;
 4. collect and submit information from case reviews to the statewide database using the data collection form;
 5. keep records of all correspondence, findings and recommendations prepared by the FRT; and
 6. delegate various responsibilities to available staff members designated by participating agencies.
- C. The chair shall perform all duties required by law and preside at all FRT meetings. The chair shall rule on issues of order and procedure and shall take other actions as necessary for the efficient and orderly conduct of reviews unless directed otherwise by the FRT.
- D. The co-chair shall serve in the absence of the chair and have all the powers of the chair during the chair's absence, disability or disqualification.
- E. Each FRT member will be responsible for providing insight, advice and information about resources based on their professional expertise.
- F. FRT members may bring trainees to a meeting with prior approval of the chair and FRT.
- G. Law enforcement, coroners or medical examiners will be responsible for providing records associated with the cases discussed within their jurisdiction.
- H. Each team member shall attend, at a minimum, 50% of the meetings in a year (July 1 – June 30) to maintain membership.
- I. The FRT shall conduct its activities in accordance with any applicable policies and procedures established by the Department and as referenced in the IDoA's APS FRT Manual.
- J. A FRT shall review cases of deaths of at-risk adults occurring in its planning and service area:
1. involving blunt force trauma or an undetermined manner or suspicious cause of death;
 2. if requested by the deceased's attending physician or an emergency room physician;
 3. upon referral by a health care provider;
 4. upon referral by a coroner or medical examiner;

5. constituting an open or closed case from an APS PA, law enforcement agency, State's Attorney's office, or the Department of Human Services' Office of the Inspector General that involves alleged or suspected ANE;
6. upon referral by a law enforcement agency or State's Attorney's office.

If such a death occurs in a planning and service area where an FRT has not yet been established, the Director shall request that the Advisory Council or another FRT review that death. An FRT may also review deaths of at-risk adults if the alleged abuse or neglect occurred while the person was residing in a domestic living situation.

- K. The FRT's purpose in conducting reviews of at-risk adult deaths is:
1. to assist local agencies in identifying and reviewing suspicious deaths of adult victims of alleged, suspected, or substantiated ANE in domestic living situations;
 2. to facilitate communications between officials responsible for autopsies and inquests and persons involved in reporting or investigating alleged or suspected cases of ANE of at-risk adults and persons involved in providing services to at-risk adults;
 3. to evaluate means by which the death might have been prevented; and
 4. to report its findings to appropriate agencies and the Advisory Council and make recommendations that may help to reduce the number of at-risk adult deaths caused by ANE and that may help to improve the investigations of deaths of at-risk adults and increase prosecutions, if appropriate.
- L. FRT members shall complete the Office of the Attorney General's Open Meetings Act on-line training. A copy of the certificate of completion shall be provided to the FRT designated coordinator and kept on file.

1106: FRT Confidentiality and Indemnification

- A. Documents, oral communication or written communication shared within or produced by the FRT relating to a case discussed or reviewed by the FRT is confidential. Such communication is not admissible as evidence in civil or criminal proceedings, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Records and information are, however, subject to discovery or subpoena, and are admissible as evidence; to the extent they are otherwise available to the public.
- B. Documents, oral communication or written communication provided to a FRT by an individual or entity, and created by that individual or entity solely for the use of the FRT is confidential. Such communication is not subject to disclosure or discoverable by another party, and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.

- C. Members of an FRT are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of a FRT or opinions formed by members of the FRT based on that information. A person may, however, be examined concerning information provided to a FRT.
- D. Meetings of the FRT may be closed to the public under the Open Meetings Act. Records and information provided to a FRT, and records maintained by a FRT, are exempt from release under the Freedom of Information Act.
- E. The State indemnifies and holds harmless FRT members for all of their acts, omissions, decisions, or other conduct arising out of the scope of their service on the FRT, except those involving willful or wanton misconduct. The method of providing indemnification is provided in the State Employee Indemnification Act.

1107: FRT Advisory Council

- A. The FRT Advisory Council serves as the coordinating and oversight body for FRTs and activities in Illinois.
- B. The FRT Advisory Council shall consist of one member from each FRT in the state. The Director may appoint to the FRT Advisory Council any ex-officio members deemed necessary. Persons with expertise needed by the FRT Advisory Council may be invited to meetings.
- C. The FRT Advisory Council must select from its members a chairperson and a vice-chairperson to each serve a two year term. The chairperson or vice-chairperson may be selected to serve additional, subsequent terms.
- D. The Department may provide or arrange for the staff support necessary for the FRT Advisory Council to carry out its duties.
- E. The Director, in cooperation and consultation with the FRT Advisory Council, shall appoint, reappoint, and remove FRT members.
- F. The FRT Advisory Council must meet at least 4 times during each calendar year.
- G. The FRT Advisory Council has, but is not limited to, the following duties:
 - 1. to serve as the voice of FRTs in Illinois;
 - 2. to oversee the FRTs in order to ensure that FRT's work is coordinated and in compliance with State statutes and the Department protocol;
 - 3. to ensure that the data, results, findings, and recommendations of the FRTs are adequately used in a timely manner to make any necessary changes to the policies, procedures, and State statutes in order to protect at-risk adults;
 - 4. to collaborate with the Department in order to develop any legislation needed to prevent unnecessary deaths of at-risk adults;
 - 5. to ensure the FRT's review processes are standardized in order to convey data, findings, and recommendations in a usable format;

6. to serve as a link with FRTs throughout the country and to participate in national review team activities;
 7. to provide FRTs with the most current information and practices concerning at-risk adult death review and related topics; and
 8. to perform any other functions necessary to enhance the capability of the FRTs to reduce and prevent at-risk adult fatalities.
- H. In any instance where a FRT does not operate in accordance with established Department protocol, the Director, in consultation and cooperation with the FRT Advisory Council, must take any necessary actions to bring the review team into compliance with the protocol.
 - I. The FRT Advisory Council may prepare an annual report, in consultation with the Department, using aggregate data gathered by FRTs and using the FRT's recommendations to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.
 - J. Members the FRT Advisory Council are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of the FRT Advisory Council or opinions formed by members of the FRT Advisory Council based on that information. A person may, however, be examined concerning information provided to the FRT Advisory Council.
 - K. Meetings of the FRT Advisory Council may be closed to the public under the Open Meetings Act. Records and information provided to the FRT Advisory Council, and records maintained by the FRT Advisory Council, are exempt from release under the Freedom of Information Act.
 - L. The State indemnifies and holds harmless FRT Advisory Council members for all of their acts, omissions, decisions, or other conduct arising out of the scope of their service on the FRT Advisory Council, except those involving willful or wanton misconduct. The method of providing indemnification is provided in the State Employee Indemnification Act.
 - M. FRT Advisory Council members shall complete the Office of the Attorney General's Open Meetings Act on-line training. A copy of the certificate of completion shall be provided to the designated Department staff member and kept on file.



**CHAPTER 12:
CONFIDENTIALITY
AND DISCLOSURE**

CHAPTER 12: CONFIDENTIALITY AND DISCLOSURE

1201: Purpose of Chapter 1

1202: Scope of Confidentiality (Access to Records, Release of Records,
Security and Privacy of Records and Response to Subpoenas 1

1203: Authority to Consent 7

CHAPTER 12: CONFIDENTIALITY AND DISCLOSURE

1201: Purpose of Chapter

The purpose of this chapter is to describe statutory and programmatic requirements regarding confidentiality, disclosure and consent.

This chapter also addresses how to proceed with an investigation when the alleged victim has a court appointed guardian or agent(s) appointed under a power(s) of attorney.

1202: Scope of Confidentiality

- A. Reports of abuse or neglect
 1. The APS Act, in Section 4(c), provides that the identity of any person making a report of alleged or suspected ANE/SN shall not be disclosed unless with that person's written consent or by court order.
 2. The IDoA, RAA, or APS PA shall not disclose the identity of any person making such a report, unless the reporter has given his or her written consent or such release is specifically ordered by the court. Prior to the release of the reporter's identity, the APS PA responsible for the records containing the identity of the reporter must have received the written consent from the reporter, signed and dated by the reporter, or a court order, signed and dated by the judge.
 3. Upon receipt of a court order requiring the disclosure of the identity of a reporter of alleged or suspected ANE/SN, the individual or agency to whom the court order is directed shall immediately consult the Office of APS to determine the validity of the order. In addition, the APS PA should follow the requirements in Section 1303:D. The individual or agency to whom the court order is directed shall comply with all lawful orders of the court.
- B. Access to records
 1. The APS Act, in Section 8, provides that all records concerning reports of ANE/SN and all records generated by such reports are confidential and shall not be disclosed except under specific circumstances authorized by law.
 2. The access to such records, without the disclosure of the identity of any person making a report of alleged or suspected ANE/SN, is permitted to the following persons:
 - a. To IDoA staff, RAA staff, APS PA staff, or other Aging network staff, in the furtherance of their responsibilities for monitoring and supervising the APS program. In no case shall such disclosure be broader than those records necessary for such monitoring and supervision. Each such disclosure shall only be made pursuant to a specific request from the requesting agency, detailing the records requested, and stating the purpose of the request.
 - b. A representative of the public guardian acting in the course of investigating the appropriateness of guardianship for the eligible adult or while pursuing a petition for guardianship of the eligible adult pursuant to the Probate Act of 1975.

- c. To a law enforcement agency investigating a known or suspected case of ANE/SN. Where an APS PA has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult.
- d. To a law enforcement agency, fire department agency, or fire protection district having proper jurisdiction pursuant to a written agreement between an APS PA and the law enforcement agency, fire department agency, or fire protection district under which the APS PA may furnish to the law enforcement agency, fire department agency, or fire protection district a list of all eligible adults who may be at imminent risk of ANE/SN.
- e. To a physician who has before him or her, or who is involved in the treatment of, an eligible adult whom he or she reasonably suspects may be abused, neglected, financially exploited, or self-neglecting or who has been referred to the APS Program.
- f. To an eligible adult reported to be abused, neglected, or financially exploited, or is reported to be self-neglecting, or such adult's authorized guardian or agent designated under the Power of Attorney Act, or to an attorney at law representing the client; unless the guardian or agent is the abuser or the alleged abuser. Such release shall only be in accordance to the procedures found in Section 1202:C.2.
- g. To an executor or administrator of the estate of an eligible adult who is deceased.
- h. To a court or a guardian ad litem (GAL), in cases regarding abuse, neglect, or financial exploitation, upon a determination by the judge or the GAL that access to such records may be necessary for the determination of an issue before the court. Such release shall only be made pursuant to a written request by the GAL or a written order by the court. Such access by the court is limited to an *in camera* inspection (a review done by the judge in chambers), unless the court determines that disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.
- i. To a guardian ad litem in cases regarding self-neglect.
- j. To a grand jury, upon its determination that access to the records is necessary for conduct of its official business, and upon a subpoena issued by or on behalf of that grand jury for such records being served upon the APS PA having custody of such records.
- k. To any person authorized by the Director, in writing, for audit or bona fide research purposes. The APS PA shall have actual custody of the authorization before such release, and shall release such records only to the person(s) so designated.
- l. To a coroner or medical examiner having reason to believe that an eligible adult has died as the result of ANE/SN. The APS PA shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult.

- m. To a coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between a APS PA and the coroner or medical examiner, under which the APS PA may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of ANE/SN.
 - n. To the Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board, or to the members or staff of the Social Work Examining and Disciplinary Board, pursuant to an official request, made in writing, for the purpose of investigating alleged violations of the Clinical Social Work and Social Work Practice Act [225 ILCS 20/1 *et seq.*] by an APS PA staff or other licensing bodies at the discretion of the Director of IDoA.
 - o. To the Department of Healthcare and Family Services staff and its provider agency staff, when that Department is funding services to the eligible adult, including access to the identity of the eligible adult.
 - p. To the Department of Human Services staff and its provider agency staff when that Department is funding services to the eligible adult or is providing reimbursement for services provided by the abuser or alleged abuser including access to the identity of the eligible adult.
 - q. To hearing officers in the course of conducting an administrative hearing under the APS Act.
 - r. To a caregiver who challenges placement on the APS Registry, allegations in the ANE/SN Intake Form and the substantiation decision in the final investigative report shall be provided.
 - s. To the Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act. Access, through the Department, to records shall include the findings pertaining to a completed or closed investigation of a report of suspected ANE/SN of an eligible adult.
- C. Release of Records Procedures
- 1. In cases where the APS PA has initiated the referral of a case to an individual or entity referred to in the APS Act Section 8, copies of records may be released without having received a written request.
 - 2. The release of information or records to the client or to that client's guardian, agent or attorney pursuant to 1202:B.2.e. shall be made only pursuant to a written request from the client, the agent designated under the Power of Attorney Act, guardian, or the attorney at law. Such agent, guardian or attorney at law must provide documentation to the APSCW that the agent, guardian, or attorney at law seeking the information is acting within the scope of his or her authority. For an agent, this means that the agent must present to the APSCW a valid power of attorney document appointing the agent. For an attorney at law, the documentation of authority must be in writing, on the business stationery of such attorney at law, and state that the

attorney is representing the client on the specific issues involved in the APS case. A guardian shall provide a copy of the court order appointing such person as the guardian. If there is any doubt on the part of the APSCW, the APS PA should consult the Office of APS. The request from such agent, guardian, or attorney at law should not be honored until such time as the APS supervisor is assured of the authority of the agent, guardian or the attorney at law.

D. Release of Records Procedures under Specific Circumstances

1. When the substantiated abuser is a worker paid through the IDoA, Department of Human Services, Department of Public Health, or Department of Healthcare and Family Services, whose employment may be adversely affected by the substantiation decision, IDoA may share summary information provided by the APS PA regarding the investigation conducted, the type(s) of abuse substantiated, and the reasons for substantiation. This information may also be shared with the abuser's employer and with the abuser.
2. When the substantiated abuser is a worker paid through the Older Americans Act and related funds, whose employment may be adversely affected by the substantiation decision, the RAA may, upon written request, share summary information provided by the APS PA regarding the investigation conducted, the types(s) of abuse substantiated, and the reasons for substantiation. This information may be shared with the abuser's employer and with the abuser.
3. When an APSCW has evidence that an APS client did not accurately report his or her assets to the CCP, Department of Human Services, Department of Public Health, Department of Healthcare and Family Services, or another publicly funded program, the APSCW must report such evidence to the Office of APS.
4. Client information, limited to what is necessary to serve the best interests of the client, may be shared verbally with other professionals, including long-term care ombudsmen, case managers at a care coordination unit, staff of the Department of Human Services including PAS Agents, staff at the Department of Healthcare and Family Services, staff of Managed Care Organizations, staff of a money management program, medical services providers, caregiver-support program staff, and staff of another APS PA, provided that:
 - a. the professionals or their agencies are providing services to the client, or
 - b. the APS program is arranging services with the individual or agency for the client.
5. Requests for APS case files under the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.*) will not be honored. The right to access APS records through a FOIA request is limited by Section 7.5(y) of the FOIA and Sections 4 and 8 of the APS Act regarding confidentiality. If an APS PA receives a FOIA request, the APS PA shall contact the Office of APS for guidance on response.

E. Security of Records and Protecting Privacy

1. In any release of the records provided by law, the APS PA shall not release the name or identity of the reporter, and shall disclose the records only to the person or persons authorized by law to receive or review such records, and only such records as are legally requested, authorized, or required to be released.
2. The APSCW and the APS PA shall take all necessary measures to safeguard the physical security of, and access to, the records, including those stored electronically. Electronic records shall be protected through the use of electronic security measures such as passwords granted only to authorized persons. Under no circumstances (except with the permission of IDoA) shall any employee of the RAA or the APS PA remove copies of the files from the premises of the offices of the RAA or APS PA unless the original files are being taken to court for judicial review.
3. Any electronic transfer of confidential information by an APS PA must take place via an encrypted channel. Encryption requires the scrambling of a message or data so that no one but the sender and the intended recipient can read it.

Email messages containing encrypted data may never include the password in the same message as the encrypted data. Instead, when the encryption method includes a password, that password must be transferred through an alternative method, such as calling the individual and leaving the password on their voice mail.

Individuals who are unsure if they are correctly encrypting electronic data transfers should immediately contact the Office of APS.

4. The APS PA shall also, when appropriate, seek to prevent further disclosure of the records by requesting that the person or office to whom the records are released take appropriate measures to safeguard the physical security of, and access to, the records by authorized persons.
5. In the event of an actual or potential breach of confidential information held or transferred by an APS PA, the APS PA must immediately take all steps necessary to cure or mitigate the effects of the breach. Additionally, the APS PA must immediately contact the Office of APS to report the breach. The Office of APS will determine what additional action may be required on behalf of the APS PA.

F. Response to Subpoenas for Records

1. Section 8 of the APS Act describes the confidentiality of, and access to, records generated as a result of the report of alleged or suspected ANE/SN. The APS PA must not comply with subpoenas for records from parties that are not entitled to access to such records. When a question arises as to the propriety of the release, the APS PA shall contact the Office of APS for guidance.

2. When an APS PA receives a subpoena to produce any portion of a case record relating to an ANE/SN case, the APS PA shall take the following steps:
 - a. The APS PA should first determine the nature of the case in which the subpoena was issued, the party issuing the subpoena, and the scope of the demand for records contained in the subpoena. (If the subpoena is for the testimony of the supervisor or caseworker at a deposition, hearing or trial, then consult the following Subpart G.)
 - b. The APS PA should then determine if the subpoena has been issued by a person or agency authorized under Section 8 of the APS Act (see Subpart B above). If it has, the APS PA should prepare a redacted copy of the case record. Redacted information should minimally include references to the identity of the reporter and sensitive personal identifiers such as a Social Security Number, Medicare Number, Medicaid Number, Driver's License Number and financial account numbers.

The APS PA may also redact references to conversations in the case notes protected by attorney-client privilege. The APS PA shall retain a copy of the records released to the party that issued the subpoena, or to the court for a judicial review. This copy should be uploaded to the client record in the APS CM System.

- c. If the records cannot be submitted to the party issuing the subpoena, then the APS PA must, directly or through legal counsel, advise the party issuing the subpoena that, under Section 8 of the APS Act, any portion of the case record relating to a case of ANE/SN is confidential and can only be disclosed in accordance with Section 8 of the Act.
- d. If the APS PA determines that it cannot release the case record, the APS PA shall respond to the party issuing the subpoena in writing as follows:

We must respectfully decline to comply with your subpoena of [date], regarding the case record relating to [name of person whose files are the subject of the subpoena]. Section 8 of the Adult Protective Services Act provides in relevant part that: "All records concerning reports of abuse, neglect, financial exploitation or self-neglect and all records generated as a result of such reports shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law."

Your subpoena does not fit into any of the exceptions listed in Section 8. Therefore, this agency must decline to produce the case record requested by your subpoena.

This agency will comply with a court order issued in accordance with Section 8 of the Adult Protective Services Act, which provides that a "court, upon its finding that access to such records may be necessary for the determination of an issue before such court" may order the access to such records. However, this access is limited to an in camera inspection by the court, unless the court determines the disclosure of such information in court is necessary for the resolution of issues before it.

This agency will cooperate in the disclosure of such records only in accordance with the provisions of the Adult Protective Services Act.

- e. If it appears likely that the party issuing the subpoena will pursue a court order to enforce the subpoena, the APS PA should consult their own legal counsel or IDoA for legal advice.
- f. When the court orders an in camera inspection, the APS PA must submit the case record to the judge consistent with the redaction requirements of Section 1202:F.2.b.

G. Responding to Subpoenas for Oral Testimony

1. If the subpoena demands that an APSCW or supervisor provide testimony in a deposition, hearing, or trial, the APSCW or supervisor shall make herself or himself available to be deposed or to testify. The APSCW or supervisor shall answer all questions relating to what she or he observed, witnessed, saw or heard. The confidentiality provisions of the APS Act pertain to the case record, not to direct observations by the APSCW or supervisor.
2. If, during a deposition, the APSCW or supervisor is asked to identify the reporter in the case, the witness should refuse to do so, pending a later ruling by the court. If the question is put to the witness in a hearing or trial, the witness should remain silent until objections have been made and ruled upon, or, in the absence of objections, the witness should ask the judge if she/he is required to divulge that information and then comply with the judge's ruling.

1203: Authority to Consent

- A. During the APS investigation the APSCW must determine whether there is a valid guardianship in place, a valid durable power of attorney, and the powers and limitations of the guardian or agent. This information may be determined by a review of the guardianship order signed by the judge or by a review of the Durable Power of Attorney forms.
- B. If it reasonably appears to the APS PA that the alleged victim has decisional capacity at the initial interview, then the APS PA will conduct an assessment of the reported incident of suspected ANE/SN in accordance with Chapters 4, 5 and 6.
- C. The APS PA shall support that an agent acting under a Durable Power of Attorney never has the legal authority to override the decision-making powers of a principal.
- D. Whatever the scope of authority of the guardian or agent, the APS PA need not follow the directions of a guardian or agent who is an alleged, suspected or substantiated abuser to the extent that such directions are adverse to the best interests of the ward (a person who has been adjudicated disabled and had a guardian appointed) or principal.
- E. An eligible adult "lacks the capacity to consent" if qualified staff of an APS PA reasonably determine, that he or she appears either unable to receive and evaluate information related to the assessment or services or unable to communicate in any manner decisions related to the assessment of the reported incident or services.

- F. If it reasonably appears to the APS PA that the alleged victim lacks decisional capacity at the initial interview, and there is no immediate risk of harm, then the APS PA will continue to intervene in order to determine if the alleged victim has a guardian or agency under an advanced directive with authority to act on his or her behalf for consenting to an assessment and/or services.
1. Upon consent by the guardian or agent under an advance directive, services will be provided according to the case plan and shall be arranged to meet the client's needs, based on the availability of resources to provide such services.
 2. If the client does not have a guardian or agent, or the guardian or agent lacks authority to act, the APS PA shall contact the Illinois Guardianship and Advocacy Commission, the Office of State Guardian, or any other appropriate agency, of the potential need for appointment of a temporary guardian as provided in Article XIa of the Probate Act of 1975 for the purposes of consenting to an assessment of the reported incident and services, together with an order for an evaluation of the alleged victim's decisional capacity and his or her physical, psychological, and medical condition. *(320 ILCS 20/9(b))*.
- G. The APS PA shall follow the directions of the ward to the extent that the limited or temporary guardianship order allows the ward, provided that the decisions are not adverse to the best interests of the ward.
- H. When a guardian (whether temporary, plenary or limited) has been appointed by the court to make decisions for the client, and such guardian is not the alleged, suspected, or substantiated abuser, the APS PA shall work with and through that guardian to the extent of the guardian's authority. This includes approaching the guardian to request consent for an assessment of the reported incident, services, or consent to the release of information on behalf of the guardian's ward.
- I. If the guardian is the alleged abuser or the substantiated abuser, and such guardian has interfered with services, refused to cooperate with the APS PA, or refused to permit access to the client, or such guardian cannot be located or contacted in a timely manner after several good faith attempts, the APSCW may request a court order seeking appropriate remedies, and may in addition request removal of the guardian and appointment of a successor guardian or request removal of the agent and appointment of a guardian.

If it reasonably appears to the APS PA that the alleged victim lacks the decisional capacity at the initial interview, and there is an immediate risk of harm or some other emergency exists, then the APS PA may:

1. take appropriate action necessary to ameliorate the risk by consulting with any other appropriate professional and/or provider of services, through charitable and community assistance, disability agencies, private means, or public benefit programs to meet identified needs, stabilize the abusive situation and reduce the risk of further harm, such as:
 - a. seeking assistance of law enforcement to gain access to the alleged victim;
 - b. obtaining emergency medical care;

- c. petitioning for Orders of Protection, Restraining Orders, or orders freezing assets;
 - d. purchasing early intervention services under Section 270:265; and
 - e. applying for appointment of a representative payee; and/or
2. request an ex parte order from the circuit court of the county in which the petitioner or respondent resides or in which the alleged ANE/SN occurred, authorizing an assessment of a report of alleged or suspected ANE/SN or the provision of necessary services, or both, including relief available under the Illinois Domestic Violence Act of 1986 (750 ILCS 60). (320 ILCS 20/9(d))
- J. In all cases in which there is a substantiated finding of abuse, neglect, or financial exploitation by a guardian, the Department shall, within 30 days after the finding, notify the probate court with jurisdiction over the guardianship.
 - K. The written notification to the probate court shall be written on the APS PA's letterhead and shall include the following:

DATE: _____

Hon. Judge _____

In re: _____

Probate Case No. _____

Dear Hon. Judge _____:

Pursuant to 320 ILCS 20/9(g), I am writing to notify you that on _____ (date of substantiation), (name of guardian) _____, the guardian of (victim) _____, a disabled person, was substantiated as an abuser of (victim) _____.

Should you wish to review the appropriateness of the guardianship as a result of this notification, please provide us with an Order for *in camera* inspection, in accordance with the Adult Protective Services Act, 320 ILCS 20/*et seq.* You may call the Adult Protective Services caseworker, _____, to provide testimony in the event of a hearing.

Respectfully,

APS Supervisor

cc: Illinois Department on Aging Office of Adult Protective Services



**CHAPTER 13:
IMMUNITY
PROVISIONS**

CHAPTER 13: IMMUNITY PROVISIONS

1301: Purpose of Chapter 1

1302: Scope of Immunity 1

1303: Responses to Legal Summons..... 1

CHAPTER 13: IMMUNITY PROVISIONS

1301: Purpose of Chapter

The purpose of this chapter is to describe the statutory provisions for immunity of reporters of ANE/SN and APS PA caseworkers and supervisors from civil, criminal, and professional disciplinary liability.

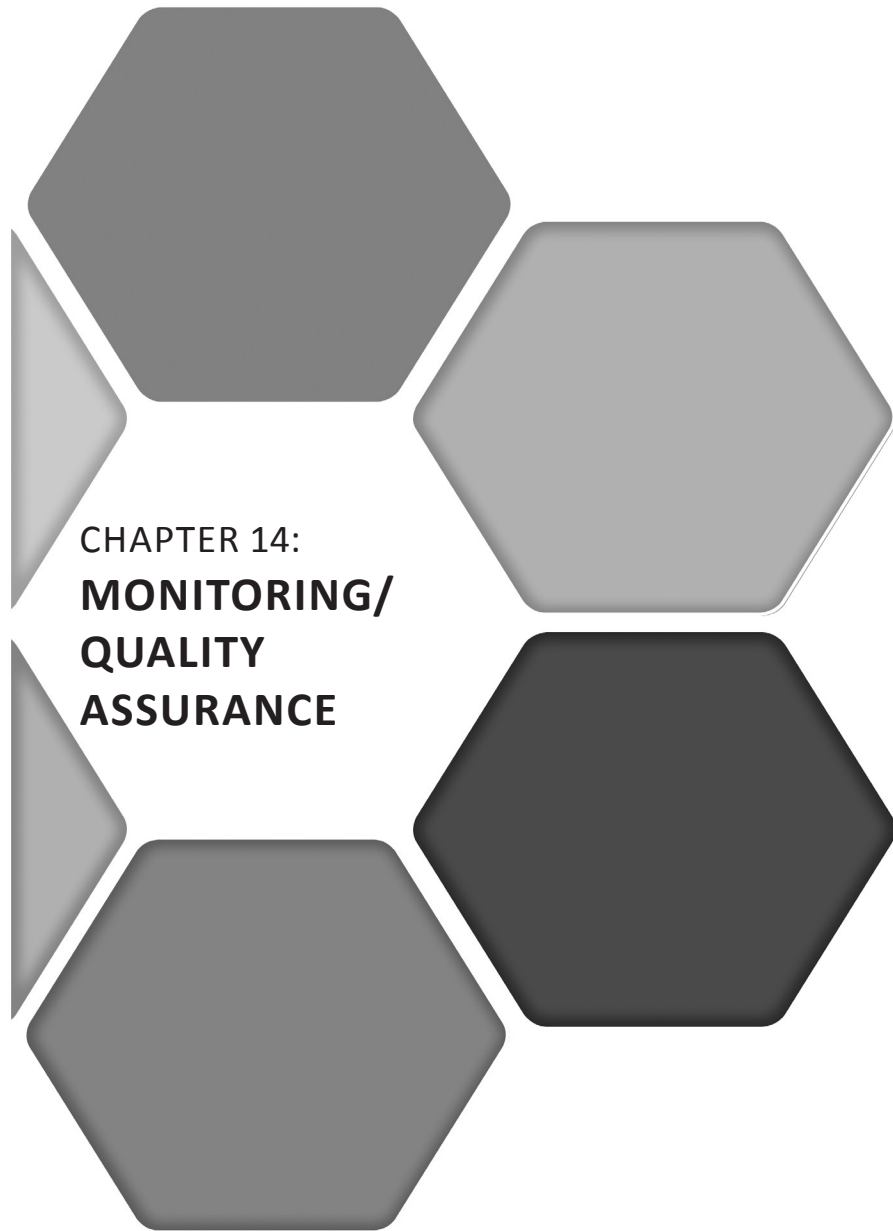
1302: Scope of Immunity

- A. The APS Act provides, in Section 4, that any person, institution, or agency making a report or providing information or records related to a report, assessment, or services, or taking photographs or X-rays as part of an authorized assessment, or authorized by IDoA to provide assessments, interventions (including casework and follow-up), or administrative services (i.e., the RAAs) shall be immune from any civil or criminal liability, or professional disciplinary action, when so acting in good faith.
- B. "Good faith" is a legal term of art which means that the action was done in the absence of malice; with no design to defraud or seek an unconscionable advantage; with an honesty of purpose; and while being faithful to one's duties and obligations. It would not include using the reporting or assessment process for personal advantage. The strict adherence to the procedures outlined in these standards would support the defense of an APSCW that the report or assessment was done in "good faith." Section 4 of the Adult Protective Service's Act provides that in any hearing or trial, the good faith of the APSCWs, supervisors and APS PAs shall be presumed, unless such presumption is overcome by clear evidence.

1303: Responses to Legal Summons

- A. The State Employee Indemnification Act (5 ILCS 350/0.01 *et seq.*) does provide for the legal representation of APSCWs, supervisors, APS PA volunteers (when such volunteer status is put in a written agreement), RAAs, and APS PAs by the Attorney General of the State of Illinois.
- B. Should an APSCW, supervisor, volunteer, RAA or APS PA be faced with a civil lawsuit or criminal prosecution, the individual or program may choose to retain legal counsel. Whether the agency or individual would be reimbursed the cost of legal representation or would be offered the representation of the Attorney General would depend upon the specific circumstances. Decisions regarding representation are made by the Office of the Attorney General.
- C. For a civil or criminal prosecution to overcome the statutory immunity provision, the plaintiff or prosecutor would be required to plead and prove that the report or assessment was not undertaken in "good faith." The evidence of a lack of "good faith" must be more than mere negligence or lack of desired results, but must include an allegation of malice, misconduct, fraud, recklessness, or the seeking of a personal advantage.

- D. IDoA shall be notified upon receipt of a legal summons of any legal action (other than a subpoena) taken against the RAA, APS PA or APS staff or volunteers in connection with the APS Program. Such notice shall be provided within 24 hours, in writing, and shall include a copy of the legal document received.



**CHAPTER 14:
MONITORING/
QUALITY
ASSURANCE**

CHAPTER 14: MONITORING/QUALITY ASSURANCE

1401: Purpose of Chapter 1

1402: RAA Peer Review 1

1403: APS PA Peer Review 1

1404: RAA Annual Program Operations Case Review (APOCR) 2

1405: APS PA (APOCR) 3

1406: RAA Periodic Program Operations Administrative Review (PPOAR) 3

1407: APS PA (PPOAR) 4

1408: Complaint Review regarding citizen complaints 4

CHAPTER 14: MONITORING/QUALITY ASSURANCE**1401: Purpose of Chapter**

The purpose of this chapter is to outline the standards, functions and responsibilities of IDoA, RAAs, and APS PAs to assure that activities conducted are consistent with program standards and procedures.

1402: RAA Peer Review

- A. RAAs shall select the specific case records to be reviewed. The size of the sample of case records to be reviewed will be determined according to IDoA protocol.
- B. RAAs shall provide the sample to the APS PA two weeks prior to the start of the review. APS PAs will then be given thirty days in which to complete their peer review.
- C. RAAs are responsible for providing technical assistance as necessary based on the results of the peer review.

1403: Adult Protective Service Provider Agencies/ Peer Review

- A. Each APS PA is required to complete an annual peer review between July 1 – December 31.
- B. Each APSCW who is listed on the IDoA APSCW registry shall complete one review of another peer's case record using the APOCR. If an APSCW listed on the registry was not assigned to a case within the review period, the APSCW would still be required to complete a peer review of an APS co-worker's case record.
- C. Each APS supervisor listed on the Department's APS supervisor's registry shall complete, at a minimum, a review of one APSCW's case record whom he or she directly supervises using the APOCR. If an APSCW listed on the registry was not assigned to a case within the review period, the APS supervisor would not be required to review a file for that APSCW.
- D. The selection of cases for review is determined by the RAA. The RAA determines the selection based on the APOCR's case selection criteria.
- E. APS PAs shall notify their RAA four weeks prior to conducting their peer review.
- F. The APS PA shall utilize the Department's instructions for completing the APOCR process. The APOCR form shall be used to review each case record.
- G. As a part of the peer review, the supervisor shall hold an in-service to discuss the strengths and weaknesses of the APS PA's work, noted from the peer review process. All supervisors and caseworkers who participated in the peer review shall attend. Minutes and a sign-in sheet are required. A copy of this information shall be forwarded to the RAA within two weeks following the completion of the review.
- H. The APS PA shall be responsible for completing the Peer Review Action Plan Form (PRAP) and taking corrective actions if necessary based on the results of the peer review.

- I. The following information regarding the results of the peer review shall be kept on file for follow-up review by the RAA:
 1. the completed APOCR forms;
 2. the case review instrument recap sheet;
 3. minutes and sign-in sheets from the in-service training as applicable; and
 4. the Peer Review Action Plan Form.

1404: RAA/APOCR

- A. Each RAA shall complete an APOCR for each APS PA located in its service area by reviewing a sample of case records at each agency.
- B. All individuals completing the annual case review for the RAA must have successfully completed APSCW Certification and on-line forms training, Phase II Certification, and Supervisory Training sponsored by IDoA, as well as Recertification Training every three years.
- C. The APOCR shall be conducted between January 1 – June 30.
- D. The RAA shall give the APS PA not less than three weeks' notice of the APOCR.
- E. The RAA shall select the specific case records to be reviewed. The size of the sample of case records will be determined according to IDoA's protocol.
- F. The RAA, based on the results of the APOCR, will determine whether the APS PA has passed or failed the APOCR.
- G. The RAA shall provide the APS PA with a report of its findings and conclusions within three weeks following the completion of the APOCR.
- H. The RAA shall identify all activity areas requiring corrective action. Corrective actions should outline steps that can be taken in the future to improve program operations.
- I. The APOCR results and corrective action plan are to be kept by the RAA and the APS PA. If no corrective action was deemed to be necessary based on the results of the review, a memorandum or other document explaining this conclusion shall be filed with the completed review materials.
- J. It shall be the responsibility of the RAA to assure that all corrective measures have been implemented.
- K. Within three weeks following the conclusion of their APOCRs, the RAA shall submit to IDoA the following documents:
 1. Case Review Instrument Recap Sheet,
 2. Case Review Summary Sheet,
 3. Results Summary Chart,
 4. Report of Finding, and
 5. Corrective Action Plan, if required.

1405: APS PA/APOCR

- A. The APS PA must prepare a corrective action plan after receipt of the RAA's report of the results of the case review (if corrective action is required). The plan must be submitted to the RAA within two weeks.
- B. The APS PA may request a meeting with the RAA if the APS PA objects to any of the findings and conclusions of the RAA. If such a meeting is requested, the corrective action plan must be submitted to the RAA within three weeks following the APS PA's receipt of the report, if required.
- C. The APS PA shall submit written evidence that corrective actions have taken place within ninety (90) days following submission of the corrective action plan. For example, if the corrective action plan states that training will be provided, written evidence that the required training has occurred must be submitted. If the corrective action plan requires a change in policy or procedure, such change in policy or procedure must be documented.
- D. The APS PA shall keep a record of all case review results, and corrective action plans, documentation of the implementation of all corrective action plans, and, if there were no corrective actions deemed necessary, a written statement to that effect.

1406: RAA/PPOAR

- A. The RAA shall be responsible for conducting a PPOAR of the APS PAs in the RAA's service area.
- B. The frequency of the review of each APS PA shall be determined by the following criteria, however, in no case may the period between administrative reviews exceed three years.
 - 1. For the first two years the RAA contracts with the APS PA, a review must be conducted annually.
 - 2. If the APS PA has met all the requirements of their PPOAR, the RAA may elect to conduct the next review in three years.
 - 3. If the RAA or IDoA has reason to believe a more frequent review is warranted, then a PPOAR shall be conducted within the next year.
- C. The RAA shall give the APS PA no less than three weeks' notice that the RAA will be conducting its PPOAR.
- D. Upon arrival at the APS PA, the RAA shall briefly meet with the head of the APS PA's program, or agency director, as appropriate, to discuss the review and the location of, and procedures for, accessing records that will be part of the review.
- E. The RAA shall provide the APS PA with a report of its findings and conclusions within three weeks after the PPOAR is completed. The reports must identify all areas requiring corrective action.
- F. The RAA and the APS PA shall keep on file all review results and the corrective action plan. If no corrective action was deemed necessary based on the results of the PPOAR, then a written statement to that effect is to be filed with the completed PPOAR materials.

- G. During the next PPOAR, the RAA shall review the areas requiring corrective action as a result of the last review to assure that all required corrective measures were implemented.
- H. Within three weeks following the conclusion of the PPOAR, the RAA shall submit to IDoA the following documents:
 - 1. the PPOAR findings, conclusions, and areas requiring corrective actions; and
 - 2. any corrective action plans prepared by the APS PA in response to the RAA's findings.

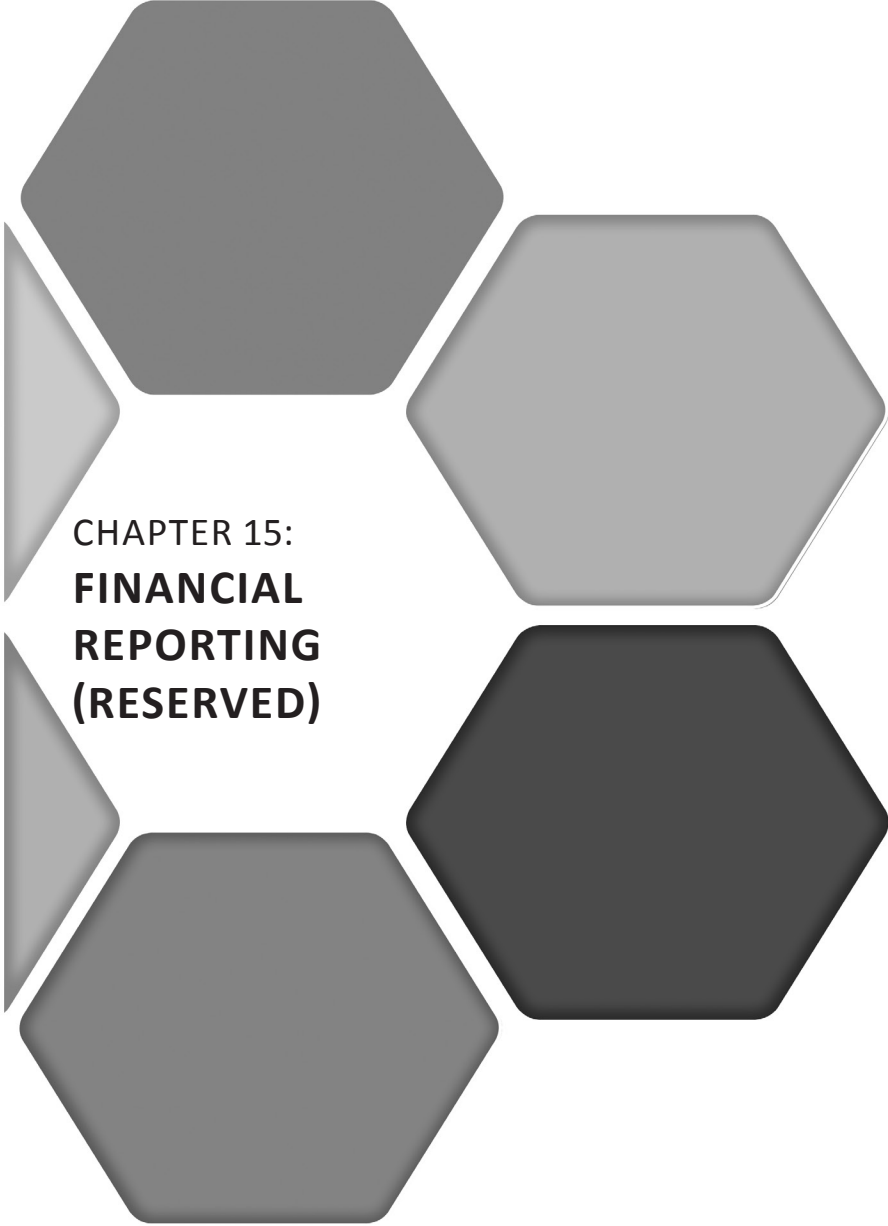
1407: APS PA/PPOAR

- A. The APS PA shall prepare a corrective action plan after receiving the results of the RAA's PPOAR (if such corrective actions are required.) The plan must be submitted to the RAA within two weeks following receipt of the report.
- B. If the APS PA objects to any of the RAA's findings or conclusions, the APS PA may request a meeting with the RAA to discuss the report. If such a meeting is requested, the corrective action plan must be submitted to the RAA within three weeks following the APS PA's receipt of the report, if required.
- C. The APS PA shall submit written evidence that the required corrective actions have taken place within 90 days following submission of the corrective action plan. For example, if the corrective action plan states that training will be provided, written evidence that the required training has occurred must be submitted. If the corrective action plan requires a change in policy or procedure, such change in policy or procedure must be documented.

1408: Complaint Review Process

- A. All complaints or allegations against an APS PA relating to an ANE/SN case under the IDoA/Office of APS should be submitted in writing, unless physically impossible for the complainant. The written complaint submission should be as specific as possible as to the nature of the complaint, and should include such documentation as is available and relevant.
- B. The complainant should initially be directed to submit the written complaint to the APS PA supervisor, thus giving the APS PA the opportunity to review the complaint and take appropriate corrective action to resolve the complaint.
 - 1. If the complainant has previously attempted to make a complaint to the APS PA without receiving a satisfactory response or if the circumstances are such that the complaint to the APS PA would not be fairly considered, then the complaint may be directed to the IDoA/Office of APS.
 - 2. If the central issue of the written complaint is based on new factual allegations, then the APS PA supervisor shall advise the complainant to submit those new facts as an ANE/SN report to the APS PA.
 - 3. When the initial complaint is made to the APS PA, the APS PA supervisor shall review the case file, discuss the case with the assigned caseworker, and respond in writing to the complainant within thirty (30) calendar days of receiving the written complaint.

4. If the complainant notifies the APS PA the complainant is unsatisfied with the APS PA response, the APS PA supervisor shall forward the original complaint, APS PA written response, and documentation in support of the complaint to IDoA/Office of APS within five (5) business days of the notification.
5. Upon receipt of the request for a review of the original complaint, the IDoA/Office of APS shall review the case record by completing the 'Complaint Review Protocol'. IDoA/Office of APS may discuss the case with the APS PA supervisor and/or caseworker. Within the limitations of confidentiality rules, the reviewing staff may also discuss the complaint with the complainant. The review by IDoA/ Office of APS shall be concluded and a written response mailed to the complainant within 45 calendar days after receipt by IDoA/Office of APS of all relevant materials required by the review.
 - a. IDoA/Office of APS will document its findings in a written response to the complainant and copy the APS PA for entry into the associated client case record.
 - b. IDoA/Office of APA will address its concerns in writing with the APS PA supervisor. The APS PA must submit such documentation to the associated client case record. IDoA/Office of APS will document such findings in writing to the complainant and copy the APS PA for entry into the associated client case record.
 - c. IDoA finds the initial report does not meet APS jurisdiction criteria. IDoA supervisor has reviewed and concurs. IDoA will notify the APS PA of the need to close the case. The APS PA will close the case and document the reason in the client case record. IDoA will document such findings in writing to the complainant and copy the APS PA for entry into the associated client case record.
 - d. IDoA will notify the APS PA in writing of the need to override the substantiation decision and document such in the client case record. IDoA will document such findings in writing to the complainant and copy the APS PA for entry into the associated client case record.
 - e. Or none of the above outcomes apply and another outcome will be documented by IDoA.
- C. Complaints received directly by IDoA will require review of the subject case record by completing the 'Complaint Review Protocol'. IDoA may discuss the case with the APS PA supervisor and/or caseworker. Within the limitations of confidentiality rules, the reviewing staff may also discuss the complaint with the complainant. The review by IDoA shall be concluded and a written response mailed to the complainant within 45 days after receipt by APS of all relevant materials required by the review.
 1. The response by IDoA will be limited to one of the following outcomes noted in 1408.B.5(a-e).



CHAPTER 15:
**FINANCIAL
REPORTING
(RESERVED)**

CHAPTER 15: FINANCIAL REPORTING (Reserved)



APPENDIX A
**ADULT PROTECTIVE
SERVICES PROGRAM
AND NEGLECT ACT**

Information maintained by the Legislative Reference Bureau

Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as [Public Acts](#) soon after they become law. For information concerning the relationship between statutes and Public Acts, refer to the [Guide](#).

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

AGING (320 ILCS 20/) Adult Protective Services Act.

(320 ILCS 20/1) (from Ch. 23, par. 6601)

Sec. 1. Short title. This Act shall be known and may be cited as the Adult Protective Services Act.
(Source: P.A. 98-49, eff. 7-1-13.)

(320 ILCS 20/2) (from Ch. 23, par. 6602)

Sec. 2. Definitions. As used in this Act, unless the context requires otherwise:

(a) "Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse, neglect, or self-neglect for the sole reason that he or she is being furnished with or relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

(a-5) "Abuser" means a person who abuses, neglects, or financially exploits an eligible adult.

(a-6) "Adult with disabilities" means a person aged 18 through 59 who resides in a domestic living situation and whose disability as defined in subsection (c-5) impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.

(a-7) "Caregiver" means a person who either as a result of a family relationship, voluntarily, or in exchange for compensation has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living.

(b) "Department" means the Department on Aging of the State of Illinois.

(c) "Director" means the Director of the Department.

(c-5) "Disability" means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under the Mental Health and Developmental Disabilities Code, or dementia as defined under the Alzheimer's Disease Assistance Act.

(d) "Domestic living situation" means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:

(1) A licensed facility as defined in Section 1-113

of the Nursing Home Care Act;

(1.5) A facility licensed under the ID/DD Community

Care Act;

(1.6) A facility licensed under the MC/DD Act;

(1.7) A facility licensed under the Specialized

Mental Health Rehabilitation Act of 2013;

(2) A "life care facility" as defined in the Life

Care Facilities Act;

(3) A home, institution, or other place operated by

the federal government or agency thereof or by the State of Illinois;

(4) A hospital, sanitarium, or other institution, the

principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(5) A "community living facility" as defined in the

Community Living Facilities Licensing Act;

(6) (Blank);

(7) A "community-integrated living arrangement" as

defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a "community residential alternative" as licensed under that Act;

(8) An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act; or

(9) A supportive living facility as described in

Section 5-5.01a of the Illinois Public Aid Code.

(e) "Eligible adult" means either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself.

(f) "Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

(f-1) "Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult.

(f-5) "Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

(1) a professional or professional's delegate while

engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietitian Nutritionist Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nurse Practice Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

(1.5) an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services;

(2) an employee of a vocational rehabilitation

facility prescribed or supervised by the Department of Human Services;

(3) an administrator, employee, or person providing

services in or through an unlicensed community based facility;

(4) any religious practitioner who provides treatment

by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

(5) field personnel of the Department of Healthcare

and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

(6) personnel of the Department of Human Services,

the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, and the Office of State Long Term Care Ombudsman;

(7) any employee of the State of Illinois not

otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

(8) a person who performs the duties of a coroner or

medical examiner; or

(9) a person who performs the duties of a paramedic

or an emergency medical technician.

(g) "Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This subsection does not create any new affirmative duty to provide support to eligible adults. Nothing in this Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

(h) "Provider agency" means any public or nonprofit agency in a planning and service area that

is selected by the Department or appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. A provider agency is also referenced as a "designated agency" in this Act.

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area that provides regional oversight and performs functions as set forth in subsection (b) of Section 3 of this Act. The Department shall designate an Area Agency on Aging as the regional administrative agency or, in the event the Area Agency on Aging in that planning and service area is deemed by the Department to be unwilling or unable to provide those functions, the Department may serve as the regional administrative agency or designate another qualified entity to serve as the regional administrative agency; any such designation shall be subject to terms set forth by the Department.

(i-5) "Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety.

(j) "Substantiated case" means a reported case of alleged or suspected abuse, neglect, financial exploitation, or self-neglect in which a provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred.

(k) "Verified" means a determination that there is "clear and convincing evidence" that the specific injury or harm alleged was the result of abuse, neglect, or financial exploitation.

(Source: P.A. 98-49, eff. 7-1-13; 98-104, eff. 7-22-13; 98-756, eff. 7-16-14; 98-1039, eff. 8-25-14; 99-180, eff. 7-29-15.)

(a) The Department shall establish, design, and manage a protective services program for eligible adults who have been, or are alleged to be, victims of abuse, neglect, financial exploitation, or self-neglect. The Department shall contract with or fund, or contract with and fund, regional administrative agencies, provider agencies, or both, for the provision of those functions, and, contingent on adequate funding, with attorneys or legal services provider agencies for the provision of legal assistance pursuant to this Act. For self-neglect, the program shall include the following services for eligible adults who have been removed from their residences for the purpose of cleanup or repairs: temporary housing; counseling; and caseworker services to try to ensure that the conditions necessitating the removal do not reoccur.

(a-1) The Department shall by rule develop standards for minimum staffing levels and staff qualifications. The Department shall by rule establish mandatory standards for the investigation of abuse, neglect, financial exploitation, or self-neglect of eligible adults and mandatory procedures for linking eligible adults to appropriate services and supports.

(a-5) A provider agency shall, in accordance with rules promulgated by the Department, establish a multi-disciplinary team to act in an advisory role for the purpose of providing professional knowledge and expertise in the handling of complex abuse cases involving eligible adults. Each multi-disciplinary team shall consist of one volunteer representative from the following professions: banking or finance; disability care; health care; law; law enforcement; mental health care; and clergy. A provider agency may also choose to add representatives from the fields of substance abuse, domestic violence, sexual assault, or other related fields. To support multi-disciplinary teams in this role, law enforcement agencies and coroners or medical examiners shall supply records as may be requested in particular cases.

(b) Each regional administrative agency shall designate provider agencies within its planning and service area with prior approval by the Department on Aging, monitor the use of services, provide technical assistance to the provider agencies and be involved in program development activities.

(c) Provider agencies shall assist, to the extent possible, eligible adults who need agency services to allow them to continue to function independently. Such assistance shall include, but

not be limited to, receiving reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect, conducting face-to-face assessments of such reported cases, determination of substantiated cases, referral of substantiated cases for necessary support services, referral of criminal conduct to law enforcement in accordance with Department guidelines, and provision of case work and follow-up services on substantiated cases. In the case of a report of alleged or suspected abuse or neglect that places an eligible adult at risk of injury or death, a provider agency shall respond to the report on an emergency basis in accordance with guidelines established by the Department by administrative rule and shall ensure that it is capable of responding to such a report 24 hours per day, 7 days per week. A provider agency may use an on-call system to respond to reports of alleged or suspected abuse or neglect after hours and on weekends.

(c-5) Where a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately report the matter to both the appropriate law enforcement agency and the coroner or medical examiner. Between 30 and 45 days after making such a report, the provider agency again shall contact the law enforcement agency and coroner or medical examiner to determine whether any further action was taken. Upon request by a provider agency, a law enforcement agency and coroner or medical examiner shall supply a summary of its action in response to a reported death of an eligible adult. A copy of the report shall be maintained and all subsequent follow-up with the law enforcement agency and coroner or medical examiner shall be documented in the case record of the eligible adult. If the law enforcement agency, coroner, or medical examiner determines the reported death was caused by abuse or neglect by a caregiver, the law enforcement agency, coroner, or medical examiner shall inform the Department, and the Department shall report the caregiver's identity on the Registry as described in Section 7.5 of this Act.

(d) Upon sufficient appropriations to implement a statewide program, the Department shall implement a program, based on the recommendations of the Self-Neglect Steering Committee, for (i) responding to reports of possible self-neglect, (ii) protecting the autonomy, rights, privacy, and privileges of adults during investigations of possible self-neglect and consequential judicial proceedings

regarding competency, (iii) collecting and sharing relevant information and data among the Department, provider agencies, regional administrative agencies, and relevant seniors, (iv) developing working agreements between provider agencies and law enforcement, where practicable, and (v) developing procedures for collecting data regarding incidents of self-neglect.

(Source: P.A. 98-49, eff. 7-1-13; 98-1039, eff. 8-25-14.)

(320 ILCS 20/3.5)

Sec. 3.5. Other responsibilities. The Department shall also be responsible for the following activities, contingent upon adequate funding; implementation shall be expanded to adults with disabilities upon the effective date of this amendatory Act of the 98th General Assembly, except those responsibilities under subsection (a), which shall be undertaken as soon as practicable:

(a) promotion of a wide range of endeavors for the

purpose of preventing abuse, neglect, financial exploitation, and self-neglect, including, but not limited to, promotion of public and professional education to increase awareness of abuse, neglect, financial exploitation, and self-neglect; to increase reports; to establish access to and use of the Registry established under Section 7.5; and to improve response by various legal, financial, social, and health systems;

(b) coordination of efforts with other agencies,

councils, and like entities, to include but not be limited to, the Administrative Office of the Illinois Courts, the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training Standards Board, the State Triad, the Illinois Criminal Justice Information Authority, the Departments of Public Health, Healthcare and Family Services, and Human Services, the Illinois Guardianship and Advocacy Commission, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority, and other entities which may impact awareness of, and response to, abuse, neglect, financial exploitation, and self-neglect;

(c) collection and analysis of data;

(d) monitoring of the performance of regional

administrative agencies and adult protective services agencies;

(e) promotion of prevention activities;

(f) establishing and coordinating an aggressive

training program on the unique nature of adult abuse cases with other agencies, councils, and like entities, to include but not be limited to the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training Standards Board, the State Triad, the Illinois Criminal Justice Information Authority, the State Departments of Public Health, Healthcare and Family Services, and Human Services, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority, the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act, and other entities that may impact awareness of and response to abuse, neglect, financial exploitation, and self-neglect;

(g) solicitation of financial institutions for the

purpose of making information available to the general public warning of financial exploitation of adults and related financial fraud or abuse, including such information and warnings available through signage or other written materials provided by the Department on the premises of such financial institutions, provided that the manner of displaying or distributing such information is subject to the sole discretion of each financial institution;

(g-1) developing by joint rulemaking with the

Department of Financial and Professional Regulation minimum training standards which shall be used by financial institutions for their current and new employees with direct customer contact; the Department of Financial and Professional Regulation shall retain sole visitation and enforcement authority under this subsection (g-1); the Department of Financial and Professional Regulation shall provide bi-annual reports to the Department setting forth aggregate statistics on the training programs required under this subsection (g-1); and

(h) coordinating efforts with utility and electric

companies to send notices in utility bills to explain to persons 60 years of age or older their rights regarding telemarketing and home repair fraud.

(Source: P.A. 98-49, eff. 7-1-13; 98-1039, eff. 8-25-14; 99-143, eff. 7-27-15.)

(320 ILCS 20/4) (from Ch. 23, par. 6604)

Sec. 4. Reports of abuse or neglect.

(a) Any person who suspects the abuse, neglect, financial exploitation, or self-neglect of an eligible adult may report this suspicion to an agency designated to receive such reports under this Act or to the Department.

(a-5) If any mandated reporter has reason to believe that an eligible adult, who because of a disability or other condition or impairment is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under this Act or to the Department. The agency designated to receive such reports under this Act or the Department may establish a manner in which a mandated reporter can make the required report through an Internet reporting tool. Information sent and received through the Internet reporting tool is subject to the same rules in this Act as other types of confidential reporting established by the designated agency or the Department. Whenever a mandated reporter is required to report under this Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, or agency, he or she shall make a report to an agency designated to receive such reports under this Act or to the Department in accordance with the provisions of this Act and may also notify the person in charge of the institution, facility, or agency or his or her designated agent that the report has been made. Under no circumstances shall any person in charge of such institution, facility, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under this Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by this Act.

(a-7) A person making a report under this Act in

the belief that it is in the alleged victim's best interest shall be immune from criminal or civil liability or professional disciplinary action on account of making the report, notwithstanding any requirements concerning the confidentiality of information with respect to such eligible adult which might otherwise be applicable.

(a-9) Law enforcement officers shall continue to report incidents of alleged abuse pursuant to the Illinois Domestic Violence Act of 1986, notwithstanding any requirements under this Act.

(b) Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under this Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability in any civil, criminal or other proceeding brought in consequence of making such report or assessment or on account of submitting or otherwise disclosing such photographs or x-rays to any agency designated to receive reports of alleged or suspected abuse or neglect. Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under this Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services. For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, financial exploitation, or self-neglect shall be presumed.

(c) The identity of a person making a report of alleged or suspected abuse, neglect, financial exploitation, or self-neglect under this Act may be disclosed by the Department or other agency provided for in this Act only with such person's written consent or by court order, but is otherwise confidential.

(d) The Department shall by rule establish a system for filing and compiling reports made under this Act.

(e) Any physician who willfully fails to report as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with subdivision (A)(22) of Section 22

of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report as required by this Act shall be referred to the Department of Professional Regulation for action in accordance with paragraph 19 of Section 23 of the Illinois Dental Practice Act. Any optometrist who willfully fails to report as required by this Act shall be referred to the Department of Financial and Professional Regulation for action in accordance with paragraph (15) of subsection (a) of Section 24 of the Illinois Optometric Practice Act of 1987. Any other mandated reporter required by this Act to report suspected abuse, neglect, or financial exploitation who willfully fails to report the same is guilty of a Class A misdemeanor.

(Source: P.A. 97-860, eff. 7-30-12; 98-49, eff. 7-1-13; 98-1039, eff. 8-25-14.)

(320 ILCS 20/4.1)

Sec. 4.1. Employer discrimination. No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who makes any good faith oral or written report of suspected abuse, neglect, or financial exploitation or who is or will be a witness or testify in any investigation or proceeding concerning a report of suspected abuse, neglect, or financial exploitation.

(Source: P.A. 98-49, eff. 7-1-13.)

(320 ILCS 20/4.2)

Sec. 4.2. Testimony by mandated reporter and investigator. Any mandated reporter who makes a report or any person who investigates a report under this Act shall testify fully in any judicial proceeding resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. Any mandated reporter who is required to report a suspected case of abuse, neglect, or financial exploitation under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult subject of the report under this Act and the person making or investigating the report.

(Source: P.A. 90-628, eff. 1-1-99.)

(320 ILCS 20/5) (from Ch. 23, par. 6605)

Sec. 5. Procedure.

(a) A provider agency designated to receive reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect under this Act shall, upon receiving such a report, conduct a face-to-face assessment with respect to such report, in accord with established law and Department protocols, procedures, and policies. Face-to-face assessments, casework, and follow-up of reports of self-neglect by the provider agencies designated to receive reports of self-neglect shall be subject to sufficient appropriation for statewide implementation of assessments, casework, and follow-up of reports of self-neglect. In the absence of sufficient appropriation for statewide implementation of assessments, casework, and follow-up of reports of self-neglect, the designated adult protective services provider agency shall refer all reports of self-neglect to the appropriate agency or agencies as designated by the Department for any follow-up. The assessment shall include, but not be limited to, a visit to the residence of the eligible adult who is the subject of the report and may include interviews or consultations with service agencies or individuals who may have knowledge of the eligible adult's circumstances. If, after the assessment, the provider agency determines that the case is substantiated it shall develop a service care plan for the eligible adult and may report its findings at any time during the case to the appropriate law enforcement agency in accord with established law and Department protocols, procedures, and policies. In developing a case plan, the provider agency may consult with any other appropriate provider of services, and such providers shall be immune from civil or criminal liability on account of such acts. The plan shall include alternative suggested or recommended services which are appropriate to the needs of the eligible adult and which involve the least restriction of the eligible adult's activities commensurate with his or her needs. Only those services to which consent is provided in accordance with Section 9 of this Act shall be provided, contingent upon the availability of such services.

(b) A provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. Where a provider agency has reason to believe the death of an eligible adult may be the result of abuse or neglect, the agency shall immediately report the

matter to the coroner or medical examiner and shall cooperate fully with any subsequent investigation.

(c) If any person other than the alleged victim refuses to allow the provider agency to begin an investigation, interferes with the provider agency's ability to conduct an investigation, or refuses to give access to an eligible adult, the appropriate law enforcement agency must be consulted regarding the investigation.

(Source: P.A. 98-49, eff. 7-1-13; 98-1039, eff. 8-25-14.)

(320 ILCS 20/6) (from Ch. 23, par. 6606)

Sec. 6. Time. The Department shall by rule establish the period of time within which an assessment shall begin and within which a service care plan shall be implemented. Such rules shall provide for an expedited response to emergency situations.

(Source: P.A. 85-1184.)

(320 ILCS 20/7) (from Ch. 23, par. 6607)

Sec. 7. Review. All services provided to an eligible adult shall be reviewed by the provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified, except that, upon review, the Department on Aging may grant a waiver to extend the service care plan for up to one additional year.

(Source: P.A. 95-331, eff. 8-21-07.)

(320 ILCS 20/7.1)

Sec. 7.1. Final investigative report. A provider agency shall prepare a final investigative report, upon the completion or closure of an investigation, in all cases of reported abuse, neglect, financial exploitation, or self-neglect of an eligible adult, whether or not there is a substantiated finding.

(Source: P.A. 98-49, eff. 7-1-13.)

(320 ILCS 20/7.5)

Sec. 7.5. Registry.

(a) To protect individuals receiving in-home and community-based services, the Department on Aging shall establish an Adult Protective Service Registry that will be hosted by the Department of Public Health on its website effective January 1, 2015, and, if practicable, shall propose rules for the Registry by January 1, 2015.

(a-5) The Registry shall identify caregivers against whom a verified and substantiated finding was made under this Act of abuse, neglect, or

financial exploitation.

The information in the Registry shall be confidential except as specifically authorized in this Act and shall not be deemed a public record.

(a-10) Reporting to the Registry. The Department on Aging shall report to the Registry the identity of the caregiver when a verified and substantiated finding of abuse, neglect, or financial exploitation of an eligible adult under this Act is made against a caregiver, and all appeals, challenges, and reviews, if any, have been completed and a finding for placement on the Registry has been sustained or upheld.

A finding against a caregiver that is placed in the Registry shall preclude that caregiver from providing direct care, as defined in this Section, in a position with or that is regulated by or paid with public funds from the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health or with an entity or provider licensed, certified, or regulated by or paid with public funds from any of these State agencies.

(b) Definitions. As used in this Section:

"Direct care" includes, but is not limited to, direct access to a person aged 60 or older or to an adult with disabilities aged 18 through 59, his or her living quarters, or his or her personal, financial, or medical records for the purpose of providing nursing care or assistance with feeding, dressing, movement, bathing, toileting, other personal needs and activities of daily living or instrumental activities of daily living, or assistance with financial transactions.

"Participant" means an individual who uses the services of an in-home care program funded through the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health.

(c) Access to and use of the Registry. Access to the Registry shall be limited to the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, and the Department of Public Health and providers of direct care as described in subsection (a-10) of this Section. These State agencies and providers shall not hire, compensate either directly or on behalf of a participant, or utilize the services of any person seeking to provide direct care without first conducting an online check of whether the person has been placed on the Registry. These State agencies and providers shall maintain a copy of the results

of the online check to demonstrate compliance with this requirement. These State agencies and providers are prohibited from retaining, hiring, compensating either directly or on behalf of a participant, or utilizing the services of a person to provide direct care if the online check of the person reveals a verified and substantiated finding of abuse, neglect, or financial exploitation that has been placed on the Registry or when the State agencies or providers otherwise gain knowledge of such placement on the Registry. Failure to comply with this requirement may subject such a provider to corrective action by the appropriate regulatory agency or other lawful remedies provided under the applicable licensure, certification, or regulatory laws and rules.

(d) Notice to caregiver. The Department on Aging shall establish rules concerning notice to the caregiver in cases of a verified and substantiated finding of abuse, neglect, or financial exploitation against him or her that may make him or her eligible for placement on the Registry.

(e) Notification to eligible adults, guardians, or agents. As part of its investigation, the Department on Aging shall notify an eligible adult, or an eligible adult's guardian or agent, that his or her caregiver's name may be placed on the Registry based on a finding as described in subsection (a-10) of this Section.

(f) Notification to employer. The Department on Aging shall notify the appropriate State agency or provider of direct care, as described in subsection (a-10), when there is a verified and substantiated finding of abuse, neglect, or financial exploitation in a case under this Act that is reported on the Registry and that involves one of its caregivers. That State agency or provider is prohibited from retaining or compensating that individual in a position that involves direct care, and if there is an imminent risk of danger to the victim or an imminent risk of misuse of personal, medical, or financial information, that caregiver shall immediately be barred from providing direct care to the victim pending the outcome of any challenge, appeal, criminal prosecution, or other type of collateral action.

(g) Challenges and appeals. The Department on Aging shall establish, by rule, procedures concerning challenges and appeals to placement on the Registry pursuant to legislative intent. The Department shall not make any report to the Registry pending challenges or appeals.

(h) Caregiver's rights to collateral action. The Department on Aging shall not make any report to the Registry if a caregiver notifies the Department in writing that he or she is formally challenging an adverse employment action resulting from a verified and substantiated finding of abuse, neglect, or financial exploitation by complaint filed with the Illinois Civil Service Commission, or by another means which seeks to enforce the caregiver's rights pursuant to any applicable collective bargaining agreement. If an action taken by an employer against a caregiver as a result of such a finding is overturned through an action filed with the Illinois Civil Service Commission or under any applicable collective bargaining agreement after that caregiver's name has already been sent to the Registry, the caregiver's name shall be removed from the Registry.

(i) Removal from Registry. At any time after a report to the Registry, but no more than once in each successive 3-year period thereafter, for a maximum of 3 such requests, a caregiver may request removal of his or her name from the Registry in relationship to a single incident. The caregiver shall bear the burden of establishing, by a preponderance of the evidence, that removal of his or her name from the Registry is in the public interest. Upon receiving such a request, the Department on Aging shall conduct an investigation and consider any evidentiary material provided. The Department shall issue a decision either granting or denying removal to the caregiver and report it to the Registry. The Department shall, by rule, establish standards and a process for requesting the removal of a name from the Registry.

(j) Referral of Registry reports to health care facilities. In the event an eligible adult receiving services from a provider agency changes his or her residence from a domestic living situation to that of a health care or long term care facility, the provider agency shall use reasonable efforts to promptly inform the facility and the appropriate Regional Long Term Care Ombudsman about any Registry reports relating to the eligible adult. For purposes of this Section, a health care or long term care facility includes, but is not limited to, any residential facility licensed, certified, or regulated by the Department of Public Health, Healthcare and Family Services, or Human Services.

(k) The Department on Aging and its employees and agents shall have immunity, except for intentional willful and wanton misconduct, from any

liability, civil, criminal, or otherwise, for reporting information to and maintaining the Registry.

(Source: P.A. 98-49, eff. 1-1-14; 98-756, eff. 7-16-14; 98-1039, eff. 8-25-14; 99-78, eff. 7-20-15.)

(320 ILCS 20/8) (from Ch. 23, par. 6608)

Sec. 8. Access to records. All records concerning reports of abuse, neglect, financial exploitation, or self-neglect and all records generated as a result of such reports shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law. In accord with established law and Department protocols, procedures, and policies, access to such records, but not access to the identity of the person or persons making a report of alleged abuse, neglect, financial exploitation, or self-neglect as contained in such records, shall be provided, upon request, to the following persons and for the following persons:

(1) Department staff, provider agency staff, other

aging network staff, and regional administrative agency staff, including staff of the Chicago Department on Aging while that agency is designated as a regional administrative agency, in the furtherance of their responsibilities under this Act;

(1.5) A representative of the public guardian acting

in the course of investigating the appropriateness of guardianship for the eligible adult or while pursuing a petition for guardianship of the eligible adult pursuant to the Probate Act of 1975;

(2) A law enforcement agency or State's Attorney's

office investigating known or suspected abuse, neglect, financial exploitation, or self-neglect. Where a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;

(2.5) A law enforcement agency, fire department

agency, or fire protection district having proper jurisdiction pursuant to a written agreement between a provider agency and the law

enforcement agency, fire department agency, or fire protection district under which the provider agency may furnish to the law enforcement agency, fire department agency, or fire protection district a list of all eligible adults who may be at imminent risk of abuse, neglect, financial exploitation, or self-neglect;

(3) A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected, financially exploited, or self-neglected or who has been referred to the Adult Protective Services Program;

(4) An eligible adult reported to be abused, neglected, financially exploited, or self-neglected, or such adult's authorized guardian or agent, unless such guardian or agent is the abuser or the alleged abuser;

(4.5) An executor or administrator of the estate of an eligible adult who is deceased;

(5) In cases regarding abuse, neglect, or financial exploitation, a court or a guardian ad litem, upon its or his or her finding that access to such records may be necessary for the determination of an issue before the court. However, such access shall be limited to an in camera inspection of the records, unless the court determines that disclosure of the information contained therein is necessary for the resolution of an issue then pending before it;

(5.5) In cases regarding self-neglect, a guardian ad litem;

(6) A grand jury, upon its determination that access to such records is necessary in the conduct of its official business;

(7) Any person authorized by the Director, in writing, for audit or bona fide research purposes;

(8) A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, financial exploitation, or self-neglect. The provider agency shall immediately provide the coroner or

medical examiner with all records pertaining to the eligible adult;

(8.5) A coroner or medical examiner having proper

jurisdiction, pursuant to a written agreement between a provider agency and the coroner or medical examiner, under which the provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, neglect, financial exploitation, or self-neglect;

(9) Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board or the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act by provider agency staff or other licensing bodies at the discretion of the Director of the Department on Aging;

(9-a) Department of Healthcare and Family Services

staff and provider agency staff when that Department is funding services to the eligible adult, including access to the identity of the eligible adult;

(9-b) Department of Human Services staff and provider

agency staff when that Department is funding services to the eligible adult or is providing reimbursement for services provided by the abuser or alleged abuser, including access to the identity of the eligible adult;

(10) Hearing officers in the course of conducting an

administrative hearing under this Act; parties to such hearing shall be entitled to discovery as established by rule;

(11) A caregiver who challenges placement on the

Registry shall be given the statement of allegations in the abuse report and the substantiation decision in the final investigative report; and

(12) The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act shall have access, through the Department, to records, including the findings, pertaining to a completed or closed

investigation of a report of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult.

(Source: P.A. 98-49, eff. 7-1-13; 98-1039, eff. 8-25-14; 99-143, eff. 7-27-15; 99-287, eff. 1-1-16; 99-547, eff. 7-15-16; 99-642, eff. 7-28-16.)

(320 ILCS 20/9) (from Ch. 23, par. 6609)

Sec. 9. Authority to consent to services.

(a) If an eligible adult consents to an assessment of a reported incident of suspected abuse, neglect, financial exploitation, or self-neglect and, following the assessment of such report, consents to services being provided according to the case plan, such services shall be arranged to meet the adult's needs, based upon the availability of resources to provide such services. If an adult withdraws his or her consent for an assessment of the reported incident or withdraws his or her consent for services and refuses to accept such services, the services shall not be provided.

(b) If it reasonably appears to the Department or other agency designated under this Act that a person is an eligible adult and lacks the capacity to consent to an assessment of a reported incident of suspected abuse, neglect, financial exploitation, or self-neglect or to necessary services, the Department or other agency shall take appropriate action necessary to ameliorate risk to the eligible adult if there is a threat of ongoing harm or another emergency exists. The Department or other agency shall be authorized to seek the appointment of a temporary guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to an assessment of the reported incident and such services, together with an order for an evaluation of the eligible adult's physical, psychological, and medical condition and decisional capacity.

(c) A guardian of the person of an eligible adult may consent to an assessment of the reported incident and to services being provided according to the case plan. If an eligible adult lacks capacity to consent, an agent having authority under a power of attorney may consent to an assessment of the reported incident and to services. If the guardian or agent is the suspected abuser and he or she withdraws consent for the assessment of the reported incident, or refuses to allow services to be provided to the eligible adult, the Department, an agency designated under this Act, or the office of the Attorney General may request a court order

seeking appropriate remedies, and may in addition request removal of the guardian and appointment of a successor guardian or request removal of the agent and appointment of a guardian.

(d) If an emergency exists and the Department or other agency designated under this Act reasonably believes that a person is an eligible adult and lacks the capacity to consent to necessary services, the Department or other agency may request an ex parte order from the circuit court of the county in which the petitioner or respondent resides or in which the alleged abuse, neglect, financial exploitation, or self-neglect occurred, authorizing an assessment of a report of alleged or suspected abuse, neglect, financial exploitation, or self-neglect or the provision of necessary services, or both, including relief available under the Illinois Domestic Violence Act of 1986 in accord with established law and Department protocols, procedures, and policies. Petitions filed under this subsection shall be treated as expedited proceedings. When an eligible adult is at risk of serious injury or death and it reasonably appears that the eligible adult lacks capacity to consent to necessary services, the Department or other agency designated under this Act may take action necessary to ameliorate the risk in accordance with administrative rules promulgated by the Department.

(d-5) For purposes of this Section, an eligible adult "lacks the capacity to consent" if qualified staff of an agency designated under this Act reasonably determine, in accordance with administrative rules promulgated by the Department, that he or she appears either (i) unable to receive and evaluate information related to the assessment or services or (ii) unable to communicate in any manner decisions related to the assessment of the reported incident or services.

(e) Within 15 days after the entry of the ex parte emergency order, the order shall expire, or, if the need for assessment of the reported incident or services continues, the provider agency shall petition for the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such assessment or services or to protect the eligible adult from further harm.

(f) If the court enters an ex parte order under subsection (d) for an assessment of a reported incident of alleged or suspected abuse, neglect, financial exploitation, or self-neglect, or for the provision of necessary services in connection with

alleged or suspected self-neglect, or for both, the court, as soon as is practicable thereafter, shall appoint a guardian ad litem for the eligible adult who is the subject of the order, for the purpose of reviewing the reasonableness of the order. The guardian ad litem shall review the order and, if the guardian ad litem reasonably believes that the order is unreasonable, the guardian ad litem shall file a petition with the court stating the guardian ad litem's belief and requesting that the order be vacated.

(g) In all cases in which there is a substantiated finding of abuse, neglect, or financial exploitation by a guardian, the Department shall, within 30 days after the finding, notify the Probate Court with jurisdiction over the guardianship.

(Source: P.A. 98-49, eff. 7-1-13; 98-1039, eff. 8-25-14.)

(320 ILCS 20/9.5)

Sec. 9.5. Commencement of action for ex parte authorization orders; filing fees; process.

(a) Actions for ex parte authorization orders are commenced:

(1) independently, by filing a petition for an ex

parte authorization order in the circuit court;

(2) in conjunction with other civil proceedings, by

filing a petition for an ex parte authorization order under the same case number as a guardianship proceeding under the Probate Act of 1975 where the eligible adult is the alleged adult with a disability.

(b) No fee shall be charged by the clerk for filing petitions or certifying orders. No fee shall be charged by a sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

(c) Any action for an ex parte authorization order commenced independently is a distinct cause of action and requires that a separate summons be issued and served. Service of summons is not required prior to entry of emergency ex parte authorization orders.

(d) Summons may be served by a private person over 18 years of age and not a party to the action. The return by that private person shall be by affidavit. The summons may be served by a sheriff or other law enforcement officer, and if summons is placed for service by the sheriff, it shall be made at the earliest time practicable and shall take

precedence over other summonses except those of a similar emergency nature.

(Source: P.A. 99-143, eff. 7-27-15.)

(320 ILCS 20/10) (from Ch. 23, par. 6610)

Sec. 10. Rules. The Department shall adopt such rules and regulations as it deems necessary to implement this Act.

(Source: P.A. 85-1184.)

(320 ILCS 20/11) (from Ch. 23, par. 6611)

Sec. 11. Annual Reports. The Department shall file with the Governor and the General Assembly, within 270 days after the end of each fiscal year, a report concerning its implementation of this Act during such fiscal year, together with any recommendations for future implementation.

(Source: P.A. 90-628, eff. 1-1-99.)

(320 ILCS 20/12) (from Ch. 23, par. 6612)

Sec. 12. (Repealed).

(Source: P.A. 85-1184. Repealed by P.A. 90-628, eff. 1-1-99.)

(320 ILCS 20/13)

Sec. 13. Access.

(a) In accord with established law and Department protocols, procedures, and policies, the designated provider agencies shall have access to eligible adults who have been reported or found to be victims of abuse, neglect, financial exploitation, or self-neglect in order to assess the validity of the report, assess other needs of the eligible adult, and provide services in accordance with this Act.

(a-5) A representative of the Department or a designated provider agency that is actively involved in an abuse, neglect, financial exploitation, or self-neglect investigation under this Act shall be allowed access to the financial records, mental and physical health records, and other relevant evaluative records of the eligible adult which are in the possession of any individual, financial institution, health care provider, mental health provider, educational facility, or other facility if necessary to complete the investigation mandated by this Act. The provider or facility shall provide such records to the representative upon receipt of a written request and certification from the Department or designated provider agency that an investigation is being conducted under this Act and the records are pertinent to the investigation.

Any records received by such representative, the confidentiality of which is protected by another law or rule, shall be maintained as confidential, except for such use as may be necessary for any administrative or other legal proceeding.

(b) Where access to an eligible adult is denied, including the refusal to provide requested records, the Office of the Attorney General, the Department, or the provider agency may petition the court for an order to require appropriate access where:

(1) a caregiver or third party has interfered with

the assessment or service plan, or

(2) the agency has reason to believe that the

eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or financial exploitation.

(c) The petition for an order requiring appropriate access shall be afforded an expedited hearing in the circuit court.

(d) If the provider agency has substantiated financial exploitation against an eligible adult, and has documented a reasonable belief that the eligible adult will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General, the Department, or the provider agency may petition for an order freezing the assets of the eligible adult. The petition shall be filed in the county or counties in which the assets are located. The court's order shall prohibit the sale, gifting, transfer, or wasting of the assets of the eligible adult, both real and personal, owned by, or vested in, the eligible adult, without the express permission of the court. The petition to freeze the assets of the eligible adult shall be afforded an expedited hearing in the circuit court.

(Source: P.A. 98-1039, eff. 8-25-14.)

(320 ILCS 20/13.5)

Sec. 13.5. Commencement of action for access; filing fees; process; notice; duration of orders.

(a) Actions for orders seeking access to an eligible adult or freezing assets of an eligible adult are commenced:

(1) independently, by filing a petition for access to

an eligible adult or freezing the assets of an eligible adult in the circuit court;

(2) in conjunction with other civil proceedings, by

filing a petition for access to an eligible adult or freezing the assets of an eligible adult under the same case number as another civil proceeding involving the parties, including, but not limited to:

(i) a guardianship proceeding under the Probate

Act of 1975;

(ii) a proceeding for involuntary commitment

under the Mental Health and Developmental Disabilities Code;

(iii) any other proceeding, provided that the

eligible adult or the respondent is a party to or the subject of that proceeding.

(b) No fee shall be charged by the clerk for filing petitions or certifying orders. No fee shall be charged by a sheriff for service by the sheriff of such a petition, rule, motion, or order in an action commenced under this Section.

(c) Any action for an order for access to an eligible adult or freezing assets of an eligible adult, whether commenced independently or in conjunction with another proceeding, is a distinct cause of action and requires that a separate summons be issued and served, except that in pending cases the following methods may be used:

(1) Delivery of the summons to respondent personally in open court in pending civil or criminal cases.

(2) Mailing to the defendant, or, if represented, to

the defendant's attorney of record in the civil cases in which the defendant has filed a general appearance. The summons shall be in the form prescribed by subsection (d) of Supreme Court Rule 101, except that it shall require the respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for access to an eligible adult or freezing assets of an eligible adult and supporting affidavits, if any, and any emergency order for access to an eligible adult or freezing assets of an eligible adult that has been issued.

(d) Summons may be served by a private person over 18 years of age and not a party to the action. The return by that private person shall be by affidavit. The summons may be served by a sheriff or other law enforcement officer, and if summons is

placed for service by the sheriff, it shall be made at the earliest time practicable and shall take precedence over other summonses except those of a similar emergency nature.

(e) Except as otherwise provided in this Section, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12 unless notice is excused by the Code of Civil Procedure, Supreme Court Rules, or local rules, as now or hereafter amended.

(f) Original notice of a hearing on a petition for access to an eligible adult or freezing assets of an eligible adult may be given, and the documents served, in accordance with Supreme Court Rules 11 and 12. When, however, an emergency order is sought in such a case on an ex parte application, the notice rules set forth in Section 11-101 of the Code of Civil Procedure shall apply.

(g) An order entered in accordance with Sections 13 and 13.5 shall be valid for a fixed period of time, not to exceed 2 years.

(Source: P.A. 91-731, eff. 6-2-00.)

(320 ILCS 20/14)

Sec. 14. Volunteer corps. Qualified volunteers may be used for the purposes of increasing public awareness and providing companion-type services, as prescribed by rule, to eligible adults. A qualified volunteer must undergo training as prescribed by the Department by rule and must adhere to all confidentiality requirements as required by law.

(Source: P.A. 94-431, eff. 8-2-05.)

(320 ILCS 20/15)

Sec. 15. Fatality review teams.

(a) State policy.

(1) Both the State and the community maintain a

commitment to preventing the abuse, neglect, and financial exploitation of at-risk adults. This includes a charge to bring perpetrators of crimes against at-risk adults to justice and prevent untimely deaths in the community.

(2) When an at-risk adult dies, the response to the

death by the community, law enforcement, and the State must include an accurate and complete determination of the cause of death, and the development and implementation of measures to prevent future deaths from similar causes.

(3) Multidisciplinary and multi-agency reviews of

deaths can assist the State and counties in developing a greater understanding of the incidence and causes of premature deaths and the methods for preventing those deaths, improving methods for investigating deaths, and identifying gaps in services to at-risk adults.

(4) Access to information regarding the deceased

person and his or her family by multidisciplinary and multi-agency fatality review teams is necessary in order to fulfill their purposes and duties.

(a-5) Definitions. As used in this Section:

"Advisory Council" means the Illinois Fatality Review

Team Advisory Council.

"Review Team" means a regional interagency fatality

review team.

(b) The Director, in consultation with the Advisory Council, law enforcement, and other professionals who work in the fields of investigating, treating, or preventing abuse or neglect of at-risk adults, shall appoint members to a minimum of one review team in each of the Department's planning and service areas. Each member of a review team shall be appointed for a 2-year term and shall be eligible for reappointment upon the expiration of the term. A review team's purpose in conducting review of at-risk adult deaths is: (i) to assist local agencies in identifying and reviewing suspicious deaths of adult victims of alleged, suspected, or substantiated abuse or neglect in domestic living situations; (ii) to facilitate communications between officials responsible for autopsies and inquests and persons involved in reporting or investigating alleged or suspected cases of abuse, neglect, or financial exploitation of at-risk adults and persons involved in providing services to at-risk adults; (iii) to evaluate means by which the death might have been prevented; and (iv) to report its findings to the appropriate agencies and the Advisory Council and make recommendations that may help to reduce the number of at-risk adult deaths caused by abuse and neglect and that may help to improve the investigations of deaths of at-risk adults and increase prosecutions, if appropriate.

(b-5) Each such team shall be composed of representatives of entities and individuals including, but not limited to:

(1) the Department on Aging;

- (2) coroners or medical examiners (or both);
- (3) State's Attorneys;
- (4) local police departments;
- (5) forensic units;
- (6) local health departments;
- (7) a social service or health care agency

that

provides services to persons with mental illness, in a program whose accreditation to provide such services is recognized by the Division of Mental Health within the Department of Human Services;

- (8) a social service or health care agency

that

provides services to persons with developmental disabilities, in a program whose accreditation to provide such services is recognized by the Division of Developmental Disabilities within the Department of Human Services;

(9) a local hospital, trauma center, or provider of emergency medicine;

(10) providers of services for eligible adults in

domestic living situations; and

(11) a physician, psychiatrist, or other health care

provider knowledgeable about abuse and neglect of at-risk adults.

(c) A review team shall review cases of deaths of at-risk adults occurring in its planning and service area (i) involving blunt force trauma or an undetermined manner or suspicious cause of death; (ii) if requested by the deceased's attending physician or an emergency room physician; (iii) upon referral by a health care provider; (iv) upon referral by a coroner or medical examiner; (v) constituting an open or closed case from an adult protective services agency, law enforcement agency, State's Attorney's office, or the Department of Human Services' Office of the Inspector General that involves alleged or suspected abuse, neglect, or financial exploitation; or (vi) upon referral by a law enforcement agency or State's Attorney's office. If such a death occurs in a planning and service area where a review team has not yet been established, the Director shall request that the Advisory Council or another review team review that death. A team may also review deaths of at-risk adults if the alleged abuse or neglect occurred while the person was residing in a domestic living situation.

A review team shall meet not less than 4 times a year to discuss cases for its possible review. Each review team, with the advice and consent of the Department, shall establish criteria to be used in discussing cases of alleged, suspected, or substantiated abuse or neglect for review and shall conduct its activities in accordance with any applicable policies and procedures established by the Department.

(c-5) The Illinois Fatality Review Team Advisory Council, consisting of one member from each review team in Illinois, shall be the coordinating and oversight body for review teams and activities in Illinois. The Director may appoint to the Advisory Council any ex-officio members deemed necessary. Persons with expertise needed by the Advisory Council may be invited to meetings. The Advisory Council must select from its members a chairperson and a vice-chairperson, each to serve a 2-year term. The chairperson or vice-chairperson may be selected to serve additional, subsequent terms. The Advisory Council must meet at least 4 times during each calendar year.

The Department may provide or arrange for the staff support necessary for the Advisory Council to carry out its duties. The Director, in cooperation and consultation with the Advisory Council, shall appoint, reappoint, and remove review team members.

The Advisory Council has, but is not limited to, the following duties:

(1) To serve as the voice of review teams in Illinois.

(2) To oversee the review teams in order to ensure that the review teams' work is coordinated and in compliance with State statutes and the operating protocol.

(3) To ensure that the data, results, findings, and recommendations of the review teams are adequately used in a timely manner to make any necessary changes to the policies, procedures, and State statutes in order to protect at-risk adults.

(4) To collaborate with the Department in order to develop any legislation needed to prevent unnecessary deaths of at-risk adults.

(5) To ensure that the review teams' review processes

are standardized in order to convey data, findings, and recommendations in a usable format.

(6) To serve as a link with review teams throughout the country and to participate in national review team activities.

(7) To provide the review teams with the most current information and practices concerning at-risk adult death review and related topics.

(8) To perform any other functions necessary to enhance the capability of the review teams to reduce and prevent at-risk adult fatalities.

The Advisory Council may prepare an annual report, in consultation with the Department, using aggregate data gathered by review teams and using the review teams' recommendations to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.

In any instance where a review team does not operate in accordance with established protocol, the Director, in consultation and cooperation with the Advisory Council, must take any necessary actions to bring the review team into compliance with the protocol.

(d) Any document or oral or written communication shared within or produced by the review team relating to a case discussed or reviewed by the review team is confidential and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.

Any document or oral or written communication provided to a review team by an individual or entity, and created by that individual or entity solely for the use of the review team, is confidential, is not subject to disclosure to or discoverable by another party, and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.

Each entity or individual represented on the fatality review team may share with other members of the team information in the entity's or individual's possession concerning the decedent who is the subject of the review or concerning any person who was in contact with the decedent, as well as any other information deemed by the entity or individual to be pertinent to the review. Any such information shared by an entity or individual with other members of the review team is confidential. The intent of this paragraph is to permit the disclosure to members of the review team of any information deemed confidential or privileged or prohibited from disclosure by any other provision of law. Release of confidential communication between domestic violence advocates and a domestic violence victim shall follow subsection (d) of Section 227 of the Illinois Domestic Violence Act of 1986 which allows for the waiver of privilege afforded to guardians, executors, or administrators of the estate of the domestic violence victim. This provision relating to the release of confidential communication between domestic violence advocates and a domestic violence victim shall exclude adult protective service providers.

A coroner's or medical examiner's office may share with the review team medical records that have been made available to the coroner's or medical examiner's office in connection with that office's investigation of a death.

Members of a review team and the Advisory Council are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of the review team or the Advisory Council or opinions formed by members of the review team or the Advisory Council based on that information. A person may, however, be examined concerning information provided to a review team or the Advisory Council.

(d-5) Meetings of the review teams and the Advisory Council may be closed to the public under the Open Meetings Act. Records and information provided to a review team and the Advisory Council, and records maintained by a team or the Advisory Council, are exempt from release under the Freedom of Information Act.

(e) A review team's recommendation in relation to a case discussed or reviewed by the review team, including, but not limited to, a recommendation concerning an investigation or prosecution, may be disclosed by the review team upon the completion of its review and at the discretion of a majority of

its members who reviewed the case.

(e-5) The State shall indemnify and hold harmless members of a review team and the Advisory Council for all their acts, omissions, decisions, or other conduct arising out of the scope of their service on the review team or Advisory Council, except those involving willful or wanton misconduct. The method of providing indemnification shall be as provided in the State Employee Indemnification Act.

(f) The Department, in consultation with coroners, medical examiners, and law enforcement agencies, shall use aggregate data gathered by and recommendations from the Advisory Council and the review teams to create an annual report and may use those data and recommendations to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families. The Department or other State or county agency, in consultation with coroners, medical examiners, and law enforcement agencies, also may use aggregate data gathered by the review teams to create a database of at-risk individuals.

(g) The Department shall adopt such rules and regulations as it deems necessary to implement this Section.

(Source: P.A. 98-49, eff. 7-1-13; 98-1039, eff. 8-25-14; 99-78, eff. 7-20-15; 99-530, eff. 1-1-17.)

(320 ILCS 20/15.5)

Sec. 15.5. Independent monitor. Subject to appropriation, to ensure the effectiveness and accountability of the adult protective services system, the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act shall monitor the system and provide to the Department review and evaluation of the system in accordance with administrative rules promulgated by the Department.

(Source: P.A. 98-49, eff. 7-1-13; 99-143, eff. 7-27-15.)



APPENDIX B
**ADMINISTRATIVE
RULES**

ADMINISTRATIVE CODE

**PART ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.200 PURPOSE AND PROGRAM MODEL**

Section 270.200 Purpose and Program Model

- a) This Subpart describes the organization of the Adult Protective Services Program administered by and through the Illinois Department on Aging.
- b) The Adult Protective Services Program is modeled on the following principles:
 - 1) advocacy intervention by APS provider agencies;
 - 2) the right to self-determination by the alleged victim to:
 - A) decide where and how he or she will live;
 - B) choose whether to accept social services or other community assistance; and
 - C) make decisions different from those a reasonable adult would make that are not harmful to others.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.205 ADULT PROTECTIVE SERVICES PROGRAM

Section 270.205 Adult Protective Services Program

The Adult Protective Services Program is designed to respond to eligible adults who are victims of abuse, neglect, financial exploitation, or self-neglect. The services and activities of the program are:

- a) Intake of reports of abuse, neglect, financial exploitation, or self-neglect;
- b) Assessment;
- c) Case work;
- d) Follow-up;
- e) Early intervention services;
- f) Multi-disciplinary teams;
- g) Fatality review teams; and
- h) Public awareness/education.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.210 DEFINITIONS**

Section 270.210 Definitions

"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]

"Abuser" means a person who abuses, neglects, or financially exploits an eligible adult. [320 ILCS 20/2(a-5)]

"Act" means the Adult Protective Services Act [320 ILCS 20].

"Adult Protective Services Hotline" means the 24-hour toll-free statewide telephone number that can be called to report suspected cases of abuse, neglect, financial exploitation, or self-neglect of eligible adults.

"Adult protective services provider agency", "APS provider agency" or "designated agency" means any public or nonprofit agency, appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect.

"Adult with disabilities" means a person age 18 through 59 who resides in a domestic living situation and whose disability (see definition of "Disability") impairs his or her ability to seek or obtain protection from abuse, neglect or financial exploitation. [320 ILCS 20/2(a-6)]

"Allegation" means a charge or a claim of abuse, neglect, financial exploitation, or self-neglect.

"Alleged abuser" means a person who is reported as abusing, neglecting or financially exploiting an adult with disabilities or older person.

"Alleged victim" means an adult with disabilities or older person who is reported as being abused, neglected or financially exploited, or who is neglecting himself or herself.

"APS" means adult protective services.

"Assessment" means the process of obtaining and documenting information about the case to determine if there is reason to believe abuse, neglect, financial exploitation, or self-neglect is occurring (or has occurred), and to ascertain the level of risk to the eligible adult of future abuse or harm.

"Capacity to consent" to an assessment or services means an individual reasonably appears to be either:

able to receive and evaluate information related to the assessment or services; or

able to communicate in any manner decisions related to the assessment of the reported incident or services. (See 320 ILCS 20/9(d-5).)

"Caregiver" means a person who either, as a result of a family relationship, voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living. [320 ILCS 20/2(a-7)]

"Case work" is the development and implementation of a service plan for the client, which minimally includes: the identification of the needs, problems, limitations and capacities of the client; interventions to protect the health, welfare and safety of the client; assisting the client in obtaining needed services; and respecting the self-determination and independence of the client.

"Case worker" means an employee of an APS provider agency who is authorized to receive and assess reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect, and to develop and implement a service plan for a client.

"Clear and convincing" is the standard of proof that must be met to reach a "verified" substantiation decision in the Adult Protective Services Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a substantial certainty that the abuse, neglect, or financial exploitation is occurring or has occurred.

"Client" is an eligible adult who is receiving services from the APS provider agency.

"Combined service area" means a designated service area, within a planning and service area where a single APS provider agency is responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the APS provider agencies involved. The APS provider agency shall respond to reports in accordance with the time frame outlined in Section 270.240.

"Confinement" means restraining or isolating an individual for other than bona fide medical reasons.

"Department" means the Department on Aging of the State of Illinois. [320 ILCS 20/2(b)]

"Director" means the Director of the Department. [320 ILCS 20/2(c)]

"Disability" means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under

the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-129], or dementia as defined under the Alzheimer's Disease Assistance Act [410 ILCS 405/3(a-5)]. [320 ILCS 20/2(c-5)]

"Domestic living situation" means a residence where the eligible adult, at the time of the report, lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:

A licensed facility as defined in Section 1-113 of the Nursing Home Care Act [210 ILCS 45/1-113];

A facility licensed under the ID/DD Community Care Act [210 ILCS 47];

A facility licensed under the MC/DD Act [210 ILCS 46];

A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49];

A "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40];

A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

A "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act [210 ILCS 9]; and

A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5]. [320 ILCS 20/2(d)]

"Early Intervention Services" are the services purchased by APS provider agencies to provide temporary short term or emergency services necessary to secure the health, welfare and/or safety of a client when other existing resources are unavailable.

"Eligible adult" means either an adult with disabilities age 18 through 59 or a person age 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself. [320 ILCS 20/2(e)]

"Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the APS provider agency has reason to believe the eligible adult is unable to consent to services that would alleviate that risk. [320 ILCS 20/2(f)]

"Emotional abuse" means verbal assaults, threats of maltreatment, harassment, or intimidation.

"Fatality Review Team" means a regional interagency review team established pursuant to Section 15 of the Act.

"Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult. [320 ILCS 20/2(f-1)]

"Follow-up" means the monitoring of substantiated cases of abuse, neglect, financial exploitation, or self-neglect for clients of the program.

"Guardian" means a person appointed by a court of competent jurisdiction, who is legally responsible for the care of a person who has been adjudicated by the court to be incompetent to manage his or her own affairs and/or property.

"Initial interview" means the preliminary contact made by an APS provider agency to determine the level of risk to an alleged victim, the need for early intervention services in order to assure safety and welfare or otherwise reduce risk to the alleged victim, and his or her decisional capacity to consent to an assessment and/or services.

"Intake" means the point at which trained staff of the Illinois Department on Aging's Adult Protective Services Hotline and Senior HelpLine, a regional administrative agency, or APS provider agency receives a report of alleged or suspected abuse, neglect, financial exploitation or self-neglect and relays the report to a case worker for further assessment.

"Intervention" means an action initiated by the APS case worker or the APS provider agency to provide medical, social, economic, legal, housing, law enforcement, or other protective, emergency or supportive services to, or on behalf of, the eligible adult.

"Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

a professional or professional's delegate while engaged in:

social services;

law enforcement;

education;

the care of an eligible adult or eligible adults; or

any of the occupations required to be licensed under the Clinical Psychologist Licensing Act [225 ILCS 15], the Clinical Social Work and Social Work Practice Act [225 ILCS 20], the Illinois Dental Practice Act [225 ILCS 25], the Dietitian Nutritionist Practice Act [225 ILCS 30], the Marriage and Family Therapy Licensing Act [225 ILCS 55], the Medical Practice Act of 1987 [225 ILCS 60], the Naprapathic Practice Act [225 ILCS 63], the Nurse Practice Act [225 ILCS 65], the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70], the Illinois Occupational Therapy Practice Act [225 ILCS 75], the Illinois Optometric Practice Act of 1987 [225 ILCS 80], the Pharmacy Practice Act [225 ILCS 85], the Illinois Physical Therapy Act [225 ILCS 90], the Physician Assistant Practice Act of 1987 [225 ILCS 95], the Podiatric Medical Practice Act of 1987 [225 ILCS 100], the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act [225 ILCS 107], the Respiratory Care Practice Act [225 ILCS 106], the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115], and the Illinois Public Accounting Act [225 ILCS 450];

an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services;

an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

an administrator, employee, or person providing services in or through an unlicensed community-based facility;

any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and APS provider agencies, and the Office of State Long Term Care Ombudsman; provided that attorneys contracted or employed by the Area Agencies and their senior legal services providers and licensed to practice in Illinois are not mandated to report abuse, although they may voluntarily do so;

any employee of the State of Illinois not otherwise specified in this definition who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

a person who performs the duties of a coroner or medical examiner; or

a person who performs the duties of a paramedic or an emergency medical technician. [320 ILCS 20/2(f-5)]

"Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in the Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. [320 ILCS 20/2(g)]

"Passive neglect" means the failure by a caregiver to provide an eligible adult with the necessities of life including, but not limited to, food, clothing, shelter, or medical care, because of failure to understand the eligible adult's needs, lack of awareness of services to help meet needs, or a lack of capacity to care for the eligible adult.

"Physical abuse" means the causing of physical pain or injury to an eligible adult.

"Preponderance of the evidence" is the standard of proof that, must be met to reach a "some indication" substantiation decision in the Adult Protective Services Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a reasonable certainty that more likely than not the abuse, neglect, financial exploitation, or self-neglect is occurring or has occurred.

"Procurement" means the method and documentation issued by the regional administrative agency or the Department to allow potential APS provider agencies to submit qualifications for purposes of designation as an APS provider agency.

"Provider agency" means any public or nonprofit agency in a planning and service area that is selected by the Department or appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. A provider agency may provide services in more than one planning and service area when appointed by the regional administrative agency with prior approval by the Department. [320 ILCS 20/2(h)]

"Regional administrative agency" means any public or nonprofit agency in a planning and service area that provides regional oversight and performs functions as set forth in Section 3(b) of the Act. [320 ILCS 20/2(i)]

"Report taker" means the trained staff of the Department's Adult Protective Services Hotline and Senior HelpLine, regional administrative agencies or APS provider agencies that performs intake of alleged or suspected abuse, neglect, financial exploitation or self-neglect.

"Reporter" means the person who calls, visits or otherwise communicates to an authorized intake agency allegations or suspicions that an eligible adult has been or is being abused, neglected, or financially exploited, or is neglecting himself or herself.

"Senior HelpLine" means the Department's toll-free statewide number that can be called to report suspected cases of abuse, neglect, financial exploitation, or self-neglect to obtain additional information about services available to eligible adults.

"Self-determination" means the right of an eligible adult with decisional capacity to:

decide where and how he or she will live;

choose whether to accept program services or other community assistance;
and

make decisions different from those a reasonable adult would make,
including "bad" decisions, that are not harmful to others.

"Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety. [320 ILCS 20/2(i-5)]

"Services" means medical, social, economic, legal, housing, law enforcement, or other protective, early, emergency or supportive action provided to, or on behalf of, the eligible adult.

"Sexual abuse" means any sexual activity with an eligible adult who is unable to understand, unwilling to consent, threatened, or physically forced to engage in such sexual activity.

"Shared service area" means the designated area within a planning and service area where two or more APS provider agencies are responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the APS provider agencies involved. The APS provider agencies shall respond to reports in accordance with the time frame outlined in Section 270.240.

"State Triad" is a statewide, unincorporated, voluntary association of law enforcement, senior citizens and community groups, organized around the issue of senior safety, crime against the elderly, and financial exploitation of the elderly. The State Triad Council was created under the aegis of the National Association of Triads, Inc., 1450 Duke Street, Alexandria VA 22314.

"Substantiation" is the process by which an APS provider agency determines, after a review of all available information, that abuse, neglect, financial exploitation, or self-neglect of an eligible adult has occurred.

"Substantiated case" means a reported case of alleged or suspected abuse, neglect, financial exploitation or self-neglect in which an APS provider agency, after

assessment, determines that there is reason to believe abuse, neglect, financial exploitation, or self-neglect has occurred. [320 ILCS 20/2(j)]

"Suspicious death" means an instance in which an APS provider agency reasonably believes that the death of an individual may be the result of abuse or neglect.

"Verified" means a determination that there is "clear and convincing evidence" that the specific injury or harm alleged was the result of abuse, neglect, or financial exploitation. [320 ILCS 20/2(k)]

"Victim" means an eligible adult who is the subject of a substantiated report of abuse, neglect, financial exploitation, or self-neglect.

"Willful deprivation" is the deliberate denial to an eligible adult of required medication, medical care, shelter, food, therapeutic devices, or other physical assistance, thereby exposing that person to the risk of physical, mental, or emotional harm. Willful deprivation shall not include the discontinuation of medical care or treatment when the eligible adult has expressed a desire to forego such medical care or treatment.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.215 ORGANIZATIONAL STANDARDS AND RESPONSIBILITIES:
DEPARTMENT ON AGING

Section 270.215 Organizational Standards and Responsibilities: Department on Aging

Contingent upon adequate funding, *the Department shall establish, design and manage a protective services program of response and services for eligible adults who have been, or are alleged to be, victims of abuse, neglect, financial exploitation, or self-neglect. The Department shall contract with or fund, or contract with and fund, regional administrative agencies, APS provider agencies, or both, for the provision of those functions, and, contingent on adequate funding, with attorneys or legal services provider agencies for the provision of legal assistance pursuant to the Act. For self-neglect, the program shall include, but is not limited to, the following services for eligible adults who have been removed from their residences for the purpose of cleanup or repairs: temporary housing; counseling; and caseworker services to try to ensure that the conditions necessitating the removal do not reoccur.* [320 ILCS 20/3(a)] The Department will have the overall responsibility for designing, managing and monitoring the Adult Protective Services Program in accordance with the following:

- a) *The Department shall designate an Area Agency on Aging as the regional administrative agency.*
 - 1) *In the event the Area Agency on Aging in that planning and service area is deemed by the Department to be unwilling or unable to provide those functions, the Department may serve as the regional administrative agency; or*
 - 2) *The Department may designate another qualified entity to serve as the regional administrative agency; any such designation shall be subject to terms set forth by the Department.* [320 ILCS 20/2(i)]
- b) The Department will approve the designation and withdrawal of designation recommendations of the regional administrative agencies for APS provider agencies.
 - 1) The Department reserves the right to provide recommendations, reject recommendations, or direct action of a regional administrative agency in the designation of APS provider agencies; however, the Department will not do so unreasonably. Any such action by the Department will be authorized in circumstances where there is a State or federal contracting prohibition with the proposed provider agency, an actual or unmitigated conflict of interest, a provider agency does not meet minimum qualifications, or any similar

circumstances which would prevent the Department from entering into or continuing a contractual agreement with the provider agency.

- 2) The Department will enter into the contract with the designated APS provider agency.
 - 3) A designation is deemed withdrawn in the event of a contract termination.
- c) The Department will maintain a list of all APS provider agency and regional administrative agency staff who have successfully completed Department sponsored certification training and are employed in the program.
- d) The Department's Adult Protective Services Hotline will receive reports of abuse, neglect, financial exploitation, or self-neglect and relay those reports to the appropriate APS provider agency within the timelines established in Section 270.240(f).
- e) *The Department shall also be responsible for coordination of efforts and promotion activities to increase awareness of, response to, and prevention of abuse, neglect, financial exploitation, or self-neglect with other agencies, councils, and like entities. [320 ILCS 20/3.5(b) and (c)]*
- 1) The Department will provide technical assistance, policy clarifications and/or interpretations to regional administrative agencies on adherence to the rules, standards, and procedures established for the program.
 - 2) *The Department shall establish and coordinate a training program on the unique nature of APS cases with other agencies and councils, including the Office of the Attorney General, the State Police, the State Triad, the Illinois Criminal Justice Information Authority, Department of Healthcare and Family Services, Department of Public Health, Department of Human Services, the Family Violence Coordinating Council, and other similar violence and law enforcement agencies. [320 ILCS 20/3.5(f)]*
 - 3) The Department will provide training to APS provider agency staff who will assess reports of abuse, neglect, financial exploitation, or self-neglect, or who will supervise staff performing the assessment function. Regional administrative agency staff working in the program will also be trained by the Department.
 - 4) The Department will develop and implement public awareness efforts designed to publicize the purposes and mode of operation of the program through public service announcements, posters, and brochures.
- f) *The Department shall file with the Governor and the General Assembly, within 270 days after the end of each fiscal year, a report concerning its implementation of the Act during such fiscal year, together with any recommendations for future implementation. [320 ILCS 20/11]*
- g) The Department will reimburse APS provider agencies under contract at a uniform rate established by the Department. A separate rate will be established for each of the following case activities completed by the APS provider agency: assessment, case work, and follow-up.

- h) If a designated APS provider agency terminates its contract to provide services, the Department, in coordination with the regional administrative agency, will use best efforts to ensure that services are available without interruption to eligible adults within the terminated APS provider agency's service area.
- i) The Department will solicit *financial institutions for the purpose of making information available to the general public warning of financial exploitation of eligible adults and related financial fraud or abuse, including such information and warning available through signage or other written materials provided by the Department on the premises of such financial institutions, provided that the manner of displaying or distributing such information is subject to the sole discretion of each financial institution.* [320 ILCS 20/3.5(g)]
- j) The Department will coordinate *efforts with utility and electric companies to send notices in utility bills to explain to persons 60 years of age or older their rights regarding telemarketing and home repair fraud.* [320 ILCS 20/3.5(h)]
- k) Designated regional administrative agencies and APS provider agencies are agents of the Illinois Department on Aging.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.220 ORGANIZATIONAL STANDARDS AND RESPONSIBILITIES:
REGIONAL ADMINISTRATIVE AGENCIES**

Section 270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies

- a) *Each regional administrative agency in turn shall procure and recommend the designation of APS provider agencies within its planning and service area with prior approval by the Department on Aging and:*
 - 1) *monitor the use of services;*
 - 2) *provide technical assistance to the APS provider agencies, including APS program training and any instructional materials required by the Department; and*
 - 3) *be involved in program development activities. [320 ILCS 20/3(b)]*
- b) A procurement shall be issued by the regional administrative agency at least every six years, except as provided in subsection (e).
- c) The procurement for APS providers shall include a solicitation and evaluation of potential APS provider agencies.
 - 1) Qualified potential APS provider agencies shall be scored by the regional administrative agency. The highest scoring potential APS provider agency shall be recommended as the designated APS provider agency for the applicable planning and service area or subarea of the planning and service area.
 - 2) The Department will approve or take other action regarding the recommendation for designation in accordance with Section 270.215(b).
- d) The RAA may make a recommendation for withdrawal of the designation of an APS provider agency to the Department for approval, which shall not be unreasonably withheld. If the procurement fails to produce an APS provider agency for the service area that demonstrates adequate qualifications for designation, the regional administrative agency shall propose for designation a conditionally qualified provider agency for a limited term and until such time that a subsequent procurement results in an APS provider agency for the service area.

- e) If the designation of an APS provider agency has been terminated, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis until such time that a subsequent procurement results in an acceptable APS provider agency for the service area.
- f) A regional administrative agency may elect, for its planning and service area, to designate APS provider agencies, from those agencies designated in accordance with subsections (a) through (e), for the purpose of providing either a combined or shared service area response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury. Each regional administrative agency shall follow the steps outlined in subsections (a) through (e) for assuring services for non-business hours for a combined or shared service area.
- g) The regional administrative agency shall not serve as a legal guardian, an agent under the Illinois Power of Attorney Act [755 ILCS 45], or a representative payee for any client in the program. The Department may allow a waiver only if the APS provider agency has documented evidence that no other qualified person or entity exists to serve in the foregoing capacities on behalf of a client of the program and the regional administrative agency is willing and qualified to take on those responsibilities.
- h) The regional administrative agency shall retain and purge all books, records and other documents relevant to the operation of the program as directed by the Department in accordance with the State Records Act [5 ILCS 160], unless other State laws or federal laws or regulations apply (e.g., when records contain information subject to the federal Health Insurance Portability and Accountability Act (HIPAA)).

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.220 ORGANIZATIONAL STANDARDS AND RESPONSIBILITIES:
REGIONAL ADMINISTRATIVE AGENCIES**

Section 270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies

- a) *Each regional administrative agency in turn shall procure and recommend the designation of APS provider agencies within its planning and service area with prior approval by the Department on Aging and:*
 - 1) *monitor the use of services;*
 - 2) *provide technical assistance to the APS provider agencies, including APS program training and any instructional materials required by the Department; and*
 - 3) *be involved in program development activities. [320 ILCS 20/3(b)]*
- b) A procurement shall be issued by the regional administrative agency at least every six years, except as provided in subsection (e).
- c) The procurement for APS providers shall include a solicitation and evaluation of potential APS provider agencies.
 - 1) Qualified potential APS provider agencies shall be scored by the regional administrative agency. The highest scoring potential APS provider agency shall be recommended as the designated APS provider agency for the applicable planning and service area or subarea of the planning and service area.
 - 2) The Department will approve or take other action regarding the recommendation for designation in accordance with Section 270.215(b).
- d) The RAA may make a recommendation for withdrawal of the designation of an APS provider agency to the Department for approval, which shall not be unreasonably withheld. If the procurement fails to produce an APS provider agency for the service area that demonstrates adequate qualifications for designation, the regional administrative agency shall propose for designation a conditionally qualified provider agency for a limited term and until such time that a subsequent procurement results in an APS provider agency for the service area.

- e) If the designation of an APS provider agency has been terminated, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis until such time that a subsequent procurement results in an acceptable APS provider agency for the service area.
- f) A regional administrative agency may elect, for its planning and service area, to designate APS provider agencies, from those agencies designated in accordance with subsections (a) through (e), for the purpose of providing either a combined or shared service area response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury. Each regional administrative agency shall follow the steps outlined in subsections (a) through (e) for assuring services for non-business hours for a combined or shared service area.
- g) The regional administrative agency shall not serve as a legal guardian, an agent under the Illinois Power of Attorney Act [755 ILCS 45], or a representative payee for any client in the program. The Department may allow a waiver only if the APS provider agency has documented evidence that no other qualified person or entity exists to serve in the foregoing capacities on behalf of a client of the program and the regional administrative agency is willing and qualified to take on those responsibilities.
- h) The regional administrative agency shall retain and purge all books, records and other documents relevant to the operation of the program as directed by the Department in accordance with the State Records Act [5 ILCS 160], unless other State laws or federal laws or regulations apply (e.g., when records contain information subject to the federal Health Insurance Portability and Accountability Act (HIPAA)).

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.225 ORGANIZATIONAL STANDARDS AND RESPONSIBILITIES:
ADULT PROTECTIVE SERVICES PROVIDER AGENCIES**

Section 270.225 Organizational Standards and Responsibilities: Adult Protective Services Provider Agencies

- a) In accordance with Section 270.220, the designated APS provider agency shall enter into a written contract with the Department to provide services.
- b) The APS provider agency shall provide these services to an adult with disabilities or a person aged 60 or older in accordance with the Act and this Part.
- c) The APS provider agency shall be open for business and available to receive reports of abuse, neglect, financial exploitation, or self-neglect not less than 246 working days per calendar year under the following conditions:
 - 1) The APS provider agency shall not be closed for more than four consecutive days, unless an alternative method of receiving reports is approved by and on file with the regional administrative agency and the Department.
 - 2) If a recorded message is activated during business hours, there has to be an option to talk directly to a report taker at that time, rather than leaving a message on voice mail.
 - 3) A report taker has to be available at least seven hours each working day.
- d) The APS provider agency will not serve as a legal guardian or an agent under the Illinois Power of Attorney Act for any client in the program.
- e) The APS provider agency shall retain all books, records and other documents relevant to the operation of the program as directed by the Department. The APS provider agency has to insure that records are purged per Department standards.
- f) A contract to provide adult protective services may be terminated by the APS provider agency in accordance with the termination clause in the contract. The APS provider agency will assist in the transition to a replacement APS provider agency for the specific geographic area.
- g) Pursuant to the terms of their contract, APS provider agencies shall maintain sufficient staff to perform all duties and responsibilities of the program for which an agreement to perform is in effect.

- h) APS supervisors have to be involved in guiding and directing abuse, neglect, financial exploitation, or self-neglect cases and share responsibility in the case workers' decisions and actions in those cases.
- i) Qualifications
 - 1) APS supervisors shall have:
 - A) Education
 - i) a Master's Degree in health, social sciences, social work, health care administration, gerontology, disability studies, criminal justice or public administration, and one year experience in health or human services; or
 - ii) a Registered Nursing license, or a Bachelor of Science in Nursing (B.S.N.) or a Bachelor of Arts (B.A.)/Bachelor of Science (B.S.) in health, social sciences, social work, health care administration, gerontology, or criminal justice and three years' experience in health or human services, including either one year of supervisory experience or one year of experience in aging, adults with disabilities or domestic violence programs or services;
 - B) Department sponsored APS case worker certification and on-line forms training;
 - C) Department sponsored Phase II certification training within six months after the APS case worker certification, to be placed on the Department's list of APS Case Workers;
 - D) Department sponsored APS supervisor's certification training;
 - E) Fourteen hours of participation by actual attendance at in-service training and/or webinars on abuse of eligible adults, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year. For partial years of employment, training shall be prorated to equal approximately 45 minutes for each full month of employment. Participation by actual attendance at regional, State or national conferences on abuse of older adults and adults with disabilities and rights of older adults and adults with disabilities, self-neglect, and domestic violence qualify as in-service training. Participation should be documented and included in the employee's personnel file; and
 - F) Eleven hours of qualifying recertification every three years, which must be documented in the employee's personnel file.
 - 2) APS case workers shall have:
 - A) Education

- i) Master's Degree in health, social services, social work, health care administration, gerontology, disability studies, criminal justice or public administration;
 - ii) a Registered Nursing license, or a B.S.N. or a B.A./B.S. in health, social sciences, social work, health care administration, gerontology, or criminal justice and one year experience in health or human services; or
 - iii) a Practical Nursing license, with two years' experience in health or human services;
- B) Department sponsored APS case worker certification and on-line forms training;
- C) Department sponsored Phase II certification training within six months after the APS case worker certification, to be listed on the Department's list of APS Case Workers;
- D) Twelve hours of participation by actual attendance at in-service training and/or webinars on abuse of eligible adults, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year. For partial years of employment, training shall be prorated to equal approximately 45 minutes for each full month of employment. Participation by actual attendance at regional, State or national conferences on abuse of older adults and adults with disabilities and rights of older adults and adults with disabilities, self-neglect, and domestic violence qualify as in-service training. Participation should be documented and included in the employee's personnel file; and
- E) Eleven hours of qualifying recertification every three years, which must be documented in the employee's personnel file.
- j) The Department will suspend or remove from the Department's list of APS Case Workers any case worker or supervisor who fails or refuses to perform the duties of a case worker or supervisor in accordance with this Part.
- k) The APS provider agency must return to the Department, within 15 days, any identification card of a case worker or supervisor who separates from employment.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.226 PUBLIC AWARENESS AND EDUCATION

Section 270.226 Public Awareness and Education

The regional administrative agencies and APS provider agencies may assist the Department by providing public awareness and education on the issues of abuse, neglect, financial exploitation, and self-neglect. The regional administrative agencies and APS provider agencies shall include the following information when producing any public education materials:

- a) identification as part of the Adult Protective Services Program;
- b) voice and teletypewriter (TTY) phone numbers for the Department on Aging's toll-free 24-hour Adult Protective Services Hotline; and
- c) a nondiscrimination clause in accordance with State and federal requirements.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.230 ABUSE REPORTING**

Section 270.230 Abuse Reporting

- a) *If any mandated reporter has reason to believe that an eligible adult, who because of disability or other condition or impairment is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under the Act or to the Department. [320 ILCS 20/4(a-5)]*
- b) *Whenever a mandated reporter is required to report under the Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, or agency, he or she shall make a report to an agency designated to receive such reports under the Act or to the Department in accordance with the provisions of the Act and may also notify the person in charge of the institution, facility, or agency or his or her designated agent that the report has been made. [320 ILCS 20/4(a-5)]*
- c) *Under no circumstances shall any person in charge of such institution, facility, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under the Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by the Act. [320 ILCS 20/4(a-5)]*
- d) *The identity of a person making a report of alleged or suspected abuse or neglect under the Act may be disclosed by the Department or other agency provided for in the Act only with such person's written consent or by court order, but is otherwise confidential. [320 ILCS 20/4(c)]*
- e) *Any mandated reporter who makes a report or any person who investigates a report under the Act shall testify fully in any judicial or administrative proceeding resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult subject of the report under the Act and the person making or investigating the report. [320 ILCS 20/4.2]*

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.235 IMMUNITY

Section 270.235 Immunity

- a) *Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under the Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability for such actions.*
- b) *Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under the Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services.*
- c) *For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, financial exploitation or self-neglect shall be presumed. [320 ILCS 20/4(b)]*
- d) *The Department on Aging and its employees and agents shall have immunity, except for intentional willful and wanton misconduct, from any liability, civil, criminal, or otherwise, for reporting information to and maintaining the Adult Protective Service Registry established under Section 7.5 of the Act. [320 ILCS 20/7.5(k)]*

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.240 INTAKE OF ABUSE, NEGLECT, FINANCIAL EXPLOITATION, OR
SELF-NEGLECT REPORTS**

Section 270.240 Intake of Abuse, Neglect, Financial Exploitation, or Self-Neglect Reports

- a) The following agencies and hotlines are authorized to receive reports of abuse, neglect, financial exploitation, or self-neglect:
 - 1) the Department on Aging's toll-free 24-hour Adult Protective Services Hotline;
 - 2) the Department on Aging's Senior HelpLine;
 - 3) regional administrative agencies; and
 - 4) APS provider agencies.

- b) An APS provider agency receiving a report of abuse, neglect, financial exploitation, or self-neglect will assign a priority to the report in accordance with the following:
 - 1) Priority 1 reports are reports of abuse, neglect, or self-neglect in which the alleged victim is reported as being in serious physical harm or in immediate danger of death or serious physical harm. Priority 1 reports include, but are not limited to, the following:
 - A) physical abuse or self-neglect causing injuries such as fractures, head injuries, internal injuries, or burns, when the injury is of a serious nature, such as to require medical treatment;
 - B) threats of serious injury or death;
 - C) passive neglect or willful deprivation involving a lack of basic physical necessities severe enough to result in freezing, serious heat stress or starvation;
 - D) immediate medical attention is needed to treat conditions that could result in irreversible physical damages such as unconsciousness, acute pain, or severe respiratory distress;
 - E) alleged sexual abuse that has occurred in the last 72 hours;

- F) threats of sexual abuse where the alleged abuser has access to the alleged victim; and
 - G) punishment by the alleged abuser, such as locking the alleged victim in the closet.
- 2) Priority 2 reports are reports of abuse, neglect, financial exploitation, or self-neglect in which the alleged victim is reported as being abused, neglected, or exploited, or is self-neglecting, and the report taker has reason to believe that the consequences are less serious than Priority 1 reports. Priority 2 reports include, but are not limited to, the following:
- A) physical abuse or self-neglect involving scratches or bruises;
 - B) verbal threats of physical harm;
 - C) passive neglect or willful deprivation involving inadequate attention to physical needs, such as insufficient food or medicine;
 - D) unreasonable confinement; and
 - E) probability of liquidation or depletion of an alleged victim's income and assets.
- 3) Priority 3 reports are reports of abuse, neglect, or financial exploitation in which the alleged victim is reported as the target of emotional abuse by a caregiver or the alleged victim's financial resources are being misused or withheld and the report taker has reason to believe that there is no immediate threat of harm to the alleged victim.
- c) If a report includes allegations or conditions of more than one priority, the report taker that has received the report assigns it to the higher priority.
- d) An agency that is not an APS provider agency shall forward the reports of abuse, neglect, financial exploitation, or self-neglect to the appropriate APS provider agency within two hours.
- e) The APS provider agency is directed to respond to reports of abuse, neglect, financial exploitation, or self-neglect within the time frames indicated in subsection (f), including making a good faith attempt to conduct a face-to-face visit with the alleged victim.
- f) The applicable time frames for each priority are: for Priority 1 reports, 24 hours from the receipt of the report; Priority 2 reports, 72 hours from the receipt of the report; and for Priority 3 reports, seven calendar days from the receipt of the report.
- g) The following exceptions shall apply and extend the time frames specified for that priority:
- 1) The alleged victim of the Priority 1 report has been admitted to the hospital, in which case the response time for a face-to-face visit is extended from 24 hours to the following work day.

- 2) The report is a Priority 2 or Priority 3 report, the APS case worker is likely to be in danger, and a police officer or another appropriate individual is called to investigate or escort the worker. An appropriate escort may be, but is not limited to, a mental health professional, health professional, or significant relative. The response time for a face-to-face visit is then extended until such a time as the police officer or appropriate escort is available, not to exceed three days beyond the response time established for that priority.
- 3) The alleged victim does not wish or consent to a face-to-face visit within the time frame.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.241 REPORTING A SUSPICIOUS DEATH

Section 270.241 Reporting a Suspicious Death

- a) When a report taker receives a report of a suspicious death, he or she shall promptly forward the report to the appropriate APS provider agency. The APS provider agency shall then immediately report the matter to both the appropriate law enforcement agency and the coroner or medical examiner.

- b) Between 30 and 45 days after reporting a suspicious death, *the APS provider agency again shall contact the law enforcement agency and coroner or medical examiner to determine whether any further action was taken.*
 - 1) *Upon request by an APS provider agency, a law enforcement agency and coroner or medical examiner shall supply a summary of its action in response to a reported death of an alleged victim.*
 - 2) *A copy of the report shall be maintained and all subsequent follow-up with the law enforcement agency and coroner or medical examiner shall be documented in the case record of the alleged victim.*
 - 3) *If the law enforcement agency, coroner, or medical examiner determines the reported death was caused by abuse or neglect by a caregiver, the law enforcement agency, coroner, or medical examiner shall inform the Department, and the Department shall report the caregiver's identity on the Adult Protective Service Registry as described in Section 7.5 of this Act.*
[320 ILCS 20/3(c-5)]

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.245 ACCESS TO ALLEGED VICTIMS AND RELEVANT RECORDS

Section 270.245 Access to Alleged Victims and Relevant Records

- a) *The designated APS provider agencies shall have access to alleged victims who are reported to be victims of abuse, neglect, financial exploitation, or self-neglect in order to assess the validity of the report, assess other needs of the alleged victim, and provide services in accordance with the Act. [320 ILCS 20/13(a)]*
- 1) A representative of the Department or a designated APS provider agency that is actively involved in an abuse, neglect, financial exploitation, or self-neglect investigation under the Act shall be allowed access to the financial records, mental and physical health records, and other relevant evaluative records of the eligible adult that are in the possession of any individual, financial institution, health care provider, mental health provider, educational facility, or other facility if necessary to complete the investigation mandated by the Act.
 - 2) The provider or facility shall provide these records to the representative upon receipt of a written request and certification from the Department or designated APS provider agency that an investigation is being conducted under the Act and the records are pertinent to the investigation.
 - 3) Any records received by the representative, the confidentiality of which is protected by another law or rule, shall be maintained as confidential, except that the records may be used as necessary for any administrative or legal proceeding.
- b) When the case worker is unable to access the alleged victim due to interference by another, the case worker shall seek the assistance of law enforcement. If the report is a Priority 1, the APS case worker shall immediately seek police assistance in accessing the alleged victim. If the report is a Priority 2 or a Priority 3, the APS case worker shall make at least one additional attempt, and up to four additional attempts, to gain access to the residence prior to seeking police assistance.
- c) *When access to an eligible adult is denied, including the refusal to provide requested records, the Office of the Attorney General, the Department, or the APS provider agency may petition the court for an order to require appropriate access where:*

- 1) *a caregiver or third party has interfered with the assessment or service plan, or*
 - 2) *the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or financial exploitation. [320 ILCS 20/13(b)]*
- d) If the initial face-to-face visit indicates that the alleged victim does not meet the eligibility criterion for the program, the APS provider agency will terminate the assessment, document this finding in the case record, and refer the person to other appropriate services or agencies.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.250 MINIMUM ASSESSMENT AND CLASSIFICATION STANDARDS**

Section 270.250 Minimum Assessment and Classification Standards

- a) *An APS provider agency designated to receive reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect under the Act shall conduct a face-to-face assessment with respect to such report. The assessment shall include, but not be limited to, a visit to the residence of the alleged victim who is the subject of the report and may include interviews or consultation with service agencies or individuals who may have knowledge of the alleged victim's circumstances. [320 ILCS 20/5(a)]*
- b) A decision on the merits of each report must be made according to the following:
 - 1) **Verified:** When clear and convincing evidence results in a determination that the specific injury or harm alleged was the result of abuse, neglect or financial exploitation.
 - 2) **Some Indication:** When the preponderance of the evidence suggests some indication that abuse, neglect, financial exploitation, or self-neglect has occurred.
 - 3) **No Indication:** When there is a lack of credible evidence indicating that abuse, neglect, financial exploitation, or self-neglect has occurred.
 - 4) **Unable to Verify:** This determination is used when the report does not meet the eligibility criteria of the program, the APS provider agency is unable to locate the alleged victim, the APS provider agency staff has been unable to gain access to the alleged victim, or the alleged victim refuses the assessment.
- c) Each report has to be either substantiated, unsubstantiated or unable to substantiate, as follows:
 - 1) **Substantiated:** When one or more of the alleged types of abuse, neglect, financial exploitation, or self-neglect was classified as either "verified" or "some indication".
 - 2) **Unsubstantiated:** When all of the alleged types of abuse, neglect, financial exploitation, or self-neglect were determined to lack credible evidence that indicated abuse, neglect, financial exploitation, or self-neglect.

- 3) Unable to substantiate: When the APS provider agency lacked jurisdiction; was unable to locate the alleged victim; was unable to access the alleged victim; the alleged victim was ineligible for services; the alleged victim refused to cooperate; or the alleged victim was deceased.
- d) If, after the assessment, the APS provider agency determines that the case is substantiated and the victim has consented to services, it shall develop a service care plan for the eligible adult.
- e) The APS provider agency shall prepare a confidential case record to document each report of abuse, neglect, financial exploitation, or self-neglect to include the following information when available and applicable to the case:
 - 1) essential client information, such as name, address, age and phone number;
 - 2) descriptions of the reported, suspected or alleged abuse, neglect, financial exploitation, or self-neglect;
 - 3) investigative reports;
 - 4) injury location charts;
 - 5) records of financial transactions;
 - 6) summaries of conversations and communications with the eligible adult, the alleged or suspected abuser, and other sources of information;
 - 7) information relating to the mental competency of the eligible adult;
 - 8) information on the assessment of the eligible adult, including medical or psychiatric reports;
 - 9) summaries of the substantiation decision;
 - 10) summaries of services or interventions offered or arranged;
 - 11) reports on the termination, resolution or closure of the case;
 - 12) referrals to law enforcement, coroners or medical examiners;
 - 13) notification to the probate court of a substantiated finding of abuse, neglect, or financial exploitation by a guardian; and
 - 14) suspicious death reports and any follow-up documentation.
- f) An APS provider agency shall prepare a final investigative report, upon the completion or closure of an investigation, in all cases of reported abuse, neglect, financial exploitation, or self-neglect of an eligible adult, whether or not there is a substantiated finding.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.255 ABUSE, NEGLECT AND FINANCIAL EXPLOITATION CASE WORK,
FOLLOW-UP, REFERRALS AND CASE CLOSURE

Section 270.255 Abuse, Neglect and Financial Exploitation Case Work, Follow-Up, Referrals and Case Closure

a) Case Work

APS provider agencies shall assist, to the extent possible, eligible adults who need agency services to allow them to continue to function independently. [320 ILCS 20/3(c)]

- 1) If, after the assessment, the APS provider agency determines that the case is substantiated, it shall develop a case plan for the eligible adult, when he or she consents to services.
 - A) *In developing a case plan, the APS provider agency may consult with any other appropriate professional and/or provider of services, such as advocacy, care coordination, counseling, education, emergency aid, financial, housing, law enforcement, legal, long term care, managed care, medical, nutrition, personal assistance, relocation, respite, social supports through charitable and community assistance, disability agencies, private means, or public benefit programs to meet identified needs for the purpose of stabilizing the abusive situation and reducing the risk of further harm, and such professionals and/or providers shall be immune from civil or criminal liability on account of those acts. [320 ILCS 20/5(a)]*
 - B) *The case plan shall include alternative suggested or recommended services that are appropriate to the needs of the eligible adult and that involve the least restriction of the eligible adult's activities commensurate with his or her needs. [320 ILCS 20/5(a)]*
 - i) The case worker shall use his or her professional judgment in advocating in the best interest, safety and welfare of the eligible adult.
 - ii) The eligible adult's interest in living in the most independent setting with the least restrictive alternatives for legal, medical and social services come before those of any other family or community members.
 - iii) The case worker shall involve the eligible adult, and his or her family members for support, if possible, in the development of the intervention, and explain, in a direct manner, the situation, the range of available options for services, and the consequences of failing to cooperate or refusing to

accept services, so the eligible adult can exercise his or her maximum decision-making ability.

- C) The APS provider agencies shall establish working relationships with disability agencies for purposes of mutual training, referral and service response.
- 2) *Only those services to which consent is given in accordance with Section 9 of the Act shall be provided, contingent upon the availability of those services.* [320 ILCS 20/5(a)]
- b) Follow-up
All services provided to an eligible adult shall be reviewed by the APS provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified, except that, upon review, the Department may grant a waiver to extend the service care plan for up to one additional year. [320 ILCS 20/7]
- c) Referral
An APS provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. [320 ILCS 20/5(b)]
- d) The "evidence of crimes" referred to in subsection (c) includes:
- 1) death that may have been the result of abuse or neglect;
 - 2) brain damage;
 - 3) loss or substantial impairment of a bodily function or organ;
 - 4) bone fracture;
 - 5) extensive burns;
 - 6) substantial disfigurement;
 - 7) sexual assault or aggravated sexual assault;
 - 8) serious bodily injury as the result of a pattern of repetitive actions;
 - 9) extensive swelling or bruising, depending on such factors as the eligible adult's physical condition, circumstances under which the injury occurred, and the number and location of bruises;
 - 10) serious symptoms resulting from the use of medications or chemical restraints, or the withholding of life sustaining medications (e.g., insulin);
 - 11) evidence of severe neglect, such as unreasonable decubiti;
 - 12) other activity that would place the eligible adult in imminent danger of death or serious bodily injury; or
 - 13) any felonious criminal activity directed at the eligible adult that the case worker directly observes.

- e) *When an APS provider agency has reason to believe that the death of an eligible adult that occurs during the course of assessment, case work, or follow-up may be the result of abuse or neglect, the agency shall promptly report the matter to both the appropriate law enforcement agency and coroner or medical examiner and make subsequent contact with them in accordance with the time frame set forth in Section 270.241(b). [320 ILCS 20/3(c-5)]*
- f) Upon request by an APS provider agency, law enforcement agencies, coroners and medical examiners shall supply a summary of their action in response to a reported death of an eligible adult. The APS provider agency shall maintain a copy of the reports, and all follow-up with law enforcement, coroners and medical examiners shall be documented in the case record of the eligible adult.
- g) In all cases in which there is a substantiated finding of abuse, neglect or financial exploitation by a guardian, the APS provider agency shall, within 30 days after the finding, notify the probate court with jurisdiction over the guardianship.
- h) **Case Closure**
An APS provider agency shall close a case when:
 - 1) the alleged victim refuses services;
 - 2) the alleged victim is deceased; however, an APS provider agency will still be subject to the requirements of subsections (c) and (e);
 - 3) the alleged victim has entered a long term care facility and resided there for 60 days; provided the Department may waive the 60-day limitation in cases in which the APS provider agency submits evidence that the waiver is necessary to protect the safety and well-being of the client;
 - 4) the alleged victim has moved out of the area; provided, if the alleged victim remains at risk and the APS provider agency is aware of the new location, the APS provider agency shall refer the case to the APS provider agency in the location of the new residence for case work and follow-up services;
 - 5) the victim is no longer at risk of abuse, neglect, financial exploitation, or self-neglect;
 - 6) the victim has received uninterrupted follow-up services for 12 months, which shall be considered an administrative closure;
 - 7) the report is not substantiated; or
 - 8) the alleged victim is determined to be ineligible for services.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.260 AUTHORITY TO CONSENT AND COURT PETITIONS**

Section 270.260 Authority to Consent and Court Petitions

- a) The APS provider agency shall conduct an initial interview of the alleged victim to determine:
 - 1) the level of risk to the alleged victim;
 - 2) the need for early intervention services in order to assure safety and welfare or otherwise reduce risk to the alleged victim; and
 - 3) the alleged victim's decisional capacity to consent to an assessment and/or services.
- b) If it reasonably appears to the APS provider agency at the initial interview that the alleged victim has decisional capacity, the APS provider agency will conduct an assessment of the reported incident of suspected abuse, neglect, financial exploitation or self-neglect in accordance with Section 270.250, put Early Intervention Services in place as needed under Section 270.265, and provide other services as appropriate in completing case work, follow-up, referral to law enforcement, and case closure under Section 270.255.
 - 1) *If the alleged victim consents to services being provided according to the case plan, such services shall be arranged to meet the adult's needs, based upon the availability of resources to provide such services.*
 - 2) *If an adult withdraws his or her consent for an assessment of the reported incident or withdraws his or her consent for services and refuses to accept such services, the services shall not be provided. [320 ILCS 20/9(a)]*
- c) *An alleged victim "lacks the capacity to consent" if qualified staff of an agency designated under the Act reasonably determine, that he or she appears either unable to receive and evaluate information related to the assessment or services or unable to communicate in any manner decisions related to the assessment of the reported incident or services. [320 ILCS 20/9(d-5)]*
- d) If it reasonably appears to the APS provider agency at the initial interview that the alleged victim lacks decisional capacity, and there is no threat of ongoing harm or another emergency that exists, the APS provider agency will continue to intervene

in order to determine if the alleged victim has a guardian or agent under an advance directive with authority to act on his or her behalf for consenting to an assessment and/or services.

- 1) Upon consent by the guardian or agent under an advance directive, services will be provided according to the case plan and shall be arranged to meet the alleged victim's needs, based upon the availability of resources to provide those services.
 - 2) If the alleged victim either does not have a guardian or agent or the guardian or agent lacks authority to act, the APS provider agency shall have authority to:
 - A) contact an immediate family member, other relative, close personal friend of the alleged victim, or other person identified by the alleged victim as being involved with his or her care, to petition the court for that individual's appointment as a guardian in accordance with *Article XIa of the Probate Act of 1975 [755 ILCS 5/Art. XIa] for the purpose of consenting to an assessment of the reported incident and services, together with an order for an evaluation of the alleged victim's decisional capacity and his or her physical, psychological, and medical condition; or*
 - B) seek the *appointment of a temporary guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to an assessment of the reported incident and services, together with an order for an evaluation of the alleged victim's decisional capacity and his or her physical, psychological and medical condition.* [320 ILCS 20/9(b)]
 - 3) If the APS provider agency seeks the appointment of a guardian pursuant to Article XIa of the Probate Act of 1975, the APS provider agency, through its attorney, shall notify the nearest relatives of the disabled person not less than 14 days prior to the scheduled hearing, as provided by Sections 11a-8 and 11a-10(f) of the Probate Act of 1975.
 - 4) *If a guardian or agent is the suspected abuser and he or she withdraws consent for the assessment of the reported incident, or refuses to allow services to be provided to the alleged victim, the APS provider agency, or the Office of the Attorney General may request a court order seeking appropriate remedies, and may, in addition request removal of the guardian and appointment of a successor guardian or request removal of the agent and appointment of a guardian.* [320 ILCS 20/9(c)]
- e) If it reasonably appears to the APS provider agency at the initial interview that the alleged victim lacks decisional capacity, and there is ongoing harm, a threat of ongoing harm or another *emergency that exists, the APS provider agency may:*
- 1) take appropriate action necessary to ameliorate the risk by consulting with any other appropriate professional and/or provider of services, through charitable and community assistance, disability agencies, private means, or public benefit programs, to meet identified needs, stabilize the abusive

situation and reduce the risk of further harm, such as:

- A) seeking assistance of law enforcement to gain access to the alleged victim;
 - B) obtaining emergency medical care;
 - C) petitioning for Orders of Protection, Restraining Orders, or orders freezing assets;
 - D) purchasing early intervention services under Section 270.265; and
 - E) applying for appointment of a representative payee; and/or
- 2) *request an ex parte order from the circuit court of the county in which the petitioner or respondent resides or in which the alleged abuse, neglect, financial exploitation or self-neglect occurred, authorizing an assessment of a report of alleged or suspected abuse, neglect, financial exploitation or self-neglect or the provision of necessary services, or both, including relief available under the Illinois Domestic Violence Act of 1986 [750 ILCS 60]. [320 ILCS 20/9(d)]*
- f) *Within 15 days after the entry of the ex parte emergency order, the order shall expire, or, if the need for assessment of the reported incident or services continues, the APS provider agency shall petition for the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such assessment or services or to protect the alleged victim from further harm. [320 ILCS 20/9(e)]*
- g) *In accordance with subsections (d) and (e), if the APS provider agency has substantiated financial exploitation against an alleged victim, and has documented a reasonable belief that the alleged victim will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General or the APS provider agency may petition for an order freezing the assets of the alleged victim. The petition shall be filed in the county or counties in which the assets are located. [320 ILCS 20/13(d)]*

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.265 EARLY INTERVENTION SERVICES**

Section 270.265 Early Intervention Services

- a) Services that may be purchased by the APS provider agency for eligible adults include emergency aid, respite care, legal assistance, housing and relocation services, or other services designed to protect the health, welfare and/or safety of the eligible adult.
- b) The Department shall establish a maximum amount available to a victim in each year he or she receives services. The Department shall also establish procedures whereby the regional administrative agency and the Department may allow for additional expenditures of such funds as are necessary to obtain emergency or essential services to protect the client.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.270 MULTI-DISCIPLINARY TEAMS**

Section 270.270 Multi-disciplinary Teams

- a) Every APS provider agency that has more than 7,200 potential eligible adults in its designated service area shall develop and maintain a multi-disciplinary team (M-Team).
- b) The M-Team shall act in an advisory role to the APS provider agency for the purpose of providing professional knowledge and expertise in the handling of complex abuse cases.
- c) Each M-Team shall consist of one volunteer representative each from the following professions: banking or finance; disability care; health care; law; law enforcement; mental health care; and clergy. The APS provider agency may choose to add representatives from the fields of substance abuse, domestic violence, sexual assault, or other related fields.
- d) The M-Team shall meet a minimum of eight times a year.
- e) Each M-Team member shall sign a confidentiality agreement not to release any client information.
- f) The APS provider agency shall have written procedures for recruiting M-Team members; for preparing and conducting M-Team meetings; and for financial management of M-Teams.
- g) The Department shall provide funding to APS provider agencies contingent upon adequate funding to support the cost of staff time, mailings, meeting space and other costs related to M-Team meetings. M-Team members shall not be reimbursed for their services.
- h) Law enforcement agencies, coroners and medical examiners shall supply records to M-Teams as may be requested in particular cases.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.275 CONFIDENTIALITY AND DISCLOSURE**

Section 270.275 Confidentiality and Disclosure

- a) The Adult Protective Services Act provides that the identity of any person making a report of alleged or suspected abuse, neglect, financial exploitation, or self-neglect may be disclosed only with that person's written consent or by court order.
- b) *All records concerning reports of abuse, neglect, financial exploitation, or self-neglect and all records generated as a result of those reports, including, but not limited to, referrals and intervention services, shall be confidential and shall not be disclosed or subject to subpoena except as specifically authorized by the Act or other applicable law and only after a case is closed [320 ILCS 20/8].*
- c) These confidential records are exempt from inspection and copying under the Freedom of Information Act [5 ILCS 140/7.5(y)].
- d) *Access to such records, but not access to the identity of the person or persons making a report of alleged abuse, neglect, financial exploitation, or self-neglect as contained in such records, shall be allowed to the following persons and for the following persons:*
 - 1) *Department staff, APS provider agency staff, other aging network staff, and regional administrative agency staff in the furtherance of their responsibilities under the Act;*
 - 2) *A representative of the public guardian acting in the course of investigating the appropriateness of guardianship for the eligible adult or while pursuing a petition for guardianship of the eligible adult pursuant to the Probate Act of 1975 [755 ILCS 5];*
 - 3) *A law enforcement agency or State's Attorney's office investigating a known or suspected case of abuse, neglect, financial exploitation, or self-neglect. When a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;*
 - 4) *A law enforcement agency, fire department agency or fire protection district having proper jurisdiction pursuant to a written agreement with an APS provider agency under which the agency may furnish to the law enforcement agency, fire department agency, or fire protection district a list*

of all eligible adults who may be at imminent risk of abuse, neglect, financial exploitation, or self-neglect;

- 5) *A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected, financially exploited or self-neglected or who has been referred to the Adult Protective Services Program;*
- 6) *An eligible adult reported to be abused, neglected, financially exploited or self-neglected who completes an authorization for release of records or to that adult's legal guardian or agent who has current authority to act on behalf of the eligible adult when access to those records is relevant to representing the interests of the eligible adult, and a complete authorization for release of records is submitted, unless the guardian or agent is the substantiated abuser or is the alleged abuser in an open case;*
- 7) *An executor or administrator of the estate of an eligible adult who is deceased when relevant to administration of the estate and a complete authorization for release of records is submitted;*
- 8) *A court or a guardian ad litem, upon its or his or her written finding that access to such records may be necessary for the determination of an issue before the court. However, such access shall be limited to an in camera inspection of the records, unless the court determines, following the in camera inspection, that disclosure of the information contained in the records is necessary for the resolution of an issue then pending before it;*
- 9) *In cases regarding self-neglect, a guardian ad litem;*
- 10) *A grand jury, upon its determination that access to such records is necessary for conduct of its official business;*
- 11) *Any person authorized by the Director, in writing, for audit, program monitoring or bona fide research purposes;*
- 12) *A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, financial exploitation, or self-neglect. The APS provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult;*
- 13) *A coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between an APS provider agency and the coroner or medical examiner, under which the APS provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, neglect, financial exploitation or self-neglect;*
- 14) *Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board or the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act [225 ILCS 20] by APS provider agency staff or other licensing bodies at the discretion of the Director of the Department on Aging;*

- 15) *Department of Healthcare and Family Services staff and its vendors when that Department is funding services to the eligible adult, including being given access to the identity of the eligible adult;*
 - 16) *Department of Human Services staff and its vendors when that Department is funding services to the eligible adult or is providing reimbursement for services provided by the abuser or alleged abuser, including being given access to the identity of the eligible adult;*
 - 17) *Hearing officers in the course of conducting an administrative hearing under the Act;*
 - 18) A caregiver who challenges placement on the Adult Protective Services Registry shall be given the statement of allegation in the abuse report and the substantiation decision in the final investigative report; and
 - 19) *The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act [405 ILCS 40] shall have access, through the Department, to records, including the findings, pertaining to a completed or closed investigation of a report of suspected abuse, neglect, financial exploitation or self-neglect of an eligible adult. [320 ILCS 20/8]*
- e) An authorization for release of records by the Department or the APS provider agencies must be legally sufficient and include:
- 1) supporting documentation of the agency or guardianship evidencing current authority and the extent of the authority to act on behalf of the eligible adult or his or her estate; and
 - 2) a sworn statement as to the purpose of the request and its relevance to representing the interests of the eligible adult or his or her estate.
- f) The release of records may be refused if evident that it is not in the best interest of the eligible adult.
- g) All records must be maintained as confidential and stored in a designated and secure area within the APS provider agency offices.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.280 DEFINITIONS

Section 270.280 Definitions

Activity Plan: The document that describes and records the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of the individual volunteer.

Agreement: The document signed by an authorized representative of the APS provider agency and the volunteer in which the APS provider agency appoints the volunteer as an agent and representative of the Adult Protective Services Program and the volunteer accepts that appointment and the concomitant responsibilities. This agreement shall constitute the volunteer contract required by the State Employee Indemnification Act [5 ILCS 350].

APS provider agency: An organization designated by the Department pursuant to Section 3 of the Act to provide services to eligible adults pursuant to that Act.

Companion-type services: Activities intended to assist the eligible adults served by the APS provider agency, which may include, but are not limited to, visitations, assistance in transportation, and other personal assistance that does not involve medical, nursing or professional services.

Public awareness: Activities designed to educate and inform the public, which may include, but are not limited to, giving public presentations and speeches; participation in public informational fairs; representing the APS provider agency with community, social service or senior advocacy groups; the creation or production of television or radio public service announcements; and the writing, editing or distribution of newspaper articles, magazine articles, press releases or information sheets.

Regional Administrative Agency: A public or private entity that has been designated by the Department pursuant to Section 3 of the Act.

Volunteer: An individual who has been appointed by the APS provider agency to provide "public awareness services" to that agency or "companion-type services" to eligible adults in accordance with the APS provider agency's Volunteer Plan and the individual volunteer's Activity Plan.

Volunteer Plan: The document created by the APS provider agency and approved by the Department that describes the procedure for the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of volunteers.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.285 SELECTION AND SCREENING**

Section 270.285 Selection and Screening

- a) Each APS provider agency utilizing volunteers to provide public awareness services to that agency or companion-type services to eligible adults under this Subpart shall create a Volunteer Plan, approved by the Department, to recruit, select, screen, train, appoint, assign, supervise and evaluate volunteers.
- b) The recruitment, selection, and screening of volunteer applicants shall be the responsibility of the APS provider agency. Each volunteer applicant shall submit the required personal, professional and background information (see subsection (c)) on a form prescribed by the Department.
- c) The APS provider agency shall conduct a screening of each volunteer applicant. This screening process may include, but is not limited to, personal interviews; reference checks; fingerprint checks; credit checks; medical and mental health checks; background checks; driving record checks; and reviews of professional disciplinary actions, criminal prosecutions, and police records.
- d) The purpose of the screening process is solely to determine the suitability of the volunteer applicant to serve as an appointed volunteer. The APS provider agency shall not seek any personal information on a volunteer applicant beyond that which is necessary to complete the screening process. The screening process of the volunteer applicant shall be the same regardless of expected assignment of the individual volunteer.
- e) Each volunteer applicant shall be required to sign an authorization for the release of the information the APS provider agency has determined to be necessary to complete the screening process. All such information gathered in the course of the background checks and reviews of volunteer candidates shall be held in the strictest confidence permitted by law.
- f) Upon the completion of the screening process, the APS provider agency shall notify the volunteer applicant whether he or she will be designated as a volunteer. The APS provider agency shall also inform those volunteer applicants who are not so selected of the basis for the decision. The decision of the APS provider agency is final.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.290 TRAINING

Section 270.290 Training

- a) The training of volunteers is the responsibility of the APS provider agency, and shall be done according to the Volunteer Plan. Prior to being assigned any responsibilities, the volunteer must have satisfactorily completed an initial course of training of not less than six hours.
- b) The initial volunteer training shall include materials on program procedures, APS provider agency organization, types of abuse and neglect, confidentiality, safety procedures, the dynamics of client interaction, and additional subjects as each APS provider agency deems necessary.
- c) Each volunteer shall take the advanced training deemed appropriate and necessary by the APS provider agency to undertake the activities to which the volunteer will be assigned.
- d) The initial volunteer training shall be repeated for classes of new volunteers as needed.
- e) As a part of the Volunteer Plan, the APS provider agency shall maintain copies of past and current training agendas.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.295 VOLUNTEER AGREEMENT AND VOLUNTEER
RESPONSIBILITIES**

Section 270.295 Volunteer Agreement and Volunteer Responsibilities

Each volunteer, upon being appointed, and prior to entering into his or her assigned activities, shall sign a volunteer agreement with the APS provider agency. The agreement shall have been approved by the Department, and shall include the name and contact information for the volunteer, the number of hours per week or month that the volunteer anticipates serving, a statement of the general activities to which the volunteer will be assigned, and the following stipulations by the volunteer:

- a) the volunteer agrees to maintain confidentiality as required by the Act, the standards of the Adult Protective Services Program, and the policies of the APS provider agency, during and after the period of volunteer service;
- b) the volunteer acknowledges and accepts the responsibilities of being a mandated reporter for abuse of older adults, persons with disabilities, and children;
- c) the volunteer agrees to inform the APS provider agency, in writing, of the existence of any apparent conflict of interest, including a preexisting personal or professional relationship with any client of the program to whom the volunteer might be assigned;
- d) the volunteer agrees to maintain the appropriate driver's license and statutorily required insurance coverage if the volunteer is to be acting as a driver for eligible adults; and
- e) the volunteer agrees to abide by all statutory law, administrative rules, Departmental policies, and APS provider agency policies that apply to and govern the APS provider agency.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.300 ACTIVITIES AND SUPERVISION**

Section 270.300 Activities and Supervision

- a) The APS provider agency shall assign volunteers and provide supervision of each volunteer according to the Volunteer Plan. Each volunteer shall have an individualized Activity Plan, which shall include a job description of the specific assignment of the volunteer.
- b) A copy of the Activity Plan for each volunteer shall be maintained in the records of the APS provider agency.
- c) Each individualized Activity Plan shall include a record of all the training, assignments, activities, supervision, and evaluations of the volunteer.
- d) The Volunteer Plan shall be available for inspection and copying by law enforcement agencies, the Regional Administrative Agency, and the Department on Aging.
- e) The individual Activity Plans shall be available for inspection and copying by law enforcement agencies in the course of conducting a criminal investigation, and by the Department and appropriate Regional Administrative Agency (with redactions of identifying client information as necessary to maintain confidentiality) for monitoring and supervisory purposes.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.400 PURPOSE OF THE REGISTRY**

Section 270.400 Purpose of the Registry

The purpose of the Adult Protective Service Registry is to protect victims and participants receiving in-home and community-based services from caregivers against whom a verified and substantiated finding of abuse, neglect or financial exploitation was made by an Adult Protective Services provider agency under the Act.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.402 DEFINITIONS**

Section 270.402 Definitions

For the purposes of this Subpart E, the following definitions are applicable:

"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]

"Act" means the Adult Protective Services Act [320 ILCS 20].

"Administrative hearing" means a formal review of an action made by the Department. Specifically, it means any hearing authorized to be held under this Subpart by the Department or other entity authorized by the Director to hold these hearings.

"Administrative law judge" or "ALJ" means an attorney, licensed to practice law in the State of Illinois, who is authorized by the Director to conduct the administrative hearing and related processes under this Subpart.

"Allegation" means a charge or a claim of abuse, neglect or financial exploitation.

"Appeal" means a request to contest placement of a caregiver's identity on the Registry.

"APS" means Adult Protective Services.

"APS provider agency" means any public or nonprofit agency in a planning and service area that is selected by the Department, or appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. [320 ILCS 20/2(h)]

"Authorized representative" means any person, including an attorney, authorized in writing by a party to act on behalf of the party in the administrative hearing process.

"Business day" means a day, Monday through Friday, when State agency offices are open. The following are not business days: Saturdays, Sundays, State holidays, and any other day from time to time declared by the President of the United States or the Governor of Illinois to be a day during which the agencies of the State of Illinois that are ordinarily open to do business with the public will be closed for business.

"Caregiver" means a person who, as a result of a family relationship, voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living. [320 ILCS 20/2(a-7)]

"Continuance" means a decision to proceed with a hearing at a later date than scheduled.

"Department" means the Illinois Department on Aging.

"Direct care" includes, but is not limited to, direct access to an individual, his or her living quarters, or his or her personal, financial, or medical records for the purpose of providing nursing care or assistance with feeding, dressing, movement, bathing, toileting, other personal needs and activities of daily living or instrumental activities of daily living, or assistance with financial transactions. [320 ILCS 20/7.5(b)]

"Direct care agency" means a State agency listed in Section 270.404(a) and any entity or provider agency of direct care.

"Director" means the Director of the Department. [320 ILCS 20/2(c)]

"Domestic living situation" means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:

A licensed facility as defined in Section 1-113 of the Nursing Home Care Act [210 ILCS 45/1-113];

A facility licensed under the ID/DD Community Care Act [210 ILCS 47];

A facility licensed under the MC/DD Act [210 ILCS 46];

A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49];

A "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40];

A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

A "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a "community residential alternative" as licensed under that Act [210 ILCS 135];

An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act [210 ILCS 9]; or

A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5].

"Eligible adult" means either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual.

"Filed" means conveyed to the Department/other entity authorized to conduct hearings under this Subpart. A valid document or request will be considered filed on the business day it is received or, if mailed, on the date it is postmarked. Contact in person, by phone, fax, e-mail, via an electronic account, or other acceptable electronic means will be considered filed on a business day if it is received prior 5:00 p.m. on that date. If receipt is after 5:00 p.m., the action will be deemed filed on the next business day.

"Final administrative decision" means the final determination by the Director regarding whether or not placement of a caregiver's identity on the Registry is in the public interest.

"Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult. [320 ILCS 20/2(f-1)]

"Health care facility" means any residential facility licensed, certified, or regulated by the Department of Public Health, the Department of Healthcare and Family Services, or the Department of Human Services.

"Long term care facility" means any residential facility licensed, certified, or regulated by the Department of Public Health.

"Neglect" means another individual's failure to provide an eligible adult with, or willful withholding from an eligible adult, the necessities of life, including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in the Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. [320 ILCS 20/2(g)]

"Other entity" means an Illinois State agency or its qualified designee with the administrative capacity to handle all hearing functions as set forth in this Subpart.

"Participant" means an individual who uses the services of an in-home care or community-based program funded through the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health. [320 ILCS 20/7.5(b)]

"Party" means an individual or entity, including the Department, that has standing to participate and is participating in a proceeding under this Subpart. For purposes of filing and service, "party" also means an appropriately designated agent for receipt of service.

"Preponderance of the evidence" means the greater weight of the evidence that renders a fact more likely than not.

"Registry" means the Adult Protective Service Registry.

"Relevant Contact Information" means the current contact information, including, but not limited to, address, phone number and email address that allows the Department/other entity authorized to conduct hearings under this Subpart to contact the party as necessary during the course of a proceeding under this Subpart.

"Verified and substantiated finding", as used in this Subpart, means a determination by "clear and convincing" evidence by a provider agency, after assessment, that injury or harm has occurred as the result of abuse, neglect or financial exploitation in a reported case.

"Victim" means an eligible adult who is the subject of a verified and substantiated finding of abuse, neglect or financial exploitation.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.404 ACCESS TO AND USE OF THE REGISTRY**

Section 270.404 Access to and Use of the Registry

- a) The following State agencies and entities are to obtain credentials from the Department of Public Health in order to have access to the Registry:
 - 1) the Department;
 - 2) the Department of Healthcare and Family Services;
 - 3) the Department of Human Services;
 - 4) the Department of Public Health; and
 - 5) any entity or provider agencies of direct care that are licensed, certified or regulated by or paid with public funds from any of these State agencies.
- b) Direct care agencies cannot retain, hire, compensate either directly or on behalf of a participant, or utilize the services of a caregiver to provide direct care if the online check indicates that the name of that caregiver has been placed on the Registry or when the direct care agency otherwise gains knowledge of the placement on the Registry.
- c) Direct care agencies are to conduct an online check:
 - 1) prior to hiring a caregiver to determine whether the caregiver's identity has been placed on the Registry; and
 - 2) on an annual basis for purposes of retention.
- d) Direct care agencies are to maintain a copy of the results of the online check to demonstrate compliance.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.406 NOTICE TO ELIGIBLE ADULT, GUARDIAN OR AGENT**

Section 270.406 Notice to Eligible Adult, Guardian or Agent

As part of the investigation, the APS provider agency will provide notice to the eligible adult, or the eligible adult's guardian or agent under a valid power of attorney, as may be applicable and as noted in the case records, that his or her caregiver's identity may be placed on the Registry based on a verified and substantiated finding of abuse, neglect or financial exploitation by the APS provider agency. However, that notice will not be provided to a guardian or agent who is an alleged or substantiated abuser.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.408 NOTICE TO THE CAREGIVER'S EMPLOYER**

Section 270.408 Notice to the Caregiver's Employer

- a) Imminent Risk
 - 1) If there is an imminent risk of danger to a participant or an imminent risk of misuse of his or her personal, medical or financial information, the APS provider agency will notify the Department within 24 hours that there is a verified and substantiated finding of abuse, neglect or financial exploitation against the caregiver. The Department will use reasonable efforts to promptly notify the direct care agency employing the caregiver of the finding. The direct care agency shall immediately bar the caregiver from providing direct care to any participants pending the outcome of any challenge, review, appeal, criminal prosecution, or other type of collateral action.
 - 2) The bar to providing direct care to a participant is not a basis for appeal to the Department.
 - 3) The Department will use reasonable efforts to promptly notify the employer if a determination is made on appeal that the caregiver's identity will not be placed on the Registry.
- b) Final Administrative Decision
Within 45 calendar days after a final administrative decision on appeal under this Subpart, the Department will notify the employer of the caregiver's placement on the Registry. The employer cannot thereafter retain, hire, compensate either directly or on behalf of a participant, or utilize the services of a caregiver in a position that involves direct care if that individual has been placed on the Registry.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.410 NOTICE TO LONG TERM CARE FACILITIES AND OMBUDSMAN**

Section 270.410 Notice to Long Term Care Facilities and Ombudsman

If a victim moves from a domestic living situation to a health care or long term care facility, the APS provider agency will use reasonable efforts to promptly inform the facility and the appropriate Regional Long Term Care Ombudsman about any placement of a caregiver on the Registry relevant to the victim.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.412 VERIFIED AND SUBSTANTIATED FINDING AND NOTICE TO
CAREGIVER**

Section 270.412 Verified and Substantiated Finding and Notice to Caregiver

- a) Within five business days after allegations of abuse, neglect or financial exploitation by a caregiver toward a victim have been found to be verified and substantiated by an APS provider agency, that agency is to notify the Department's Office of Adult Protective Services (Office) and forward a complete copy of all case records of the victim to the Department. The APS provider agency will also provide the Office with any additional information requested.
- b) The Office will review the case file as a quality assurance measure to ensure correct interpretation and application of:
 - 1) the Act, administrative rules, and standards; and
 - 2) sufficient documented evidence of abuse, neglect or financial exploitation.
- c) Notice to Caregiver
 - 1) If the Office concurs with the verified and substantiated finding, the Department will notify the caregiver, within 30 calendar days after the Department's receipt of the case record, that his or her name will be recommended for Registry placement. The notice is to include:
 - A) the statement of allegations from the abuse report and the substantiation decision from the final investigative report contained in the case record of the victim maintained by an APS provider agency;
 - B) a statement that the Department intends to place the caregiver's identity on the Registry;
 - C) information about the caregiver's right to contest placement on the Registry, including grounds for appeal and applicable legal burden; and
 - D) the identification number assigned by the Department.
 - 2) If the Office does not concur with the verified and substantiated finding, the Department will inform the caregiver and his or her employer, if applicable,

within 30 calendar days after the receipt of the case record, that his or her name will not be recommended for Registry placement.

- 3) Notice to the caregiver is presumed to have been received four calendar days after the date on the notice.
- 4) Notice will be sent via regular pre-paid, first-class mail to the caregiver's last known address.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.414 INITIATION OF AN APPEAL**

Section 270.414 Initiation of an Appeal

Requests for an appeal to contest placement of the caregiver's identity on the Registry are to be submitted to the Department/other entity authorized to conduct hearings under this Subpart. These requests are to be made in writing and signed by the caregiver within 30 calendar days after the date of the notice from the Department. The request is to be sent via regular pre-paid, first-class mail, email, facsimile, or other acceptable means as specified in the notice.

- a) The sole issue on appeal is whether placement of the caregiver's identity on the Registry is in the public interest.
 - 1) A copy of the notice to the caregiver, the statement of allegations in the abuse report, and the substantiation decision in the final investigative report constitute prima facie evidence of abuse, neglect or financial exploitation for placement on the Registry, which will be admitted into evidence without further proof.
 - 2) The burden of proof belongs to the caregiver to establish by a preponderance of evidence that placement of his or her identity on the Registry is not in the public interest, based on the following factors:
 - A) the length of time the caregiver has been providing care to the victim;
 - B) the relationship between the caregiver and the victim;
 - C) whether placement of the caregiver's identity on the Registry is in the victim's best interest or that of other participants;
 - D) whether additional training for the caregiver could remediate the abuse, neglect or financial exploitation;
 - E) in the case of financial exploitation, the value of the assets at issue and whether restitution was made; or
 - F) whether criminal charges were filed against a caregiver and any related outcome.
 - 3) The administrative law judge will issue a recommendation for final administrative decision based on the record as a whole and will have the

discretion to determine whether placement of the caregiver's identity on the Registry is in the public interest.

- b) The Department will be represented by a person designated by the Director.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.416 COLLATERAL ACTION**

Section 270.416 Collateral Action

- a) A caregiver may stay the appeal process upon the provision of an adequate and timely notice of the filing of a collateral action challenging an adverse employment action resulting from the verified and substantiated finding of abuse, neglect or financial exploitation.
- b) This notice is to be sent to the Department and to the ALJ and all parties of record in the administrative hearing, if applicable.
 - 1) The caregiver will provide supporting evidence of the collateral action such as file-stamped copies from the Illinois Civil Service Commission or documentation relating to a proceeding pursuant to any applicable collective bargaining agreement.
 - 2) If the caregiver fails to provide file-stamped copies of the collateral action after a request to do so by the ALJ, the appeal will move forward.
- c) If the adverse employment action is overturned in the collateral action and the caregiver's identity has already been placed on the Registry, the Department will remove the caregiver's identity from the Registry as soon as is practicable.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.418 CONFIDENTIALITY**

Section 270.418 Confidentiality

- a) Except as otherwise authorized by law, the Department/other entity authorized to conduct hearings under this Subpart, and the ALJ have an affirmative duty to protect the confidentiality of records protected under the Act, including:
 - 1) a verified and substantiated finding of abuse, neglect or financial exploitation of an eligible adult by a caregiver;
 - 2) all records concerning reports of abuse, neglect or financial exploitation and all case notes and records generated as a result of those reports;
 - 3) the name of, and personal information about, the victim;
 - 4) the names of, and identifying information about, reporters;
 - 5) redacting to the extent possible, use of confidential, identifying or personal information in the final administrative decision of the ALJ consistent with Sections 4(c) and 8 of the Act and Section 270.275 of this Part; and
 - 6) access to and use of the Registry.

- b) None of the information and documents in the case record of the victim or in the appeal record, including the final administrative decision of the Director under Section 270.474, will be subject to the Freedom of Information Act [5 ILCS 140].

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.420 REMOVAL FROM REGISTRY**

Section 270.420 Removal from Registry

- a) At any time after a caregiver's identity has been placed on the Registry, a caregiver may request removal of his or her name from the Registry by submitting a request to the Department in writing.
 - 1) The request may only be made in relation to a single Registry placement decision. A request cannot be made requesting removal of multiple Registry placement decisions.
 - 2) A request for removal of a Registry placement decision is not to be made more than once in each successive 3-year period after placement, with a maximum of 3 such requests.
 - 3) The caregiver is to prove by a preponderance of the evidence that removal of his or her name from the Registry is in the public interest.
- b) Within 60 calendar days after receiving a removal request, the Department will review and consider any written supporting material provided by the caregiver.
 - 1) The review will not include in-person testimony.
 - 2) The Department may consider the following factors in making its determination on whether to remove a caregiver's identity from the Registry:
 - A) the length of time the caregiver provided care to the victim;
 - B) the relationship between the caregiver and the victim;
 - C) whether inclusion of the caregiver's identity on the Registry remains in the victim's best interest or that of other participants;
 - D) whether the caregiver completed training to remediate the abuse, neglect or financial exploitation;
 - E) in the case of financial exploitation, the value of the assets at issue and whether restitution was made;
 - F) whether criminal charges were filed against a caregiver and any related outcome.

- 3) Within 30 calendar days after completion of the review, the Department will issue a written decision either granting or denying removal of the caregiver's identity from the Registry.
- 4) In the event the Department decides that the caregiver's identity should be removed from the Registry, the Department will take all necessary steps to remove the caregiver's identity from the Registry.
- 5) The removal decision by the Department is not subject to the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.422 INITIAL AND AMENDED PLEADINGS**

Section 270.422 Initial and Amended Pleadings

- a) Form of Pleadings
 - 1) If an initial or amended pleading is not in writing, it is to be made part of the record.
 - 2) Written pleadings shall be clear and legible.
 - 3) Reproductions may be by any process, if all copies are clear, accurate and permanently legible.
- b) Contents of Pleadings
 - 1) All pleadings will include the following information:
 - A) The full name and relevant contact information of the individual or entity and the individual's or entity's representative, if applicable;
 - B) A plain and concise statement of any facts upon which the pleadings are based;
 - C) The specific relief sought; and
 - D) If known, the statutory authority or rules upon which the relief is sought.
 - 2) If the information described by subsection (b)(1) is not readily available to the individual or entity, the individual or entity needs to supply sufficient information to identify the specific action or inaction that is the basis for the request for an administrative hearing.
 - 3) Written Pleadings
 - A) All written pleadings in proceedings under this Subpart to which a docket number has been assigned will display the docket number. Written pleadings initiating a new proceeding will leave a space for the docket number.
 - B) Written pleadings will be dated and signed by the individuals or entities filing them or their authorized representatives.

- c) For purposes of initial pleadings, a facsimile of a written, signed request, an electronically signed request, an electronic account request, or a request by other valid electronic means is considered the same as the original written, signed request.
- d) An individual or entity filing written pleadings pursuant to this Subpart will serve the pleadings on each known party in accordance with Section 270.424 (Service).
- e) Amendment of Pleadings
 - 1) A request to amend an initial pleading may be made in writing prior to the hearing or made on the record prior to the conclusion of the hearing.
 - 2) An amended pleading may be filed in the same manner as the original pleading or it may be presented to the ALJ during the course of the hearing.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.424 SERVICE**

Section 270.424 Service

- a) Notice of a scheduled hearing will include the following:
 - 1) A statement of the time, location and nature of the hearing;
 - 2) A statement of the legal authority and jurisdiction under which the hearing is held;
 - 3) A reference to the statutes and rules involved;
 - 4) The relevant contact information of the Department/other entity authorized to conduct hearings under this Subpart (Department/other entity), all parties, and all other persons to whom the Department gives notice of the hearing;
 - 5) A clear and concise statement of the matters asserted; and
 - 6) Any other information that is mandated by law to be included in the notice.
- b) Notice of a scheduled hearing will be sent no later than 15 calendar days prior to the scheduled date of hearing.
- c) Service
 - 1) Except as provided by this Subpart, orders and other notices, will be delivered to all parties by verifiable electronic methods, such as electronic mail. If these methods are unavailable or are a hardship for a party, orders and other notices will be delivered by a verifiable method reasonably anticipated to accomplish accurate and timely service.
 - 2) Except as provided by this Subpart or other law, pleadings, motions, and other notices from a party shall be delivered to the Department/other entity and all other parties by verifiable electronic methods. If these methods are unavailable or are a hardship on a party, notice from a party will be delivered by a verifiable method reasonably anticipated to accomplish accurate and timely service.
 - 3) Should a party choose to use an agent to accept service on its behalf, that party is responsible for notifying the Department/other entity in writing of the identity of the agent and ensuring that the Department/other entity has accurate relevant contact information for the agent.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.426 ANSWER**

Section 270.426 Answer

When an answer is necessary or allowed, the following apply:

- a) The party shall timely file an answer. The answer shall be in writing, signed by the party or representative, and shall contain a specific response to each allegation in the initial pleading. The response shall admit the allegation, deny it, or state that the party has insufficient information to admit or deny the allegation.
- b) When a party has responded that it has insufficient information to admit or deny the allegation, that response will serve as a denial.
- c) A failure to timely file a necessary answer will be deemed an admission of all allegations and may form the basis of a decision against the party that failed to answer.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.428 REPRESENTATION**

Section 270.428 Representation

- a) An individual may be self-represented or may instead designate an attorney authorized to practice law in the State of Illinois or other representative of the party's choosing. An individual or entity may only designate one authorized representative at a time.
- b) At any pre-hearing stage of a proceeding, including mediation, a corporation may be represented by an officer designated or authorized to act on behalf of the corporation. However, at a hearing, corporations are to be represented by an attorney authorized to practice law in the State of Illinois.
- c) The representative shall use reasonable efforts to promptly file a notice of appearance and authorization for representation with the Department/other entity authorized to conduct hearings under this Subpart. Notice of appearance and authorization for representation shall include the following:
 - 1) Full name and relevant contact information of the individual or entity; and
 - 2) Full name and relevant contact information of the individual's or entity's representative, if applicable.
- d) If a party has an authorized representative, that representative may exercise the rights of the party in any pre-hearing process, such as mediation, as well as during the hearing. The action or inaction of an authorized representative will be deemed to be the action or inaction of the party.
- e) Filing of notice of appearance and authorization for representation will not delay the start of the hearing absent showing of good cause for a continuance (see Section 270.436).
- f) An authorized representative to a proceeding is obligated to keep relevant contact information current.
- g) An authorized representative who has acted in a representative capacity for an individual or entity and who wishes to withdraw from the representation shall file a notice of withdrawal in writing or make a request to withdraw on the record.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.430 VENUE AND TESTIMONY BY TELEPHONIC OR OTHER
ELECTRONIC MEANS**

Section 270.430 Venue and Testimony by Telephonic or Other Electronic Means

- a) **Hearings will be at a reasonable time, date and location designated in the notice of administrative hearing. The hearing may be moved to another location when the Department/other entity authorized to conduct hearings under this Subpart finds that exceptional circumstances make it desirable, in the interest of justice, to allow a change of venue. The parties may stipulate to the exceptional circumstances or one party may make such a showing to the Department/other entity. Exceptional circumstances include, but are not limited to, age, infirmity or inability to travel due to ill health. Mere inconvenience will not constitute grounds for change in venue.**
- b) **Any activities, including the hearing or any pre-hearing meetings, may be conducted from different locations by connecting the parties, the witnesses, and the ALJ by telephone, video or other acceptable electronic means.**

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.432 PRE-HEARING CONFERENCES**

Section 270.432 Pre-hearing Conferences

- a) A party may request, or the Department/other entity authorized to conduct hearings under this Subpart may direct the parties to appear for, a prehearing conference if it expedites the proceeding. Conferences may be for considering settlement, simplification of issues, or other matters that may aid in the disposition of the hearing.
- b) Any agreements or stipulations made by the parties will be made part of the record.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.434 CONSOLIDATION OF MATTERS FOR HEARING**

Section 270.434 Consolidation of Matters for Hearing

The Department/other entity authorized to conduct hearings under this Subpart may consolidate matters when the following conditions are met:

- a) The matters involve common parties or common issues of law or fact, or grow out of the same transaction or occurrence;
- b) Consolidation would not prejudice the rights of the parties;
- c) Consolidation would result in the efficient and expeditious resolution of matters;
and
- d) Consolidation would not result in the disclosure of information made confidential by law.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.436 CONTINUANCES**

Section 270.436 Continuances

- a) Procedure for Requesting a Continuance
 - 1) Any party to a hearing may request to continue a hearing. Each request will be made part of the record.
 - 2) Any request to continue a hearing is to be made to the Department/other entity under this Subpart at least 5 business days before the scheduled hearing date, except in unavoidable circumstances.
- b) Contents of the Request

A request to continue is to state the specific reason the hearing date should be changed.
- c) Standards for Granting a Request
 - 1) A party's request for continuance may be granted for good cause, which includes:
 - A) Imminent danger to the public health, safety or welfare;
 - B) Unavoidable absence of an essential party;
 - C) A material change in the case that would otherwise prevent the proper preparation of a party's case or an answer; or
 - D) When failure to continue the hearing would be a hardship for a party.
 - 2) Good cause generally excludes an attorney's or party's scheduling conflicts that arise after the hearing has been scheduled. It also excludes a need for time to complete discovery, unless an emergency or manifestly unjust condition (such as improper withholding of evidence) prevented completion of discovery before the originally scheduled hearing date.
- d) Limitations on Continuances
 - 1) In all cases, the parties, the Department, and the ALJ will avoid unduly delaying the proceedings with repetitious continuances.

- 2) When a continuance is justified, its length and scope will be no greater than what is reasonably necessary under the circumstances.
 - A) The parties should complete as much of the hearing as possible on the original scheduled hearing date.
 - B) The hearing will be rescheduled for the earliest reasonably practicable date.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.438 MOTIONS**

Section 270.438 Motions

- a) Pre-hearing Motions
 - 1) Any party may file a pre-hearing motion requesting appropriate relief. A pre-hearing motion shall be in writing, unless made orally on the record and accompanied by any affidavits or other evidence relied upon. Appropriate relief will be determined by the Department/other entity authorized to conduct hearings under this Subpart based on the nature and form of the hearing. Absent good cause, a pre-hearing motion will be filed no later than five business days prior to the date of the hearing. Pre-hearing motions are limited to requesting the following:
 - A) Dismissal of a pleading for failure to state facts that, if true, would form a sufficient basis for the challenged action;
 - B) Dismissal of a request for hearing for failure to comply with notice or service requirements of this Subpart;
 - C) Compliance with discovery obligations or sanctions in accordance with Section 270.442 dealing with discovery;
 - D) A continuance or extension of time to comply with any of the provisions of this Section;
 - E) That an ALJ deems a failure to file a necessary answer to be an admission of the truth of the allegations contained in the pleading;
 - F) That an order be vacated or modified;
 - G) That ALJ schedule a pre-hearing conference;
 - H) Separation of cases consolidated by the Department/other entity;
 - I) Disqualification of an ALJ;
 - J) Approval to intervene, as a party with standing, in an existing proceeding; and
 - K) Any relief consistent with the administrative process that the Department/other entity determines is in the interest of justice.

- 2) Within five business days after receipt of a pre-hearing motion, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence. If the hearing is held during the response period, a party may respond to the pre-hearing motion on the record at the start of the hearing. If a party does not respond, the party will be deemed to have waived objection to the granting of the motion. Waiver of objection does not automatically constitute grounds for granting the motion. The moving party does not have a right to reply.
 - 3) Upon a finding of good cause, the Department/other entity may, by written order, set additional time deadlines. Good cause will have the same meaning ascribed in Section 270.464(c).
- b) Unless the ALJ directs otherwise, no oral argument will be heard on a motion. A written brief, no longer than 3,000 words, may be filed with a motion or a response to a motion, stating the arguments and authorities relied upon.
 - c) The Department/other entity shall rule on motions by written order or orally on the record.
 - d) Unless due process requires filing of a motion for fundamental fairness, the filing of a motion shall not unduly delay the start of the hearing or extend the time for the performance of any act described by this Subpart.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.440 SUBPOENAS**

Section 270.440 Subpoenas

- a) **Generally**

The Department/other entity may issue subpoenas to compel the attendance of a witness or the production of documents before or during an administrative hearing, on its own motion, or at a party's request.

 - 1) The request for subpoena shall be granted only if the requester demonstrates that the information to be produced by the subpoena is necessary, relevant, and not unduly repetitious.
 - 2) The ruling on the request for subpoena may be delayed until after available evidence has been submitted.
- b) **Service**

When a request for subpoena is granted, the requesting party shall be responsible for service of the subpoena. Subpoenas will be served pursuant to Section 270.424.
- c) **Record**

Subpoenas, requests for subpoenas, denials of requests for subpoenas, and the specific reasons for denying, revoking or modifying subpoenas will be made part of the record.
- d) **Failure to Comply**
 - 1) If a party fails to obey a subpoena and the Department/other entity finds that subsections (a) and (b) have been satisfied, appropriate sanctions may be imposed, including, but not limited to, disallowing testimony by the party who has refused to comply or drawing an adverse influence against the party refusing to comply.
 - 2) If a non-party fails to obey a subpoena, the party seeking enforcement will be responsible for preparing an application for enforcement and filing that application in a court of appropriate jurisdiction.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.442 DISCOVERY; EXCHANGE OF INFORMATION**

Section 270.442 Discovery; Exchange of Information

- a) Pursuant to Section 8(11) of the Act, a caregiver is only entitled to a copy of the statement of allegations from the abuse report and the substantiation decision from the final investigative report contained in the case record of the victim maintained by an APS provider agency.
 - 1) Written and/or digital information about the victim is not material and/or relevant to the limited issue on appeal. Disclosure of the case record, including, but not limited to, intake reports, risk assessments, plans of care, status reports, documents pertaining to interventions/services, and updates, constitutes an unwarranted invasion of personal privacy and/or protection afforded to a reporter.
 - 2) APS provider agency written and/or digital information, including, but not limited to, logs, tracking records, case recording forms, and reports to the Department's Office of Adult Protective Services, are not relevant to the limited issue on appeal and discloses investigative techniques to the detriment of program administration.
 - 3) Program written and/or digital information, including, but not limited to, auditing and monitoring information about the APS provider agency, is not relevant to the limited issue on appeal because this information exceeds the scope of the verified and substantiated finding.
 - 4) All other materials, including, but not limited to, information relating to the identity of the reporter, are confidential and protected from disclosure under Sections 4(c) and 8 of the Act.
- b) Discovery is a process primarily conducted between the parties. The Department/other entity will not facilitate the exchange of information, except when a motion is made alleging failure to comply with discovery obligations.
- c) Case-specific information regarding timeframes for discovery will be included in the Notice of Hearing.
- d) The parties shall not use discovery to harass or cause needless delay, and hearings shall not be delayed to permit the exchange of information unless timeliness and due diligence is shown by the party seeking the information.
- e) Upon written request served upon the opposing party, any party will be entitled to:

- 1) The name and address of any witness who may be called to testify;
 - 2) Copies of any document that may be offered as evidence; and
 - 3) A description of any other evidence that may be offered.
- f) If a party fails to answer a request for information, the Department/other entity may enter any just and appropriate order to advance the disposition of the matter, including but not limited to:
- 1) Staying any further proceeding until the request for information is answered;
 - 2) Barring the testimony of any witness not disclosed in the answer to the request for information;
 - 3) Not allowing the introduction of, or any testimony concerning, any document or evidence not provided in an answer to the request for information; or
 - 4) Issuing protective orders that deny, limit, condition, or regulate discovery to minimize unreasonable expense, or to prevent harassment, to expedite resolution of the proceeding, or to protect confidential materials from disclosure consistent with Sections 4(c) and 8 of the Act and this Section.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.444 EVIDENCE**

Section 270.444 Evidence

- a) The ALJ shall admit evidence that is admissible under the law in civil cases in the circuit courts of this State. In addition, the ALJ may admit material, relevant evidence, of the type commonly relied upon by reasonably prudent persons in the conduct of serious affairs, that is reasonably reliable and reasonably necessary to resolution of the issue for which it is offered.
- b) The ALJ shall exclude immaterial, irrelevant or unduly repetitious evidence.
- c) A party may object to evidentiary offers. These objections shall be noted in the record.
- d) The parties may, by stipulation, agree upon any facts involved in the proceeding. The facts stipulated will be considered as evidence in the proceeding.
- e) Official notice may be taken of all facts of which judicial notice may be taken and of other facts, of a technical nature, within the specialized knowledge and experience of the Department.
- f) Except as otherwise mandated by law, the privilege of a witness, person, or Illinois or non-Illinois governmental entity will be governed by the principles of the common law as they may be interpreted by Illinois courts.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.446 WITNESS TESTIMONY**

Section 270.446 Witness Testimony

- a) The ALJ may exercise reasonable control over the form of the examination and order of witnesses so as to make the examination effective for gathering the facts, avoiding delay, and protecting witnesses from harassment or undue embarrassment. The ALJ may limit the examination of witnesses to prevent cumulative or irrelevant evidence.
- b) Before testifying, a witness shall declare by oath or affirmation and under penalty of perjury that he or she will testify truthfully.
- c) Any individual is competent to testify as a witness so long as he or she is capable of understanding the nature of an oath or affirmation and giving an accurate account of facts within the witness' personal knowledge. In the absence of contrary evidence, a witness is presumed competent to testify. The ALJ determines competency of a witness.
- d) A witness may appear voluntarily to testify or may testify under power of a subpoena issued by the Department/other entity under Section 270.440.
- e) A witness compelled to testify in response to a subpoena may be accompanied and advised by an attorney.
- f) A witness may testify as to facts within the witness' personal knowledge. A witness not qualified as an expert pursuant to Section 270.448 may only provide opinion testimony if the opinion is rationally based on the perception of the witness and helpful to a clearer understanding of the witness' testimony or a determination of the issues.
- g) Any party may request to call any individual as a witness and conduct direct examination. Except for preliminary matters and facts already in evidence, questions on direct examination should be open-ended, non-leading questions.
- h) The opposing party is entitled to cross-examine any witness. A witness may be cross-examined on any matter relevant to any issue in the case, including credibility. In the interests of justice, the ALJ may limit testimony on cross-examination to subject matters testified about on direct examination.
- i) A party may be allowed to examine an adverse witness as if under cross-examination.

- j) The ALJ may question any witness pursuant to Section 270.452(g)(6).
- k) If a witness uses a document to refresh memory for the purpose of testifying, either while testifying or before testifying, the ALJ may have the witness show the document to the opposing party and be cross-examined about the document.
- l) In the interests of justice, at the request of a party, or an ALJ's own motion, the ALJ may order witnesses excluded so that they cannot hear the testimony of other witnesses.
- m) The ALJ may direct that all excluded or non-excluded witnesses be kept separate until called and may prevent them from communicating with one another until they have been examined or the hearing is ended.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.448 EXPERT TESTIMONY**

Section 270.448 Expert Testimony

- a) If scientific, technical, or other specialized knowledge will assist the ALJ to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify and render an opinion.
- b) The party seeking to introduce expert testimony bears the burden of establishing the witness' expertise. The ALJ determines whether the witness is sufficiently qualified as an expert.
- c) The expert may only testify as to matters within his or her area of expertise.
- d) An expert may give an opinion on the ultimate issue in the proceeding.
- e) The facts or data upon which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. The facts or data need not be admissible in evidence if they are of a type reasonably relied upon by experts in the particular field in forming opinions upon the subject.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.450 BURDEN OF PROOF**

Section 270.450 Burden of Proof

Unless otherwise provided by law, the burden of proof will be by the preponderance of the evidence and will be on the moving party or the party bringing the action.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.452 ADMINISTRATIVE LAW JUDGE QUALIFICATIONS, POTENTIAL
DISQUALIFICATION, AND AUTHORITY**

Section 270.452 Administrative Law Judge Qualifications, Potential Disqualification, and Authority

- a) In any proceeding under this Subpart, the Department/other entity may appoint any attorney, with a valid license to practice law in the State of Illinois, to serve as the ALJ.
- b) The ALJ is to have high integrity, good personal repute, and sufficient knowledge of the procedures and subject matter at issue.
- c) The ALJ shall not have:
 - 1) been involved in the decision to take the action being appealed;
 - 2) rendered legal advice to the decision-maker on the issue;
 - 3) a personal or professional interest that interferes with exercising objectivity;
or
 - 4) any bias against the parties or issues appealed.
- d) At any time before or at the hearing, a party may file a motion to disqualify the ALJ for bias or conflict of interest, which may include prejudice or financial or personal interest in the outcome of the case. An adverse ruling made by an ALJ or the ALJ's employment or contract as an ALJ with the State, in and of itself, is not evidence of bias or conflict of interests and is not grounds for disqualification. The motion will set forth the alleged grounds of bias or conflict of interest and will include an affidavit setting forth specific facts upon which the claim of bias or conflict of interest is based and other supporting evidence, if applicable. The Department/other entity may decline to disqualify the ALJ or appoint another ALJ to hear the case.
- e) An ALJ may recuse himself or herself from presiding over a matter due to a conflict of interest or bias. Any recusal will be made part of the record.
- f) An ALJ is to maintain and protect the confidentiality of the APS record (see Sections 4(c) and 8 of the Act and Section 270.418 of this Subpart).
- g) The ALJ has the authority to:

- 1) Conduct a fair, impartial and formal hearing following the applicable evidentiary standards;
- 2) Control the conduct of the hearing to prevent irrelevant or immaterial discussion and take all necessary actions to avoid delay;
- 3) Inform participants of their individual rights and responsibilities;
- 4) Conduct pre-hearing conferences;
- 5) Take necessary steps to ensure the development of a clear and complete record, preserve all documents and evidence for the record, and provide for the recording of the hearing;
- 6) Administer an oath or affirmation to all witnesses, permit examination of any witness under oath, examine any of the witnesses at any time or request additional information from either party, set reasonable limits on the scope of testimony or argument, and determine the order of appearance of all parties;
- 7) Issue subpoenas requested prior to the hearing;
- 8) Rule upon all motions, objections, and other matters arising in the course of the hearing;
- 9) Receive all evidence and testimony and rule on its admissibility, as well as mandate the production of any relevant document, witness or other evidence the ALJ deems material or relevant to any issue, including but not limited to additional testimony, documents, exhibits, briefs, memoranda of law, or post hearing briefs;
- 10) Mandate cooperation by all parties and maintain order and decorum, which the ALJ may accomplish by ordering the removal of any person from the hearing who is creating a disturbance that disrupts the hearing, whether by physical actions, profanity or conduct; and
- 11) Enter such orders as are just to address any violation of the ALJ's rulings or this Subpart, including, among others, the following:
 - A) That further proceedings be stayed until the order or rules are complied with;
 - B) That the offending party be barred from filing any other pleadings relating to any issue to which the refusal or failure relates;
 - C) That the offending party be barred from maintaining any particular claim or defense relating to that issue;
 - D) That a witness be barred from testifying concerning that issue;
 - E) That, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that the pleading be dismissed without prejudice; or

- F) That any portion of the offending party's pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered on the issue.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.454 TRANSLATORS AND ACCOMMODATIONS**

Section 270.454 Translators and Accommodations

- a) A party may request an interpreter to participate at the hearing if the individual's usual mode of communication is a spoken language other than English or a signed language. An interpreter will be provided at no cost to the individual. Unless the interpreter has been requested at least 14 calendar days prior to the prehearing conference or hearing, the time between the request for the interpreter and any continued hearing date will not be construed as a delay on part of the Department/other entity in issuing and implementing a decision.
- b) The Department/other entity will provide reasonable accommodations under the Americans With Disabilities Act and the ADA Amendment Act of 2008 (42 USC 12101 et seq.) for access to and participation in a proceeding.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.456 COSTS**

Section 270.456 Costs

- a) Except as otherwise provided by subsection (b) or other law, the State of Illinois will assume the administrative costs of the hearing process.
- b) The State will not be responsible for costs incurred solely by any party, including, but not limited to, process service, legal fees, travel, witness costs, and room and board.
- c) The Department will not be responsible for the cost of preparing and certifying the record (see Section 270.472(a)) for court review.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.458 IMPROPER OR EX PARTE COMMUNICATIONS**

Section 270.458 Improper or Ex Parte Communications

- a) No party or other individual or entity legally interested in the outcome of a proceeding under this Subpart may make any written or oral communication, directly or indirectly, imparting or requesting material information or making a material argument regarding potential action concerning the hearing, without including all parties to the hearing in the communication.
- b) If the Department/other entity receives a communication prohibited by subsection (a), including the receipt of any documents, that communication will be made known to all other parties to the proceedings and will be made part of the record.
- c) The rule on ex parte communication does not prevent the Department/other entity from communicating to one party about routine procedural or practice matters.
- d) Nothing in this Section is to prevent any communication necessary to protect the health, safety and welfare of the victim.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.460 VARIANCES**

Section 270.460 Variances

The Department/other entity may grant variances from this Subpart in individual cases in which it is found that:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) No party will be unfairly prejudiced by the granting of the variance; and
- c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome or would result in undue risk of harm to the health, safety or welfare of the victim.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.462 WAIVER**

Section 270.462 Waiver

Compliance with this Part may be waived by stipulation of all parties, in writing or made on the record, and consent of the Department/other entity.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.464 FAILURE TO APPEAR**

Section 270.464 Failure to Appear

- a) Unless a continuance is granted pursuant to Section 270.436, a matter will be considered abandoned and therefore dismissed if:
 - 1) A party does not appear at the time, date and place designated for the hearing;
 - 2) A party fails or refuses to proceed with the hearing; or
 - 3) A party failed to notify the Department/other entity of a change of address and a notice of the administrative hearing, sent to the party's last known address, was returned as "undeliverable", "unclaimed", "refused", "moved", or "no forwarding address" or other type of returned mail, via postal or electronic mail.
- b) Parties will be informed of the abandonment and resulting dismissal by written notice.
- c) A request to vacate a dismissal resulting from abandonment is to be in writing and signed by the party that failed to appear. These requests are to be made to the Department/other entity within 15 calendar days after notice of dismissal. Dismissals will be vacated only if good cause for nonappearance is shown. Good cause for failure to appear includes, but is not limited to:
 - 1) Death or serious illness in the immediate family of a party or a party's representative;
 - 2) Failure of the Department/other entity to give notice of the proceeding to a party and Department representative in accordance with this Subpart; or
 - 3) An unanticipated circumstance for which the party could not reasonably request a continuance.
- d) When a responding party fails to appear, the ALJ will proceed with the hearing to obtain evidence from the party who bears the burden of proof. Failure to appear at the time, place and date set for hearing will be deemed a waiver of the right to present evidence.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.466 GROUNDS FOR DISMISSAL**

Section 270.466 Grounds for Dismissal

- a) **The Department/other entity may dismiss a matter on its own motion or on the motion of any party when:**
 - 1) **A final administrative decision on the issue already exists as a result of a previous matter;**
 - 2) **A court of competent jurisdiction has made a judicial finding or decision resolving the issue pending before the Department/other entity;**
 - 3) **The pleading was not filed with the Department/other entity within the applicable timeframe;**
 - 4) **The matter has been withdrawn pursuant to Section 270.468;**
 - 5) **The matter has been abandoned by a party, or the party fails to appear for the hearing or refuses to proceed;**
 - 6) **The issue is not within the jurisdiction of the Department as set forth by the Act; or**
 - 7) **A party failed to notify the Department/other entity of a change of address and a notice of the administrative hearing, sent to the party's last known address, was returned as "undeliverable", "unclaimed", "refused", "moved", or "no forwarding address" or any other type of returned mail, via postal or electronic method.**
- b) **The parties will be informed of the dismissal by written notice.**
- c) **If the caregiver does not appeal within the requisite timeframe, or if an appeal is dismissed, the Department will place the caregiver's identity on the Registry as soon as is practicable and notify the caregiver's employer of this action.**

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.468 WITHDRAWAL OF A MATTER**

Section 270.468 Withdrawal of a Matter

A matter may be withdrawn by the party that filed the case or requested the hearing either prior to or at the hearing. A withdrawal is to be made in writing and signed by the moving party or entered orally on the record. A dismissal resulting from a withdrawal constitutes a final administrative decision.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.470 POST-HEARING MOTIONS AND BRIEFS**

Section 270.470 Post-hearing Motions and Briefs

- a) At the adjournment of the hearing, the record will be closed and no further evidence or argument may be submitted unless, prior to the adjournment of the hearing, a request to leave the record open for a specified period for the submittal of additional evidence, post-hearing briefs, or other motions is made and granted by the ALJ. Copies of any evidence presented after the hearing will be provided to all parties and made part of the record.
- b) Post-hearing briefs may be allowed, if the ALJ determines additional briefing would assist in rendering a decision. If post-hearing briefs are allowed:
 - 1) The ALJ will determine the due dates for the briefs, consistent with the length and complexity of the cases, and the ALJ's responsibility for rendering an expeditious decision; and
 - 2) The ALJ may limit the scope and length of post-hearing briefs.
- c) After a recommendation or decision is issued, no request for rehearing or reconsideration is allowed.
- d) Written exceptions to a recommendation made by the ALJ are not allowed.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.472 ADMINISTRATIVE HEARING RECORD**

Section 270.472 Administrative Hearing Record

- a) The administrative record will consist of:
 - 1) The recording of testimony and exhibits, or an official reporting containing the substance of what happened at the hearing;
 - 2) All pleadings, materials and requests submitted in the proceeding;
 - 3) The ALJ recommendation, if applicable; and
 - 4) The final administrative decision.
- b) The parties will be under a duty to keep the record to a reasonable minimum whenever possible. In all cases, the record will be limited to issues that are legitimately in dispute. Documents or other items that pertain to factual matters that are not being contested or challenged, or that may be redundant or repetitive, may be excluded from the record at the discretion of the ALJ.
- c) The Department/other entity will make an electronic recording of the hearing. The electronic recording will serve as the official documentation of the hearing. The recording will not be transcribed unless requested by a party; the requesting party will pay for the transcription of the portion requested, except as otherwise provided by law. The transcription will not constitute the official documentation of the proceeding unless expressly adopted by the Department/other entity.
- d) The Department/other entity will be the official custodian of the administrative records of administrative proceedings held before it. Access to the administrative records will be provided for by written agreement between the Department and other entities.
- e) The record will be preserved as confidential consistent with Section 270.418.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.474 FINAL ADMINISTRATIVE DECISION**

Section 270.474 Final Administrative Decision

- a) The final administrative decision will include a written order setting out the factual and legal reasons for the final decision. All findings of fact will be based exclusively on the record. The order will state it is a final administrative decision and will fully advise the parties of any right to judicial review.
- b) The final administrative decision will be served on all parties within 40 calendar days after the record has closed.
- c) When the ALJ issues a recommendation for final administrative decision:
 - 1) The recommendation shall be in writing and set forth proposed findings of fact and recommended conclusions of law for review by the Director.
 - 2) The recommendation shall be provided to the Director within 20 calendar days after the close of the record.
 - 3) The Director shall consider the recommendation in issuing a final administrative decision.
 - 4) The Director shall issue a decision accepting, rejecting or modifying the recommendation of the Department/other entity within 20 calendar days after receipt of the recommendation.
 - 5) To the extent the Director does not accept the recommendation, the decision shall set out in writing the rationale.
 - 6) The Department/other entity shall then serve all parties with the final administrative decision.
- d) All parties or their designees shall take appropriate action and comply with all terms and conditions set forth in the final administrative decision. All parties are responsible for ensuring the appropriate action is undertaken in the designated timeframe.
- e) Absent notice of judicial appeal, the Department will place the caregiver's identity on the Registry within 45 calendar days after the final administrative decision.
- f) The final administration decision is confidential and not open to the public pursuant to Section 7.5(y) of the Freedom of Information Act.

- g) The final administrative decision under this Subpart is not subject to the Illinois Administrative Review Law [735 ILCS 5/Art. III].

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.476 APPEAL OF DEPARTMENT DECISIONS**

Section 270.476 Appeal of Department Decisions

All decisions made by the Department will state whether they are final administrative decisions and identify what, if any, rights for appeal exist.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.500 FATALITY REVIEW TEAM ADVISORY COUNCIL**

Section 270.500 Fatality Review Team Advisory Council

- a) *The Fatality Review Team Advisory Council (Council) is the coordinating and oversight body for the activities of Regional Interagency Fatality Review Teams (Teams) in Illinois. [320 ILCS 20/15(c-5)]*
- b) Composition
 - 1) The Director of the Department on Aging will solicit information about individuals interested in being named as a member to serve on the Council from each of the Teams.
 - A) Each member will be appointed for a 3-year term and will be eligible for reappointment upon the expiration of the term.
 - B) Appointments to fill unexpired vacancies will be made in the same manner as original appointments. The Council may declare a vacancy for a member when it determines that a member has resigned, no longer resides within the State of Illinois, failed to maintain the professional position outlined in subsection (b)(1), or has become incapacitated and rendered incapable of serving or performing duties as a member. A vacancy will be filled as soon as practicable.
 - C) Members of the Council will be automatically reappointed unless the Director and the member are notified at least 30 days before the term ends that the respective Team will recommend another person or a resignation is received from the member. All successive appointments will be for a term of 3 years. No member will be reappointed if his or her reappointment would cause any conflict of interest.
 - D) The Director may terminate the appointment of any member prior to the end of a term based on the recommendation of the Chairperson for good cause, which includes, but is not limited to, unjustified absences, failure to meet Council responsibilities, or failure to maintain the professional position outlined in subsection (b)(1).

- 2) *The Council shall select from its members a Chairperson and a Vice-chairperson.*
 - A) Each position will be for a 2-year term.
 - B) *The Chairperson and Vice-chairperson may be selected to serve additional, subsequent terms.*
 - C) The Chairperson of the Council will perform the duties ordinarily ascribed to this position, preside at all meetings of the Council, and make reports on behalf of the Council as may be required.
 - D) In the event of the Chairperson's inability to act, the Vice-chairperson will act in his or her stead.
- 3) *The Director may also appoint any ex-officio members deemed necessary to this Council, including a staff member of the Department to maintain records, prepare notices and agendas for each meeting, provide technical assistance, and otherwise assist in carrying out the administrative functions of the Council. [320 ILCS 20/15(c-5)]*
- 4) A member will serve at his or her own expense and is to abide by all applicable ethics laws. All licensed professionals are to be in good standing within their profession.

c) Meetings

- 1) *The Council shall meet at least 4 times during each calendar year. [320 ILCS 20/15(c-5)]*
- 2) An agenda of scheduled business for deliberation will be developed in coordination with the Department and the Chairperson.
- 3) The meetings will take place at locations, dates and times determined by the Chairperson of the Council after consultation with members of the Council and the Director or the designated Department staff member.
- 4) It will be the responsibility of the designated Department staff member, at the direction of the Chairperson, to give notices of the locations, dates and time of meetings to each member of the Council and to the Director at least 30 days prior to each meeting.
- 5) A majority of the currently appointed and serving Council members will constitute a quorum. A vacancy in the membership of the Council will not impair the right of a quorum to perform all of the duties of the Council. All deliberations of the Council and its subcommittees will be governed by Robert's Rules of Order.
- 6) A majority of the Council may allow a member to attend any meeting by video or audio conference in accordance with the Open Meetings Act [5 ILCS 120], provided adequate equipment can reasonably be made available and that participation is audible to all other members.

7) *Meetings of the Council may be closed to the public under the Open Meetings Act. [320 ILCS 20/15(d-5)]*

d) Duties

1) *The Council has, but is not limited to, the following duties:*

A) *serve as the voice of the Teams in Illinois.*

B) *oversee the Teams in order to ensure that work is coordinated and in compliance with State statutes and operating protocols.*

C) *ensure that the data, results, findings and recommendations of the Teams are adequately used in a timely manner to make any necessary changes to the policies, procedures and State statutes in order to protect at-risk adults.*

D) *collaborate with the Department in order to develop any legislation needed to prevent unnecessary deaths of at-risk adults.*

E) *ensure that the Teams use standardized processes in order to convey data, findings and recommendations in a usable format.*

F) *serve as a link with the Teams throughout the country and to participate in national fatality review team activities.*

G) *provide the Teams with the most current information and practices concerning at-risk adult death review and related topics.*

H) *perform any other functions necessary to enhance the capability of the Teams to reduce and prevent at-risk adult fatalities. [320 ILCS 20/15(c-5)(1) through (8)]*

2) *Upon request by the Director, review the death of an at-risk adult that occurs in a planning and service area where a Team has not yet been established. [320 ILCS 20/15(c)]*

3) *All papers, issues, recommendations, reports and meeting memoranda will be advisory only. The Director, or designee, will make a written response/report, as requested, regarding issues before the Council.*

4) *The Director retains full decision making authority for the Adult Protective Services Program regarding any recommendations presented by the Council.*

e) Confidentiality

1) *Members of the Council are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of the Council or opinions formed by members of the Council based on that information. A person may, however, be examined concerning information provided to the Council. [320 ILCS 20/15(d)]*

- 2) *Records and information provided to the Council, and records maintained by the Council, are exempt from release under the Freedom of Information Act [5 ILCS 140]. [320 ILCS 20/15(d-5)]*
- f) Use of Aggregate Data
- 1) *The Council may prepare an annual report, in consultation with the Department, using aggregate data gathered by and recommendations from the Teams to develop education, prevention, prosecution or other strategies designed to improve the coordination of services for at-risk adults and their families. [320 ILCS 20/15(c-5)]*
 - 2) *The Department, in consultation with coroners, medical examiners and law enforcement agencies, shall use aggregate data gathered by, and recommendations from, the Council to create an annual report.*
 - 3) *The Department, in consultation with coroners, medical examiners and law enforcement agencies, may use aggregate data gathered by, and recommendations from, the Council to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families. [320 ILCS 20/15(f)]*
- g) Indemnification
- 1) Members of the Council will have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Council.
 - 2) *The State shall indemnify and hold harmless members of the Council for all their acts, omissions, decisions, or other conduct arising out of the scope of their service, except those involving willful or wanton misconduct.*
 - 3) *The method of providing indemnification shall be as provided in the State Employee Indemnification Act [5 ILCS 350]. [320 ILCS 20/15(e-5)]*

(Source: Added at 42 Ill. Reg. 6659, effective April 12, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.505 REGIONAL INTERAGENCY FATALITY REVIEW TEAMS**

Section 270.505 Regional Interagency Fatality Review Teams

- a) Establishment
The Director, in consultation with the Council, law enforcement, and other professionals who work in the fields of investigating, treating or preventing abuse or neglect of at-risk adults shall appoint members to a minimum of one Team in each of the Department's planning and service areas. [320 ILCS 20/15(b)]

- b) Composition
 - 1) A Team shall be composed of representatives of entities and individuals including, but not limited to:
 - A) *the Department on Aging;*
 - B) *coroners or medical examiners (or both);*
 - C) *State's Attorneys;*
 - D) *local police departments;*
 - E) *forensic units;*
 - F) *local health departments;*
 - G) *a social service or health care agency that provides services to persons with mental illness, in a program whose accreditation to provide such services is recognized by the Division of Mental Health within the Department of Human Services;*
 - H) *a social service or health care agency that provides services to persons with developmental disabilities, in a program whose accreditation to provide such services is recognized by the Division of Developmental Disabilities within the Department of Human Services;*
 - I) *a local hospital, trauma center, or provider of emergency medicine;*

J) *providers of services for eligible adults in domestic living situations; and*

K) *a physician, psychiatrist, or other health care provider knowledgeable about abuse and neglect of at-risk adults. [320 ILCS 20/15(b-5)]*

2) *Each member of a Team shall be appointed for a 2-year term and shall be eligible for reappointment upon the expiration of the term. [320 ILCS 20/15(b)]*

3) Appointments to fill unexpired vacancies will be made in the same manner as original appointments. A Team may declare a vacancy for a member when it determines that a member has resigned, no longer resides within the State of Illinois, failed to maintain the professional position outlined in subsection (b)(1), or has become incapacitated and rendered incapable of serving or performing duties as a member. A vacancy will be filled as soon as practicable.

4) Members of the Team will be automatically reappointed unless the Director and the member are notified at least 30 days before the term ends that the Council will recommend another person or a resignation is received from the member. All successive appointments will be for a term of 2 years. No member will be reappointed if his or her reappointment would cause any conflict of interest.

5) The Director may terminate the appointment of any member prior to the end of a term based on the recommendation of the Chairperson for good cause, which includes, but is not limited to, unjustified absences, failure to meet Team responsibilities, or failure to maintain the professional position outlined in subsection (b)(1).

6) The Team will select from its members a Chairperson and a Vice-chairperson.

A) Each position will be for a 2-year term.

B) The Chairperson and Vice-chairperson may be selected to serve additional, subsequent terms.

C) The Chairperson of the Team will perform the duties ordinarily ascribed to this position, preside at all meetings of the Team, and make reports on behalf of the Team as may be required.

D) In the event of the Chairperson's inability to act, the Vice-chairperson will act in his or her stead.

7) A member will serve at his or her own expense and is to abide by all applicable ethics laws. All licensed professionals are to be in good standing within their profession.

c) Meetings

- 1) *A Team shall meet not less than 4 times a year to discuss cases for its possible review. [320 ILCS 20/15(c)]*
 - 2) An agenda of scheduled business for deliberation will be developed in coordination with the Department and the Chairperson.
 - 3) The meetings will take place at locations, dates and times determined by the Chairperson of the Team after consultation with members of the Team.
 - 4) It will be the responsibility of the Chairperson to give notices of the locations, dates and time of meetings to each member of the Team and to the Director at least 30 days prior to each meeting.
 - 5) A majority of the currently appointed and serving Team members will constitute a quorum. A vacancy in the membership of the Team will not impair the right of a quorum to perform all of the duties of the Team. All deliberations of the Team and its subcommittees will be governed by Robert's Rules of Order.
 - 6) A majority of the Team may allow a member to attend any meeting by video or audio conference in accordance with the Open Meetings Act, provided adequate equipment can reasonably be made available and that participation is audible to all other members.
 - 7) *Meetings of the Teams may be closed to the public under the Open Meetings Act. [320 ILCS 20/15(d-5)]*
- d) Review of Cases
- 1) *Each Team, with the advice and consent of the Department, shall establish criteria to be used in discussing cases of alleged, suspected or substantiated abuse or neglect for review and shall conduct its activities in accordance with any applicable policies and procedures established by the Department for the allocation of time and resources of the Team for investigating cases; recordkeeping relating to the outcome of investigations and referral recommendations; maintaining confidential communications and records; sharing information about cases with other offices for adult protective services, criminal investigation and prosecution, or court-ordered discovery; and data aggregation, collection and analysis. [320 ILCS 20/15(c)]*
 - 2) *A Team's purpose in conducting review of at-risk adult deaths is:*
 - A) *to assist local agencies in identifying and reviewing suspicious deaths of adult victims of alleged, suspected or substantiated abuse or neglect in domestic living situations;*
 - B) *to facilitate communications between officials responsible for autopsies and inquests and persons involved in reporting or investigating alleged or suspected cases of abuse, neglect or financial exploitation of at-risk adults and persons involved in providing services to at-risk adults;*

- C) *to evaluate means by which the death might have been prevented; and*
 - D) *to report its findings to the appropriate agencies and the Council and make recommendations that may help to reduce the number of at-risk adult deaths caused by abuse and neglect and that may help to improve the investigations of deaths of at-risk adults and increase prosecutions, if appropriate. [320 ILCS 20/15(b)]*
- 3) *A Team shall review cases of deaths of at-risk adults occurring in its planning and service area:*
- A) *involving blunt force trauma or an undetermined manner or suspicious cause of death;*
 - B) *if requested by the deceased's attending physician or an emergency room physician;*
 - C) *upon referral by a health care provider;*
 - D) *upon referral by a coroner or medical examiner;*
 - E) *constituting an open or closed case from an adult protective services agency, law enforcement agency, or State's Attorney's office, or the Department of Human Services' Office of Inspector General that involves alleged or suspected abuse, neglect or financial exploitation; or*
 - F) *upon referral by a law enforcement agency or State's Attorney's office.*
- 4) *If such a death occurs in a planning and service area where a Team has not yet been established, the Director shall request that the Council or another Team review that death.*
- 5) *A team may also review deaths of at-risk adults if the alleged abuse or neglect occurred while the person was residing in a domestic living situation. [320 ILCS 20/15(c)]*
- 6) *In any instance in which a Team does not operate in accordance with established protocol, the Director, in consultation and cooperation with the Council, must take any necessary actions to bring the Team into compliance with the protocol. [320 ILCS 20/15(c-5)]*
- e) Confidentiality
- 1) *Members of a Team are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of the Team or opinions formed by members of the Team based on that information. A person may, however, be examined concerning information provided to a Team.*

- 2) *Records and information provided to the Team, and records maintained by the Team, are exempt from release under the Freedom of Information Act. [320 ILCS 20/15(d-5)]*
 - 3) *Any document or oral or written communication shared within or produced by the Team relating to a case discussed or reviewed by the Team is confidential and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.*
 - 4) *Any document or oral or written communication provided to a Team by an individual or entity, and created by that individual or entity solely for the use of the Team, is confidential, is not subject to disclosure to or discoverable by another party, and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.*
 - 5) *Each entity represented or individual represented on the Team may share with other members of the team information in the entity's or individual's possession concerning the decedent who is the subject of the review or concerning any person who was in contact with the decedent, as well as any other information deemed by the entity or individual to be pertinent to the review. Any such information shared by an entity or individual with other members of the Team is confidential. The intent of this subsection (e)(5) is to permit the disclosure to members of the Team of any information deemed confidential or privileged or prohibited from disclosure by any other provision of law.*
 - 6) *Release of confidential communication between domestic violence advocates and a domestic violence victim shall follow Section 227(d) of the Illinois Domestic Violence Act of 1986 [750 ILCS 60], which allows for the waiver of privilege afforded to guardians, executors or administrators of the estate of the domestic violence victim. This provision relating to the release of confidential communication between domestic violence advocates and a domestic violence victim shall exclude adult protective service providers.*
 - 7) *A coroner's or medical examiner's office may share with the Team medical records that have been made available to the coroner's or medical examiner's office in connection with that office's investigation of a death. [320 ILCS 20/15(d)]*
- f) **Recommendations and Referrals**
A Team's recommendation in relation to a case discussed or reviewed by the Team, including, but not limited to, a recommendation concerning an investigation or prosecution in relation to such a case, may be disclosed by the Team upon the

completion of its review and at the discretion of a majority of its members who reviewed the case. [320 ILCS 20/15(e)]

g) Indemnification

- 1) Members of the Team will have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Team.
- 2) *The State shall indemnify and hold harmless members of a Team for all their acts, omissions, decision or other conduct arising out of the scope of their service, except those involving willful or wanton misconduct.*
- 3) *The method of providing indemnification shall be as provided in the State Employee Indemnification Act [5 ILCS 350]. [320 ILCS 20/15(e-5)]*

h) Data Collection and Analysis

- 1) Data on actual cases collected by the Teams will be forwarded to the Department for aggregation and analysis, including, but not limited to, victim demographics; perpetrator demographics; descriptions of the victim's relationship with the perpetrators; cause of death; aggravating and other contributing risk factors for abuse, neglect or financial exploitation; the outcome of investigations; referral recommendations; and the final dispositions in criminal prosecutions.
- 2) *The Department, in consultation with coroners, medical examiners, and law enforcement agencies, shall use aggregate data gathered by and recommendations from the Teams to create an annual report.*
- 3) *The Department, in consultation with coroners, medical examiners, and law enforcement agencies, may use aggregate data gathered by and recommendations from the Teams to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.*
- 4) *The Department or other State or county agency, in consultation with coroners, medical examiners, and law enforcement agencies, may use aggregated data gathered by the Teams to create a database of at-risk individuals. [320 ILCS 20/15(f)]*

(Source: Added at 42 Ill. Reg. 6659, effective April 12, 2018)



APPENDIX C
**LEGAL
INTERVENTIONS**

INTRODUCTION: LEGAL INTERVENTIONS

The client, in conjunction with the caseworker, and usually after consultation with an attorney, must consider which legal interventions, if any, are most appropriate. If the client is incapacitated that decision might by necessity be made by the caseworker, or possibly by the client's agent or guardian.

When a legal intervention becomes necessary, the caseworker should recommend the most appropriate and least intrusive legal intervention. Considerations of a client's wishes or an incapacitated client's known preferences, the wishes of the family and caregivers, the availability of legal resources, the possibilities of success, the potential effectiveness of the intervention, and the expense of legal action may each play a role as factors in the decision. In this analysis, the client's wishes should be of the utmost importance.

Caseworkers considering a legal intervention for a client of questionable decisional capacity must keep in mind that their role is not to determine the *competency* of the client – that question is reserved for the court. However, the caseworker must assess the client's *capacity* to consent to or refuse services. This assessment may necessitate further actions, i.e., a petition to the court to allow the assessment or to settle the question of competency.

If the caseworker determines that the victim lacks sufficient capacity to consent to (or refuse) services, the Act provides that the adult protective services provider agency shall take appropriate action necessary to ameliorate the risk to the client if there is a threat of ongoing harm or another emergency exists. The Department or other agency may seek the appointment of a temporary guardian to consent to an assessment of the reported incident or to consent to services.

This summary of a number of possible interventions, both criminal and civil, is designed to help educate and guide the adult protective services caseworker in advising the client on the intervention options available to assist and protect clients. Generally, these are listed from the least restrictive to the most restrictive, with the criminal actions coming at the end.

I. LEAST RESTRICTIVE

Representative Payee

For those whose mental or physical disabilities prevent them from managing their money properly, a trusted friend, relative or money manager can be named as a representative payee.

A representative payee relationship allows a third party to receive certain income for an individual and deposit that income into a separate account. The representative payee will then pay the bills of the individual from the funds deposited into that account. It is available after the onset of incapacity and may suffice to prevent the financial exploitation of a person of moderate means without significant assets. The relationship can be established through the Social Security Administration, the Veteran's Administration, or the Railroad Retirement Board.

To put the procedure in place, contact the local office of the Social Security Administration, Veterans Administration, or Railroad Retirement Board (as appropriate) for the proper forms (see SSA Publication 05-10076, which is available online, at the Social Security Administration website).

Social Security requires a signed authorization from the benefit recipient (if possible) naming the designated representative payee. The benefits agency must receive documentation of the incapacity of the client from a physician. The agency will process the forms and, generally within two months, begin to mail the benefit checks to the designated representative payee.

Though it has the benefit of simplicity, this procedure presents some risks and limitations as the representative payee is granted unlimited access to the client's funds. Accordingly, the representative payee should be a trustworthy person. There are some minimal accounting requirements and safeguards, and the benefits agency may investigate a representative payee if the benefits agency has a suspicion or has received an allegation of misuse of funds; however, these will not always be enough to prevent financial exploitation and even when it does, the exploiter may continue to have access to other funds and accounts.

Direct Deposit

Persons receiving SSI, Social Security or other regular checks (such as pension or retirement benefits) may choose to have those checks deposited directly into their bank account. This may be an effective strategy if a financial exploiter is gaining physical control over the client's checks. An adult protective services caseworker can help the client set up direct deposit by simply contacting the organization issuing the checks and the banking institution and assisting with the required forms. It may be necessary to create a new checking account at the financial institution for the client at that time.

Direct deposit can be useful in ensuring a "paper trail" should financial exploitation occur. It will also provide bank oversight to the actions of a financial exploiter. Despite these safeguards, if a check is written to cash from the account, a caseworker may have difficulty tracking the funds and a bank may not be able to detect or control.

Money Management

Another means of protecting the finances of a client is through the Adult Protective Services' Money Management Program. The program is overseen and monitored by the Illinois Volunteer Money Management Program (IVMMP) Statewide Coordinator. The IVMMP was established in 1991 as a demonstration project between the AARP and the Department, with several community agencies providing the local services. While AARP was involved in the beginning of this program, AARP no longer participates in the program. The program uses screened and trained volunteers (often retired professionals) to assist low income, elderly or disabled individuals with a variety of money management tasks to help them live independently.

The client must demonstrate a need for money management services as determined by the caseworker during the assessment, casework, or follow up period.

A Money Management Program Coordinator matches a volunteer with the client. The volunteer may serve as a “bill payer” or “representative payee,” depending upon the individual’s needs. Money management services under the Adult Protective Services Money Management Program may continue after the abuse case closes as long as the client demonstrates a need for such services.

Powers of Attorney

Under some circumstances, a durable power of attorney for property and financial matters may be the best way to stop the financial exploitation of a victim. Since many abuse cases involve some degree of financial exploitation, an adult protective services caseworker should always consider advising the client to execute a power of attorney delegating financial decision-making to a trusted friend or relative.

However, the effectiveness of a power of attorney may be limited by several factors. First, a client who is no longer capable of managing his or her own legal or financial affairs likely cannot execute a power of attorney that would survive a court challenge, since executing a valid power of attorney requires the same level of capacity as executing any other legal document. For the incapacitated client, the adult protective services caseworker may have no alternative but to explore the possibility of guardianship.

Second, delegating powers under a power of attorney requires that the client have trusted friend or relative to name as the agent. Should a financial exploiter be named the agent or the agent become a financial exploiter, the client’s cause can quickly become unsalvageable.

Finally, executing a power of attorney for property and financial matters does not (unlike a guardianship of the estate) remove from the client the power to make their own financial decisions as it is a shared power between principal and agent. Thus, unless the client chooses to place his or her financial decision-making entirely in the hands of the agent, that client can continue to make income, asset, and property transactions.

Many financial exploiters have established the sort of influence, often based on deceit, intimidation or coercion, which enables them to continue their exploitation even if a power of attorney for property matters has been executed.

The Illinois Power of Attorney Act [755 ILCS 45/1-1 *et seq.*] contains statutory short forms for durable powers of attorney, one for health care and one for property and financial decisions. The legislation reversed the very old common law rule that powers of attorney were not “durable,” i.e., did not survive the disability of the principal.

State law now provides a legal tool for the adult protective services caseworker to investigate possible financial exploitation. A representative of the Adult Protective Services and Neglect Program or the Long Term Care Ombudsman Program may demand of the property/financial agent a copy of the records of the transaction conducted by the property/financial agent when certain circumstances are present. This is further described in the section entitled “Access to Agent’s Financial Records” below.

II. MODERATELY RESTRICTIVE

Petition for Access to an Eligible Adult

Section 13 of the Adult Protective Services Act authorizes the adult protective services provider agency to petition the court for access to an eligible adult reported to be abused, neglected or exploited, when access to that older adult has been denied. Prior to filing such a petition, the caseworker shall first seek the assistance of law enforcement as required by the Adult Protective Services’ Administrative Rules at 89 Ill. Admn. Code 270.245(b). The petition would generally be filed by the adult protective services provider agency. The petitioning agency may ask for an expedited hearing.

The petitioning agency must demonstrate to the court that a third party or caregiver is has interfered with the assessment or service plan or that the agency believes the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or exploitation. The petitioning agency then would ask the court to grant an order giving access to assess the validity of the report, determine the needs of the eligible adult, and, if warranted, provide services to the eligible adult. Any order for access must be issued for a fixed period of time not to exceed 2 years. A caseworker must craft an access order in the least restrictive means possible.

If necessary, this provision could be used at any point in the case where a third party attempts to block access to the client. Section 13(a) also allows a provider agency to petition the court for access to financial, mental and physical health records, or other relevant records of the eligible adult when access to the records is denied.

Emergency Orders for Assessment of Suspected or Alleged Abuse or Neglect

Section 9(d) of the Adult Protective Services Act provides that a circuit judge may issue an emergency order for assessment of suspected or alleged abuse or neglect and, if the allegations are determined to be founded, an order for the provision of necessary services. Such order may only be granted where the provider agency has determined an emergency exists and it reasonably appears that the eligible adult lacks the capacity to consent to necessary services. If the eligible adult is at risk of serious injury or death and it reasonably appears that the eligible adult lacks capacity to consent to necessary services, the Department or the adult protective services provider agency may take action necessary to ameliorate the risk to the eligible adult.

This provision of the Adult Protective Services Act could be used to gain emergency treatment for a client and to prevent third parties (i.e., abusive caregivers) from interfering with access to the client. While an additional effect of this statutory provision was to provide access to victims who are shut in by an abusive or neglectful caregiver, there is not a specific provision in Section 9(d) designed to address access. The access provisions are found at Section 13 of the Adult Protective Services Act.

Access to Agent's Financial Records

In cases where the alleged victim has a financial/property agent under a Power of Attorney, is incapacitated, and there is some basis to suspect that financial exploitation is occurring, the adult protective services provider agency may seek access to the financial records of the victim pursuant to the Illinois Power of Attorney Act.

The law authorizes a representative of an adult protective services provider agency acting in the course of the assessment of a report of abuse pursuant to the APS Act to demand the records of the agent including all receipts, disbursements, and significant actions taken under the authority of the agency [755 ILCS 45/2-7(c)(2)]. If the agent fails to provide this record within 21 days after the request, the provider agency is authorized to petition a court for an order requiring the agent to produce the record. If the court finds that the agent's failure to provide the record was without good cause, it may assess reasonable attorney's fees against the agent and order such relief as is appropriate.

The demand for the records should be made by the provide agency by a letter to the agent which states that there has been a suspicion or allegation of financial exploitation raised against the agent. The letter should demand complete and accurate copies of all financial documents, such as bank records, check registries, receipts, disbursement records, property transfer records, and other documents relative to transactions of the agent for the eligible adult in question.

Orders of Protection

An alternative to seeking criminal charges against an abuser is to petition the circuit court for an order of protection under the Illinois Domestic Violence Act [750 ILCS 60/101 *et seq*], although an order of protection may also be brought in conjunction with criminal charges.

A petition for an order of protection must be filed by the abused adult or someone acting on behalf of a "high risk adult with disabilities." The statute defines a "high risk adult with disabilities" as a person aged 18 or over whose physical or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation. Orders of protection will only be applicable where the abuse, neglect, or exploitation is being committed by a family or household member.

An emergency order of protection may be issued regardless of prior service on, or notice to, the respondent. The harm the emergency order of protection is designed to prevent would be more likely to occur if the respondent was given prior notice (or the order was delayed until notice was obtained).

A 30-day interim order of protection may be issued once the respondent has been notified and a hearing held. A plenary order of protection may be used for a set period of up to two years once the respondent has received notice and a hearing has been held. Plenary orders may be extended any number of times if the requirements for notice and hearing have been met.

Repeated violations of orders of protection may result in increasingly stiff penalties [720 ILCS 5/12-3.4]. The statute provides that a first offense is a Class A misdemeanor; for a second and subsequent offenses, judges are encouraged to impose 24 hours of jail time (to be lengthened for additional offenses). If the violator has a previous conviction of domestic battery or violation of an order of protection, then the violation is chargeable as a Class 4 felony.

Restraining Orders

Where orders of protection are inapplicable because the abuse, neglect, or financial exploitation is not being committed by a family or household member, another available legal tool is a restraining order. For example, the restraining order might be applied to a neighbor who would not otherwise be covered by the order of protection.

A restraining order is issued by a circuit court on the basis of the court's equity power. This is the inherent power of a court to command that certain things, under certain circumstances, be done, or, where some irreparable harm would result from an action, to command that the action not be done.

Violation of a restraining order by a person covered by that order and having actual knowledge of it can lead to a citation for contempt of court.

Civil Legal Action for Recovery of Assets

In a financial exploitation case, the client may sue to recover assets lost through fraud, deceit, or intimidation. The practicality of this approach will depend upon the value of the assets, whether the fraudulent transfer is documented, the likelihood of recovery, the willingness and ability of the client to press a case, and the difficulty of getting the exploiter into court.

The Financial Exploitation of an Elderly Person or a Person With a Disability [720 ILCS 5/17-56] criminal statute provides criminal sanctions and allows the wronged person to recover triple damages plus court costs and attorneys' fees, for a civil judgment that property had been converted or stolen by threat or deception. Victims may win a civil judgment regardless of the outcome of the criminal trial. The provision for attorney's fees was designed to make it more attractive for a private attorney to bring a civil suit against an eligible adult's exploiter.

Separation and Dissolution of Marriage

Some cases of abuse are best described as spousal abuse. The entire marriage may have included chronic domestic violence. In such situations, the adult protective services caseworker should counsel the client to consider divorce or legal separation.

Although an older couple is not likely to have minor children, the dissolution of their marriage may raise serious division of property issues. In cases of domestic violence, an order of protection is sought at the time of separation. Under a plenary order of protection, a spousal violence victim may be allowed to take exclusive possession (though not ownership) of a jointly owned residence for some time. The plenary order of protection may also require the abuser to seek counseling, which may benefit the abuse victim.

A caseworker may advise a client to consider divorce or legal separation and can assist that individual with the process; however, the client must hire independent legal counsel to effectuate this legal process.

Court Ordered Asset Freeze

After a provider agency has substantiated allegations of financial exploitation, Section 13(d) of the Adult Protective Services Act authorizes the adult protective services provider agency to seek a court order freezing the assets of the victim of financial exploitation. This remedy is useful in situations where the financial exploiter is about to take control of some portion of the eligible adult's assets.

Freezing a victim's assets is a temporary measure designed to prevent the immediate theft, depletion or conversion of the victim's assets. This remedy will also provide the provider agency with a brief period to put permanent effective safeguards into place, or may be seeking to freeze a situation to allow time for the resolution of some legal dispute as to the legitimate ownership of assets.

The petitioning agency must demonstrate to the court that the order is necessary to prevent the victim from being irreparably harmed. The provider agency should file the petition in the circuit court of the county in which the assets are located and may (and usually would) seek an expedited hearing. The court's order would prevent any party from selling, gifting, transferring, or wasting the assets in question without the express permission of the court.

It is important for the provider agency to have a plan in place to provide support to the victim while his/her assets are frozen. A creative approach would be to have the court order freeze only certain accounts and not others, or ask the court to appoint a trusted person to manage the frozen accounts to prevent the older person from being endangered by not having sufficient assets available to meet his/her needs.

III. MOST RESTRICTIVE

Guardianship

In cases where victims are not mentally or physically capable of handling their affairs, the only solution may be to impose guardianship. The Probate Code [755 ILCS 5/11a-1, *et seq.*] provides for two kinds of guardianships: *guardianships of the estate* and *guardianship of the person*. In addition, the statute provides for *limited guardianships* and *temporary guardianships*.

Any adult who a court finds is capable of providing an active and suitable program of guardianship for the person with a disability may be appointed as a guardian. The guardian need not be a resident of Illinois; the earlier restriction on felons serving as guardians has been removed from the law.

A *guardian of the estate* is appointed when the alleged disabled adult is determined by the court to be unable to manage his/her financial affairs. A *guardian of the person* is appointed when the alleged disabled adult is unable to understand, make or communicate responsible decisions concerning his/her own health or personal care.

Limited guardianship may be imposed when the court finds the alleged disabled adult to lack some, but not all, capacity to manage his/her financial affairs or health. The court must enter a written order stating the factual basis for the limited guardianship and specifying the specific powers of the limited guardian (which may be for the estate, or the person, or both). While the guardianship law states that limited guardianships should be preferred by the court in all cases, they are actually rarely used.

The court may also impose a *temporary guardianship* when a showing is made that it is immediately necessary for the welfare or protection of the alleged disabled person or his/her estate. A temporary guardianship expires 60 days after imposition, or upon the imposition of a plenary guardianship. A temporary guardian is invested with the powers specifically enumerated by the court. For practical purposes, a temporary guardianship may be necessary in arranging for emergency medical treatment for a physically abused or medically neglected victim.

There are three major problems with guardianship: first, the cost of attorneys' and court fees which must come from someone's pocket; second, the guardianship reduces the ward to the legal status of a minor, usually ending any hope of continued independence; and third, a successful guardianship requires that a trusted friend, caregiver or relative be available to serve.

The last point is the most important. Should an abuser or exploiter gain guardianship (particularly a guardianship of the estate) over the victim, it is extremely difficult to rectify the situation.

The guardianship law provides that a request for review of the guardian or the guardianship communicated to the judge, even an informal letter written by or on behalf of the ward, can trigger a hearing for revocation, modification, or termination of the appointment of an abusive, neglectful or exploitive guardian. After receiving such a letter, the judge should appoint a *guardian ad litem* (GAL), who would investigate the situation and advise the court. Pursuant to Section 9(g) of the APS Act, a provider agency must notify a probate court with jurisdiction over a guardianship within 30 days of a substantiated finding of abuse, neglect, or financial exploitation.

The court may also appoint a legal advocate for the ward, who is entitled to a legal hearing with a right to present evidence and cross-examine witnesses, and a six-person jury. The judge may enter an order permitting the GAL and the legal counsel appointed for the ward to be paid by the petitioner, except when the petitioner is the adult protective services provider agency, if the ward's estate is insufficient.

While a guardian of the person does have broad powers under a plenary guardianship, he/she must receive court permission before placing the ward in a long term care facility or any other institutional setting. Alternatively the court may state in advance the specific conditions requiring admission of a ward to a long term care facility without further court action.

The guardianship law provides that a guardian of the person may be ordered to file periodic reports with the court. These reports may include information on the current mental, physical and social condition of the ward, as well as present living arrangements, medical and other professional services provided by the ward, and the guardian's recommendation about continuation of guardianship.

An attorney, family member or neighbor who suspects that the guardian may be abusing or exploiting a ward may seek access to the reports which guardians are normally required to file. Unfortunately, these reports are often missing, incomplete or inaccurate.

Mental Commitment

The Mental Health and Developmental Disabilities Code [405 ILCS 5/1-100 *et seq.*] provides several ways to admit or commit a person to a mental health facility. These include informal admission, voluntary admission, emergency admission by certification, and involuntary admission by court order.

If it becomes desirable or perhaps necessary to seek an involuntary or emergency admission hearing the adult protective services caseworker should immediately consult a physician, psychiatrist, or clinical psychologist. In most urban areas, an emergency room physician will certify the emergency admission of someone who clearly needs emergency treatment.

In an abuse case, those working on behalf of the victim might consider seeking the abuser's involuntary admission or admission by certificate. If the abuser's actions indicate that he/she is mentally ill, commitment may not only protect the victim, but may allow the abuser to receive treatment.

The adult protective services caseworker must consider whether removing an abusive caregiver will require that other caregiver arrangements be made for the elderly person. However, the victim may be more willing to accept removal of an abusive caregiver for treatment than arrest and prosecution.

Criminal Prosecution

In some cases of physical or sexual abuse, or financial exploitation, the caseworker may consider advising the client to pursue criminal charges. Statistics on domestic violence cases generally indicate that calling in the police can cut further abuse by as much as 40 to 60 percent. In some cases particularly where the violence is repeated, the abuser may serve jail time or be required to undergo counseling (as a condition of probation).

For several reasons, it may be difficult to pursue a criminal charge: the abuser may intimidate the victim, the victim may be reluctant to subject a family member or caregiver to criminal sanctions, the victim may be unwilling to testify in court and the abuse may be difficult to prove. Obviously, the cooperation of the state's attorney's office is essential, and that office should be consulted from the outset.

In addition to the specific abuse, neglect and financial exploitation crimes against older persons and persons with disabilities in the Criminal Code, other abusive conduct would also be covered by a number of traditional criminal statutes.

These would include domestic battery, aggravated assault, criminal sexual assault or abuse, attempted murder, theft or robbery. In most cases, committing a criminal act against an elderly person or person with a disability constitutes either an aggravated level of the crime or would make the defendant eligible for an extended term; both of which may result in a longer prison term.

When the adult protective services caseworker witnesses or confirms abuse, neglect or financial exploitation, the caseworker should recommend that the client take the case to the state's attorney. If the caseworker witnesses a serious felony, they must report the crime to law enforcement. It is true that many people are reluctant to report crimes involving their own relatives or caregivers.

The attitude of the older person can be a significant factor in the prosecutor's decision to pursue criminal charges. Unless the victim is deceased, the successful prosecution of a criminal offense usually requires the full cooperation of the victim.

IV. ILLINOIS CRIMINAL LAWS PERTINENT TO ABUSE

Criminal Abuse or Neglect of an Elderly Person or a Person with a Disability: 720 ILCS 5/12-21 creates the crime of criminal abuse or neglect of an elderly person or a person with a disability who is incapable of adequately providing for their own health and personal care. The perpetrator must be a caregiver, who has assumed the duty of caring for the elderly person by virtue of being either a family member, employed to render care, appointed by a court or agency, or receiving some kind of consideration (i.e., room and board). This crime is considered a Class 3 felony unless it results in the victim's death in which case it is elevated to a Class 2 felony. If imprisonment is imposed, it shall be for a minimum term of 3 years and a maximum term of 14 years.

Financial Exploitation of an Elderly Person or a Person with a Disability: 720 ILCS 5/17-56 creates the crime of financial exploitation by deception or intimidation of an elderly person by one who has a relationship of trust or confidence. The elderly person or person with a disability must be functionally incapable of avoiding or preventing the commission of the offense. This crime is considered a Class 4 felony if the value of the property is \$300 or less, a Class 3 felony if it is more than \$300 and less than \$5,000, a Class 2 felony if it is \$5,000 or more and less than \$50,000, and a Class 1 felony if it is \$50,000 or more. The crime may also be charged as a Class 1 felony if the elderly person is over 70 years of age and value of the property is \$15,000 or more or if the elderly person is 80 years of age or older and the value of the property is \$5,000 or more.

Murder (First Degree): 720 ILCS 5/9-1(b) dictates that if the victim was 60 years of age or older and the death resulted from exceptionally brutal or heinous behavior indicative of wanton cruelty, a defendant found guilty of the crime may be sentenced to death or to life in prison. Additionally, if the murdered individual was a person with a disability and the defendant knew or should have known that the murdered individual was a person with a disability, a defendant found guilty of the crime may be sentenced to death or to life in prison.

Murder (Second Degree): 720 ILCS 5/9-2 dictates that a defendant may be found guilty of second degree murder if the defendant committed the crime of first degree murder and at the time of the killing he or she is acting under a sudden and intense passion resulting from serious provocation by the individual killed or another whom the offender endeavors to kill, but he or she negligently or accidentally causes the death of the individual killed. Second degree murder is a Class 1 felony.

Involuntary Manslaughter: 720 ILCS 5/9-3 dictates that a defendant may be found guilty of involuntary manslaughter if the defendant unintentionally kills an individual without lawful justification and his or her acts, whether lawful or unlawful, which cause the death are such as are likely to cause death or great bodily harm to some individual and are performed recklessly. Involuntary manslaughter is a Class 3 felony.

Assault: 720 ILCS 5/12-1 dictates that a defendant may be found guilty of assault if he or she knowingly places another person in reasonable apprehension of receiving a battery, without lawful authority. Assault is a Class C misdemeanor.

Aggravated Assault: 720 ILCS 5/12-2 dictates that a defendant may be found guilty of aggravated assault if he or she commits an assault and the individual assaulted is a person with a physical disability or a person 60 years of age or older and the assault is without legal justification. Aggravated assault is a Class A misdemeanor.

Battery: 720 ILCS 5/12-3 dictates that a defendant may be found guilty of a battery if he or she knowingly without legal justification causes bodily harm to an individual or makes physical contact of an insulting or provoking nature with an individual. Battery is a Class A misdemeanor.

Aggravated Battery: 720 ILCS 5/12-3.05 dictates that a defendant may be found guilty of aggravated battery if he or she knowingly commits a battery against an individual he or she knows is 60 years of age or older or is a person with a disability. Such aggravated battery will be a Class 2 felony.

Domestic Battery: 720 ILCS 5/12-3.2 dictates that a defendant may be found guilty of domestic battery if he or she commits a battery against a family or household member. Domestic battery is a Class A misdemeanor or may be charged as a Class 4 felony if certain prior convictions exist.

Aggravated Domestic Battery: 720 ILCS 5/12-3.3 dictates that a defendant may be found guilty of aggravated domestic battery if he or she in committing a battery, knowingly causes great bodily harm, permanent disability, or permanent disfigurement, or who strangles another individual. Aggravated domestic battery is a Class 2 felony. If a person is convicted of a second or subsequent aggravated domestic battery, he or she must be sentenced to a mandatory term of imprisonment of not less than 3 years and not more than 6 years or an extended term of imprisonment of not less than 7 years and not more than 14 years.

Violation of Order of Protection: 720 ILCS 5/12-3.4 dictates that once a defendant has been served notice of an order of protection, or has actual knowledge of it, violation of the order of protection is a Class A misdemeanor. The violation may be charged as a felony if the defendant has a prior record of a conviction for domestic battery or violating an order of protection. The court is empowered to impose at least 24 hours of jail time for a second or subsequent offense, and the statute favors an increase in the penalty for each knowing violation.

Criminal Abuse or Neglect of an Elderly Person or Person with a Disability: 720 ILCS 5/12-4.4a dictates that a defendant may be found guilty of criminal abuse or neglect of an elderly person or a person with a disability when if the defendant is a caregiver and commits any of the following: performs acts that cause the person's life to be endangered, health to be injured, or

pre-existing physical or mental condition to deteriorate; fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of the person, and that failure causes the person's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; abandons the person; physically abuses, harasses, intimidates, or interferes with the personal liberty of the person; or exposes the person to willful deprivation. The Act contains a definition for who will qualify as a caregiver. Criminal abuse or neglect of an elderly person or person with a disability is a Class 3 felony, unless it results in the person's death in which case it is a Class 2 felony. If imprisonment is imposed, it shall be for a minimum of 3 years but may not exceed 14 years.

Intimidation: 720 ILCS 5/12-6 dictates that a defendant may be found guilty of intimidation when he or she, with intent to cause another to perform or to omit performance of any act, communicates to another, directly or indirectly by any means a threat to perform without lawful authority any of the following acts: inflict physical harm on the person threatened or any other person or on property; subject any person to physical confinement or restraint; commit a felony or Class A misdemeanor; accuse any person of an offense; expose any person to hatred, contempt, or ridicule; take action as a public official against anyone or anything or withhold official action or cause such action or withholding; or bring about or continue a strike, boycott, or other collective action. Intimidation is a Class 3 felony for which an offender may be sentenced to a term of imprisonment of not less than 2 years and not more than 10 years.

Threatening Human Service Providers: 720 ILCS 5/12-9 dictates that a defendant may be found guilty of threatening a human service provider if he or she by any means communicates any of the following: a threat that would place the human service provider or member of his or her immediate family in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or, a threat that would place the human service provider or member of his or her immediate family in reasonable apprehension that damage will occur to property in the custody, care, or control of the human service provider or his or her immediate family. Human service provider will include a social worker, case worker, or investigator employed by an agency or organization providing social work, case work, or investigative services under a contract or grant with the Department on Aging. Threatening a human service provider is a Class 3 felony for a first offense and a Class 2 felony for a second or subsequent offense.

Unlawful Restraint: 720 ILCS 5/10-3 dictates that a defendant may be found guilty of unlawful restraint if he or she knowingly without legal authority detains another. Unlawful restraint is a Class 4 felony.

Aggravated Unlawful Restraint: 720 ILCS 5/10-3.1 dictates that a defendant may be found guilty of aggravated unlawful restraint if he or she commits unlawful restraint while using a deadly weapon. Aggravated unlawful restraint is a Class 3 felony.

Robbery: 720 ILCS 5/18-1 dictates that a defendant may be found guilty of robbery if he or she knowingly takes property from the person or presence of another by the use of force or by threatening the imminent use of force. Robbery is a Class 2 felony, unless the victim is 60 years of age or over or is a person with a physical disability in which case robbery is a Class 1 felony.

Theft: 720 ILCS 5/16-1 dictates that a defendant may be found guilty of theft if he or she knowingly obtains or exerts unauthorized control over the property of another, obtains by deception or threat control over property of the owner and intends to deprive the owner permanently of the use or benefit of the property, knowingly uses, conceals, or abandons the property in such manner as to deprive the owner permanently of such use or benefit, or uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner permanently of such use or benefit. Theft can range anywhere between a Class A misdemeanor to a Class X felony depending on the specific circumstances. Theft by deception in which the offender obtained money or property valued at \$5,000 or more from a victim 60 years of age or older is a Class 2 felony.

Criminal Sexual Assault: 720 ILCS 5/11-1.20 dictates that a defendant may be found guilty of criminal sexual assault if he or she commits an act of sexual penetration in combination with any one of the following: use of force or threat of force; knows that the victim is unable to understand the nature of the act and is unable to give knowing consent; is a family member of the victim and the victim is under 18 years of age; or, is 17 years of age or over and holds a position of trust, authority, or supervision in relation to the victim and the victim is at least 13 years of age but under 17 years of age. Criminal sexual assault is generally a Class 1 felony, but there are certain exceptions to this rule.

Aggravated Criminal Sexual Assault: 720 ILCS 5/11-1.30 dictates that a defendant may be found guilty of aggravated criminal sexual assault if he or she commits criminal sexual assault and the victim is 60 years of age or older, is a person with a physical disability, or is a person with a severe or profound intellectual disability. In the above circumstances, aggravated criminal sexual assault will typically be a Class X felony.

Criminal Sexual Abuse: 720 ILCS 5/11-1.50 dictates that a defendant may be found guilty of criminal sexual abuse if he or she commits an act of sexual conduct by the use of force or threat of force or commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent. This type of criminal sexual abuse is a Class 4 felony. If it is a second or subsequent conviction, criminal sexual abuse will be a Class 2 felony.

Aggravated Criminal Sexual Abuse: 720 ILCS 5/11-1.60 dictates that a defendant may be guilty of aggravated criminal sexual abuse if he or she commits criminal sexual abuse and the victim is 60 years of age or older, is a person with a physical disability, or is a person with a severe or profound intellectual disability. Aggravated criminal sexual abuse is a Class 2 felony.



APPENDIX D
**DECISION TREE FOR
CATEGORIZING
INTAKE REPORTS**

DECISION TREE FOR CATEGORIZING INTAKE REPORTS

