

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 270
ADULT PROTECTION AND ADVOCACY SERVICES

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123 Section

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127 AUTHORITY: Implementing the Adult Protective Services Act [320 ILCS 20] and Section 4.04
128 of the Illinois Act on the Aging [20 ILCS 105] and authorized by Section 4.01(11) of the Illinois
129 Act on the Aging.

130
 131 SOURCE: Adopted at 21 Ill. Reg. 8887, effective July 1, 1997; amended at 25 Ill. Reg. 5259,
 132 effective April 1, 2001; amended at 26 Ill. Reg. 3964, effective March 15, 2002; expedited
 133 correction at 26 Ill. Reg. 8482, effective March 15, 2002; amended at 30 Ill. Reg. 8913, effective
 134 April 28, 2006; amended at 35 Ill. Reg. 8180, effective May 12, 2011; emergency amendment at
 135 38 Ill. Reg. 2357, effective December 31, 2013, for a maximum of 150 days; emergency expired
 136 May 29, 2014; amended at 39 Ill. Reg. 2156, effective January 23, 2015; amended at 42 Ill. Reg.
 137 6659, effective April 2, 2018; amended at 42 Ill. Reg. 9226, effective July 1, 2018; emergency
 138 amendment at 43 Ill. Reg. 787, effective January 1, 2019, for a maximum of 150 days; amended
 139 at 43 Ill. Reg. 980, effective January 1, 2019; amended at 43 Ill. Reg. 5756, effective April 30,
 140 2019; amended at 44 Ill. Reg. 6010, effective April 3, 2020; amended at 48 Ill. Reg. _____,
 141 effective _____.

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 143 SUBPART C: ADULT PROTECTIVE SERVICES PROGRAM

144
 145 **Section 270.210 Definitions**

146
 147 *"Abuse" means causing any physical, mental or sexual injury to an eligible adult,*
 148 *including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]*

149
 150 *"Abuser" means a person who is a family member caregiver, or another person*
 151 *who has a continuing relationship with the eligible adult and abuses, neglects, or*
 152 *financially exploits an eligible adult. [320 ILCS 20/2(a-5)]*

153
 154 "Act" means the Adult Protective Services Act [320 ILCS 20].

155
 156 "Adult Protective Services Hotline" means the 24-hour toll-free statewide
 157 telephone number that can be called to report suspected cases of abuse, neglect,
 158 financial exploitation, or self-neglect of eligible adults.

159
 160 "Adult protective services provider agency", "APS provider agency" or
 161 "designated agency" means any public or nonprofit agency, appointed by the
 162 regional administrative agency with prior approval by the Department, to receive
 163 and assess reports of alleged or suspected abuse, neglect, financial exploitation, or
 164 self-neglect.

165
 166 *"Adult with disabilities" means a person age 18 through 59 who resides in a*
 167 *domestic living situation and whose disability (see definition of "Disability")*
 168 *impairs his or her ability to seek or obtain protection from abuse, neglect or*
 169 *financial exploitation. [320 ILCS 20/2(a-6)]*

170
 171 "Allegation" means a charge or a claim of abuse, neglect, financial exploitation,
 172 or self-neglect.

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"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,

216 creates a substantial certainty that the abuse, neglect, or financial exploitation is
217 occurring or has occurred.

218
219 "Client" is an eligible adult who is receiving services from the APS provider
220 agency.

221
222 "Combined service area" means a designated service area, within a planning and
223 service area where a single APS provider agency is responsible for providing a
224 response, during non-business hours, to reports of alleged or suspected abuse,
225 neglect, or self-neglect when an eligible adult is at risk of death or serious
226 physical injury, pursuant to a cooperative agreement among the APS provider
227 agencies involved. The APS provider agency shall respond to reports in
228 accordance with the time frame outlined in Section 270.240.

229
230 "Confinement" means restraining or isolating an individual for other than bona
231 fide medical reasons.

232
233 "*Department*" means the Department on Aging of the State of Illinois. [320 ILCS
234 20/2(b)]

235
236 "*Director*" means the Director of the Department. [320 ILCS 20/2(c)]

237
238 "*Disability*" means a physical or mental disability, including, but not limited to, a
239 developmental disability, an intellectual disability, a mental illness as defined
240 under the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-
241 129], or dementia as defined under the Alzheimer's Disease Assistance Act [410
242 ILCS 405/3(a-5)]. [320 ILCS 20/2(c-5)]

243
244 "Domestic living situation" means a residence where the eligible adult, at the time
245 of the report, lives alone or with his or her family or a caregiver, or others, or
246 other community-based unlicensed facility, but is not:

247
248 *A licensed facility as defined in Section 1-113 of the Nursing Home Care*
249 *Act [210 ILCS 45/1-113];*

250
251 *A facility licensed under the ID/DD Community Care Act [210 ILCS 47];*

252
253 *A facility licensed under the MC/DD Act [210 ILCS 46];*

254
255 *A facility licensed under the Specialized Mental Health Rehabilitation Act*
256 *of 2013 [210 ILCS 49];*

257
258 *A "life care facility" as defined in the Life Care Facilities Act [210 ILCS*

259 40];

260

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

263

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

269

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

272

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

276

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

279

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

282

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

287

288 *"Eligible adult" means either an adult with disabilities age 18 through 59 or a*
289 *person age 60 or older who resides in a domestic living situation and is, or is*
290 *alleged to be, abused, neglected, or financially exploited by another individual or*
291 *who neglects himself or herself. "Eligible adult" also includes an adult who*
292 *resides in any of the facilities that are excluded from the definition of "domestic*
293 *living situation" if either:*

294

295 *the alleged abuse or neglect occurs outside of the facility and not under*
296 *facility supervision and the alleged abuser is a family member, caregiver,*
297 *or another person who has a continuing relationship with the adult; or*

298

299 *the alleged financial exploitation is perpetrated by a family member,*
300 *caregiver, or another person who has a continuing relationship with the*
301 *adult, but who is not an employee of the facility where the adult resides.*

302 [320 ILCS 20/2(e)]
303

304 *"Emergency" means a situation in which an eligible adult is living in conditions*
305 *presenting a risk of death or physical, mental or sexual injury and the APS*
306 *provider agency has reason to believe the eligible adult is unable to consent to*
307 *services that would alleviate that risk. [320 ILCS 20/2(f)]*
308

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

311
312 "Fatality Review Team" means a regional interagency review team established
313 pursuant to Section 15 of the Act.

314
315 *"Financial exploitation" means the use of an eligible adult's resources by another*
316 *to the disadvantage of that adult or the profit or advantage of a person other than*
317 *that adult. [320 ILCS 20/2(f-1)]*
318

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

321
322 "Guardian" means a person appointed by a court of competent jurisdiction, who is
323 legally responsible for the care of a person who has been adjudicated by the court
324 to be incompetent to manage his or her own affairs and/or property.

325
326 "Initial interview" means the preliminary contact made by an APS provider
327 agency to determine the level of risk to an alleged victim, the need for early
328 intervention services in order to assure safety and welfare or otherwise reduce risk
329 to the alleged victim, and his or her decisional capacity to consent to an
330 assessment and/or services.

331
332 "Intake" means the point at which trained staff of the Illinois Department on
333 Aging's Adult Protective Services Hotline and Senior HelpLine, a regional
334 administrative agency, or APS provider agency receives a report of alleged or
335 suspected abuse, neglect, financial exploitation or self-neglect and relays the
336 report to a case worker for further assessment.

337
338 "Intervention" means an action initiated by the APS case worker or the APS
339 provider agency to provide medical, social, economic, legal, housing, law
340 enforcement, or other protective, emergency or supportive services to, or on
341 behalf of, the eligible adult.

342
343 *"Investment advisor" means any person required to register as an investment*
344 *adviser or investment adviser representative under Section 8 of the Illinois*

345 Securities Law of 1953, which for purposes of this Act excludes any bank, trust
346 company, savings bank, or credit union, or their respective employees.

347
348 "Mandated reporter" means any of the following persons while engaged in
349 carrying out their professional duties:

350
351 a professional or professional's delegate while engaged in:

352
353 social services;

354
355 law enforcement;

356
357 education;

358
359 the care of an eligible adult or eligible adults; or

360
361 *any of the occupations required to be licensed under the Clinical*
362 *Psychologist Licensing Act [225 ILCS 15], the Clinical Social*
363 *Work and Social Work Practice Act [225 ILCS 20], the Illinois*
364 *Dental Practice Act [225 ILCS 25], the Dietitian Nutritionist*
365 *Practice Act [225 ILCS 30], the Marriage and Family Therapy*
366 *Licensing Act [225 ILCS 55], the Medical Practice Act of 1987*
367 *[225 ILCS 60], the Naprapathic Practice Act [225 ILCS 63], the*
368 *Nurse Practice Act [225 ILCS 65], the Nursing Home*
369 *Administrators Licensing and Disciplinary Act [225 ILCS 70], the*
370 *Illinois Occupational Therapy Practice Act [225 ILCS 75], the*
371 *Illinois Optometric Practice Act of 1987 [225 ILCS 80], the*
372 *Pharmacy Practice Act [225 ILCS 85], the Illinois Physical*
373 *Therapy Act [225 ILCS 90], the Physician Assistant Practice Act*
374 *of 1987 [225 ILCS 95], the Podiatric Medical Practice Act of 1987*
375 *[225 ILCS 100], the Professional Counselor and Clinical*
376 *Professional Counselor Licensing and Practice Act [225 ILCS*
377 *107], the Respiratory Care Practice Act [225 ILCS 106], the*
378 *Illinois Speech-Language Pathology and Audiology Practice Act*
379 *[225 ILCS 110], the Veterinary Medicine and Surgery Practice Act*
380 *of 2004 [225 ILCS 115], and the Illinois Public Accounting Act*
381 *[225 ILCS 450];*

382
383 *an employee of an entity providing developmental disabilities services or*
384 *service coordination funded by the Department of Human Services;*

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

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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, except the State Long Term Care Ombudsman and any of their representatives or volunteers where prohibited from making such a report pursuant to 45 CFR 1324.11(e)(3)(iv) ~~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; or: [320 ILCS 20/2(f-5)]

a person who performs the duties of an investment advisor.

"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

431 *professionals.* [320 ILCS 20/2(g)]

432

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

438

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

440

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

446

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

450

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

458

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

462

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

467

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

472

473 "Senior HelpLine" means the Department's toll-free statewide number that can be

474 called to report suspected cases of abuse, neglect, financial exploitation, or self-
475 neglect to obtain additional information about services available to eligible adults.

476
477 "Self-determination" means the right of an eligible adult with decisional capacity
478 to:

- 479 decide where and how he or she will live;
- 480 choose whether to accept program services or other community assistance;
- 481 and
- 482 make decisions different from those a reasonable adult would make,
- 483 including "bad" decisions, that are not harmful to others.

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487
488 *"Self-neglect" means a condition that is the result of an eligible adult's inability,*
489 *due to physical or mental impairments, or both, or a diminished capacity, to*
490 *perform essential self-care tasks that substantially threaten his or her own health,*
491 *including: providing essential food, clothing, shelter, and health care; and*
492 *obtaining goods and services necessary to maintain physical health, mental*
493 *health, emotional well-being, and general safety. The term includes compulsive*
494 *hoarding, which is characterized by the acquisition and retention of large*
495 *quantities of items and materials that produce an extensively cluttered living*
496 *space, which significantly impairs the performance of essential self-care tasks or*
497 *otherwise substantially threatens life or safety. [320 ILCS 20/2(i-5)]*

498
499 "Services" means medical, social, economic, legal, housing, law enforcement, or
500 other protective, early, emergency or supportive action provided to, or on behalf
501 of, the eligible adult.

502
503 "Sexual abuse" means any sexual activity with an eligible adult who is unable to
504 understand, unwilling to consent, threatened, or physically forced to engage in
505 such sexual activity.

506
507 "Shared service area" means the designated area within a planning and service
508 area where two or more APS provider agencies are responsible for providing a
509 response, during non-business hours, to reports of alleged or suspected abuse,
510 neglect, or self-neglect when an eligible adult is at risk of death or serious
511 physical injury, pursuant to a cooperative agreement among the APS provider
512 agencies involved. The APS provider agencies shall respond to reports in
513 accordance with the time frame outlined in Section 270.240.

514
515 "State Triad" is a statewide, unincorporated, voluntary association of law
516 enforcement, senior citizens and community groups, organized around the issue of

517 senior safety, crime against the elderly, and financial exploitation of the elderly.
518 The State Triad Council was created under the aegis of the National Association
519 of Triads, Inc., 1450 Duke Street, Alexandria VA 22314.

520
521 "Substantiation" is the process by which an APS provider agency determines,
522 after a review of all available information, that abuse, neglect, financial
523 exploitation, or self-neglect of an eligible adult has occurred.

524
525 *"Substantiated case" means a reported case of alleged or suspected abuse,*
526 *neglect, financial exploitation or self-neglect in which an APS provider agency,*
527 *after assessment, determines that there is reason to believe abuse, neglect,*
528 *financial exploitation, or self-neglect has occurred. [320 ILCS 20/2(j)]*

529
530 "Suspicious death" means an instance in which an APS provider agency
531 reasonably believes that the death of an individual may be the result of abuse or
532 neglect.

533
534 *"Verified" means a determination that there is "clear and convincing evidence"*
535 *that the specific injury or harm alleged was the result of abuse, neglect, or*
536 *financial exploitation. [320 ILCS 20/2(k)]*

537
538 "Victim" means an eligible adult who is the subject of a substantiated report of
539 abuse, neglect, financial exploitation, or self-neglect.

540
541 "Willful deprivation" is the deliberate denial to an eligible adult of required
542 medication, medical care, shelter, food, therapeutic devices, or other physical
543 assistance, thereby exposing that person to the risk of physical, mental, or
544 emotional harm. Willful deprivation shall not include the discontinuation of
545 medical care or treatment when the eligible adult has expressed a desire to forego
546 such medical care or treatment.

547
548 (Source: Amended at 48 Ill. Reg. _____, effective _____)

549
550 **Section 270.225 Organizational Standards and Responsibilities: Adult Protective Services**
551 **Provider Agencies**

552
553 a) In accordance with Section 270.220, the ~~designated APS~~ provider agency shall
554 enter into a written contract with the Department to provide services to adults
555 with disabilities or persons aged 60 or older.

556
557 ~~b) The APS provider agency shall provide these services to an adult with disabilities~~
558 ~~or a person aged 60 or older in accordance with the Act and this Part.~~

559

- 560 be) The ~~APS~~ provider agency shall be open for business and available to receive
561 reports of abuse, neglect, financial exploitation, or self-neglect not less than 246
562 working days per calendar year under the following conditions:
563
- 564 1) The ~~APS~~ provider agency shall not be closed for more than four
565 consecutive days, unless an alternative method of receiving reports and
566 providing services to clients is approved by and on file with the regional
567 administrative agency and the Department. Timelines and required
568 services for agencies shall not be waived during provider agency closures.
569
 - 570 2) If a recorded message is activated during business hours, there has to be an
571 option to talk directly to a report taker at that time, ~~rather than leaving a~~
572 ~~message on voice mail.~~
573
 - 574 3) A report taker has to be available at least seven hours each working day,
575 during normal business hours.
576
- 577 cd) The ~~APS~~ provider agency employees and subcontracted employees shall~~will~~ not
578 serve as a legal guardian or an agent under the Illinois Power of Attorney Act for
579 any client in the program.
580
- 581 de) The ~~APS~~ provider agency shall retain all books, records and other documents
582 relevant to the operation of the program as directed by the Department. The ~~APS~~
583 provider agency must maintain and destroy records pursuant to Department
584 procedures~~has to insure that records are purged per Department standards.~~
585
- 586 ef) A provider agency may terminate its contract~~to provide adult protective services~~
587 ~~may be terminated by the APS provider agency~~ in accordance with the
588 termination clause in the contract. When a provider agency notifies the
589 Department of its intent to terminate its contract, the~~The APS~~ provider agency
590 must~~will~~ assist in the transition to the~~a~~ replacement~~APS~~ provider agency for the
591 specific geographic area.
592
- 593 fg) Pursuant to the terms of their contract, ~~APS~~ provider agencies shall maintain
594 sufficient staff to perform all duties and responsibilities of the program for which
595 an agreement to perform is in effect.
596
- 597 gh) The provider agency's~~APS~~ supervisors are required~~have~~ to be involved in guiding
598 and directing abuse, neglect, financial exploitation, or self-neglect cases and share
599 responsibility in the case workers' decisions and actions in those cases.
600
- 601 hi) Qualifications for APS Supervisors
602

- 603 1) Education, licensing, and/or experience~~APS supervisors shall have:~~
604
605 A) a master's degree from an accredited university or college in
606 health, social sciences, social work, health care administration,
607 gerontology, disability studies, criminal justice or public
608 administration, and one year experience in health or human
609 services;~~Education~~
610
611 i) ~~a Master's Degree in health, social sciences, social work,~~
612 ~~health care administration, gerontology, disability studies,~~
613 ~~criminal justice or public administration, and one year~~
614 ~~experience in health or human services; or~~
615
616 ii) ~~a Registered Nursing license, or a Bachelor of Science in~~
617 ~~Nursing (B.S.N.) or a Bachelor of Arts (B.A.)/Bachelor of~~
618 ~~Science (B.S.) in health, social sciences, social work, health~~
619 ~~care administration, gerontology, or criminal justice and~~
620 ~~three years' experience in health or human services,~~
621 ~~including either one year of supervisory experience or one~~
622 ~~year of experience in aging, adults with disabilities or~~
623 ~~domestic violence programs or services;~~
624
625 B) an active Registered Nurse license;~~or Department sponsored APS~~
626 ~~case worker certification and on-line forms training;~~
627
628 C) a Bachelor of Science in Nursing (BSN) or a Bachelor of Arts
629 (BA) Bachelor of Science (BS) from an accredited university or
630 college in health, social sciences, social work, health care
631 administration, gerontology, or criminal justice and three years'
632 experience in health or human services, including either one year
633 of supervisory experience or one year of experience in aging,
634 adults with disabilities or domestic violence programs or
635 services.~~Department sponsored Phase II certification training~~
636 ~~within six months after the APS case worker certification, to be~~
637 ~~placed on the Department's list of APS Case Workers;~~
638
639 D) ~~Department sponsored APS supervisor's certification training;~~
640
641 E) ~~Fourteen hours of participation by actual attendance at in-service~~
642 ~~training and/or webinars on abuse of eligible adults, rights of older~~
643 ~~adults and adults with disabilities, self-neglect, and domestic~~
644 ~~violence subjects within a calendar year. For partial years of~~
645 ~~employment, training shall be prorated to equal approximately 45~~

646 minutes for each full month of employment. Participation by
647 actual attendance at regional, State or national conferences on
648 abuse of older adults and adults with disabilities and rights of older
649 adults and adults with disabilities, self-neglect, and domestic
650 violence qualify as in-service training. Participation should be
651 documented and included in the employee's personnel file; and
652

653 F) ~~Eleven hours of qualifying recertification every three years, which~~
654 ~~must be documented in the employee's personnel file.~~

655
656 2) Certification trainings, and recertifications~~APS case workers shall have:~~

657
658 A) Department sponsored trainings including but not limited
659 to:~~Education~~

660
661 i) APS case worker certification and on-line forms
662 training~~Master's Degree in health, social services, social~~
663 ~~work, health care administration, gerontology, disability~~
664 ~~studies, criminal justice or public administration;~~

665
666 ii) Phase II certification training which must be completed
667 within six months of completing the APS case worker
668 certification;~~a Registered Nursing license, or a B.S.N. or a~~
669 ~~B.A./B.S. in health, social sciences, social work, health~~
670 ~~care administration, gerontology, or criminal justice and~~
671 ~~one year experience in health or human services; or~~

672
673 iii) APS supervisor's certification; and~~a Practical Nursing~~
674 ~~license, with two years' experience in health or human~~
675 ~~services;~~

676
677 vi) An annual one-hour trauma informed care training.

678
679 B) An annual two-hour dementia training which shall include subjects
680 related to Alzheimer's Dementia and Related Disorders; Safety
681 risks; and Communication and behavior.~~Department sponsored~~
682 ~~APS case worker certification and on-line forms training;~~

683
684 C) Fourteen hours of participation by actual attendance at in-service
685 training and/or webinars on abuse of eligible adults, rights of older
686 adults and adults with disabilities, self-neglect, and domestic
687 violence subjects within a calendar year. For partial years of
688 employment, training shall be prorated to equal approximately 45

689 minutes for each full month of employment. Participation by
690 actual attendance at regional, State or national conferences on
691 abuse of older adults and adults with disabilities and rights of older
692 adults and adults with disabilities, self-neglect, and domestic
693 violence qualify as in-service training. Participation should be
694 documented and included in the employee's personnel file;
695 ~~and Department sponsored Phase II certification training within six~~
696 ~~months after the APS case worker certification, to be listed on the~~
697 ~~Department's list of APS Case Workers;~~
698

699 D) Eleven hours of qualifying recertification every three years, which
700 must be documented in the employee's personnel file. To qualify as
701 recertification, the Department must approve the training.
702 Trainings must be specific to the work completed by the APSCW.
703 This will include furthering knowledge of APS Act, Rule, and/or
704 Procedures; increasing knowledge of population served including
705 various diagnoses, treatment methods, and communication
706 strategies; cultural diversity; trauma informed care; safety related
707 topics; documentation; case planning, and legal
708 interventions.~~Twelve hours of participation by actual attendance at~~
709 ~~in-service training and/or webinars on abuse of eligible adults,~~
710 ~~rights of older adults and adults with disabilities, self neglect, and~~
711 ~~domestic violence subjects within a calendar year. For partial~~
712 ~~years of employment, training shall be prorated to equal~~
713 ~~approximately 45 minutes for each full month of employment.~~
714 ~~Participation by actual attendance at regional, State or national~~
715 ~~conferences on abuse of older adults and adults with disabilities~~
716 ~~and rights of older adults and adults with disabilities, self neglect,~~
717 ~~and domestic violence qualify as in-service training. Participation~~
718 ~~should be documented and included in the employee's personnel~~
719 ~~file; and~~
720

721 E) ~~Eleven hours of qualifying recertification every three years, which~~
722 ~~must be documented in the employee's personnel file.~~
723

724 i) Qualifications for APS case workers
725

726 1) Education, licensing, and/or experience
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728 A) master's degree from an accredited university or college in health,
729 social services, social work, health care administration,
730 gerontology, disability studies, criminal justice or public
731 administration;

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- B) an active Registered Nurse license;
- C) a Bachelor of Science in Nursing (BSN) or a Bachelor of Arts (BA) Bachelor of Science (BS) from an accredited university or college 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;
- D) an associate degree from an accredited program in health, nursing, social services, social work, health care administration, gerontology, disability studies, criminal justice or public administration and four years' experience in health or human services;
- E) an active Licensed Practical Nurse license, with one year experience in health or human services; or
- F) four years' experience with law enforcement or criminal investigations.

2) Certifications, Trainings, and Recertifications

- A) Department sponsored trainings including but not limited to:
 - i) APS case worker certification and on-line forms training;
 - ii) Phase II certification training within six months after the APS case worker certification; and
 - iii) An annual one-hour trauma informed care training.
- B) Annual two-hour dementia training dementia which shall include subjects related to Alzheimer's Dementia and Related Disorders; Safety risks; and Communication and behavior.
- C) 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

775 actual attendance at regional, State or national conferences on
776 abuse of older adults and adults with disabilities and rights of older
777 adults and adults with disabilities, self-neglect, and domestic
778 violence qualify as in-service training. Participation should be
779 documented and included in the employee's personnel file; and
780

781 D) Eleven hours of qualifying recertification every three years, which
782 must be documented in the employee's personnel file. To qualify as
783 recertification, the Department must approve a training. Trainings
784 must be specific to the work completed by the APSCW. This will
785 include furthering knowledge of APS Act, Rule, and/or
786 Procedures; increasing knowledge of population served including
787 various diagnoses, treatment methods, and communication
788 strategies; cultural diversity; trauma informed care; safety related
789 topics; documentation; case planning, and legal interventions.
790

791 j) Qualifications APS Report Takers and Case Aide
792

793 1) Education and experience
794

795 A) 2-year associate's certificate in health, social sciences, social work,
796 health care administration, gerontology, or criminal justice or;
797

798 B) 2 years documented experience in the aging field.
799

800 C) A provider agency may request, with supporting documentation, a
801 waiver of educational requirements for intake workers and case
802 aides.
803

804 D) Intake staff and case aides who were employed prior to the
805 implementation of this regulation will be allowed to continue in
806 this capacity, regardless of qualifications.
807

808 2) Training and recertification
809

810 A) Department approved training provided by an APS certified
811 supervisor.
812

813 B) Within three months of hiring, completion of Phase I training.
814

815 C) Two hours of Department approved recertification training per
816 calendar year.
817

- 818 D) Department required annual training including but not limited to:
819
820 i) Two-hour dementia training dementia training which shall
821 include subjects related to Alzheimer's Dementia and
822 Related Disorders; Safety Risks; and Communication and
823 Behavior and
824
825 ii) One hour trauma informed training.
826
827 kj) The Department will suspend or remove from the Department's list of APS Case
828 Workers any case worker or supervisor who fails or refuses to perform the duties
829 of a case worker or supervisor in accordance with this Part.
830
831 lk) The APS provider agency must return to the Department, within 15 days, any
832 identification card of a case worker or supervisor who separates from
833 employment.
834

835 (Source: Amended at 48 Ill. Reg. _____, effective _____)
836

837 **Section 270.230 Abuse Reporting**
838

- 839 a) *If any mandated reporter has reason to believe that an eligible adult, who*
840 *because of disability or other condition or impairment is unable to seek assistance*
841 *for himself or herself, has, within the previous 12 months, been subjected to*
842 *abuse, neglect, or financial exploitation, the mandated reporter shall, within 24*
843 *hours after developing such belief, report this suspicion to an agency designated*
844 *to receive such reports under the Act or to the Department. [320 ILCS 20/4(a-5)]*
845
846 b) *Whenever a mandated reporter is required to report under the Act in his or her*
847 *capacity as a member of the staff of a medical or other public or private*
848 *institution, facility, or agency, he or she shall make a report to an agency*
849 *designated to receive such reports under the Act or to the Department in*
850 *accordance with the provisions of the Act and may also notify the person in*
851 *charge of the institution, facility, or agency or his or her designated agent that the*
852 *report has been made. [320 ILCS 20/4(a-5)]*
853
854 c) *Under no circumstances shall any person in charge of such institution, facility, or*
855 *agency, or his or her designated agent to whom the notification has been made,*
856 *exercise any control, restraint, modification, or other change in the report or the*
857 *forwarding of the report to an agency designated to receive such reports under*
858 *the Act or to the Department. The privileged quality of communication between*
859 *any professional person required to report and his or her patient or client shall*
860 *not apply to situations involving abused, neglected, or financially exploited*

861 *eligible adults and shall not constitute grounds for failure to report as required by*
862 *the Act. [320 ILCS 20/4(a-5)]*

863
864 d) The identity of a person making a report pursuant to the provisions of the Act is
865 confidential and may only be disclosed with their written consent or by a court
866 order.~~The identity of a person making a report of alleged or suspected abuse or~~
867 ~~neglect under the Act may be disclosed by the Department or other agency~~
868 ~~provided for in the Act only with such person's written consent or by court order,~~
869 ~~but is otherwise confidential. [320 ILCS 20/4(e)]~~

870
871 e) *Any mandated reporter who makes a report or any person who investigates a*
872 *report under the Act shall testify fully in any judicial or administrative proceeding*
873 *resulting from such report, as to any evidence of abuse, neglect, or financial*
874 *exploitation or the cause thereof. No evidence shall be excluded by reason of any*
875 *common law or statutory privilege relating to communications between the*
876 *alleged abuser or the eligible adult subject of the report under the Act and the*
877 *person making or investigating the report. [320 ILCS 20/4.2]*

878
879 (Source: Amended at 48 Ill. Reg. _____, effective _____)

880
881 **Section 270.255 Abuse, Neglect, Financial Exploitation, or Self-Neglect Case Work,**
882 **Follow-Up, Referrals and Case Closure**

883
884 a) Case Work
885 *APS provider agencies shall assist, to the extent possible, eligible adults who need*
886 *agency services to allow them to continue to function independently. [320 ILCS*
887 *20/3(c)]*

888
889 1) If, after the assessment, the APS provider agency determines that the case
890 is substantiated, it shall develop a case plan for the eligible adult, when he
891 or she consents to services.

892
893 A) *In developing a case plan, the APS provider agency may consult*
894 *with any other appropriate professional and/or provider of*
895 *services, such as advocacy, care coordination, counseling,*
896 *education, emergency aid, financial, housing, law enforcement,*
897 *legal, long term care, managed care, medical, nutrition, personal*
898 *assistance, relocation, respite, social supports through charitable*
899 *and community assistance, disability agencies, private means, or*
900 *public benefit programs to meet identified needs for the purpose of*
901 *stabilizing the abusive situation and reducing the risk of further*
902 *harm, and such professionals and/or providers shall be immune*

- 903 *from civil or criminal liability on account of those acts. [320 ILCS*
904 *20/5(a)]*
- 905
- 906 B) *The case plan shall include alternative suggested or recommended*
907 *services that are appropriate to the needs of the eligible adult and*
908 *that involve the least restriction of the eligible adult's activities*
909 *commensurate with his or her needs. [320 ILCS 20/5(a)]*
- 910
- 911 i) The case worker shall use his or her professional judgment
912 in advocating in the best interest, safety and welfare of the
913 eligible adult.
- 914
- 915 ii) The eligible adult's interest in living in the most
916 independent setting with the least restrictive alternatives for
917 legal, medical and social services come before those of any
918 other family or community members.
- 919
- 920 iii) The case worker shall involve the eligible adult, and his or
921 her family members for support, if possible, in the
922 development of the intervention, and explain, in a direct
923 manner, the situation, the range of available options for
924 services, and the consequences of failing to cooperate or
925 refusing to accept services, so the eligible adult can
926 exercise his or her maximum decision-making ability.
- 927
- 928 C) The APS provider agencies shall establish working relationships
929 with disability agencies for purposes of mutual training, referral
930 and service response.
- 931
- 932 2) *Only those services to which consent is given in accordance with Section 9*
933 *of the Act shall be provided, contingent upon the availability of those*
934 *services. [320 ILCS 20/5(a)]*
- 935
- 936 b) Follow-up
937 *All services provided to an eligible adult shall be reviewed by the APS provider*
938 *agency on at least a quarterly basis for up to one year to determine whether the*
939 *service care plan should be continued or modified, except that, upon review, the*
940 *Department may grant a waiver to extend the service care plan for up to one*
941 *additional year. [320 ILCS 20/7]*
- 942
- 943 c) Referral
944 *An APS provider agency shall refer evidence of crimes against an eligible adult to*
945 *the appropriate law enforcement agency according to Department policies. A*

946 *referral to law enforcement may be made at intake, ~~at or~~ any time during the case*
947 *or after a report of a suspicious death, depending on the circumstances.* [320
948 ILCS 20/5(b)]
949

- 950 d) The "evidence of crimes" referred to in subsection (c) includes:
- 951 1) death that may have been the result of abuse or neglect;
 - 952 2) brain damage;
 - 953 3) loss or substantial impairment of a bodily function or organ;
 - 954 4) bone fracture;
 - 955 5) extensive burns;
 - 956 6) substantial disfigurement;
 - 957 7) sexual assault or aggravated sexual assault;
 - 958 8) serious bodily injury as the result of a pattern of repetitive actions;
 - 959 9) extensive swelling or bruising, depending on such factors as the eligible
960 adult's physical condition, circumstances under which the injury occurred,
961 and the number and location of bruises;
 - 962 10) serious symptoms resulting from the use of medications or chemical
963 restraints, or the withholding of life sustaining medications (e.g., insulin);
 - 964 11) evidence of severe neglect, such as unreasonable decubiti;
 - 965 12) other activity that would place the eligible adult in imminent danger of
966 death or serious bodily injury; or
 - 967 13) any felonious criminal activity directed at the eligible adult that the case
968 worker directly observes.
- 969 e) *When an APS provider agency has reason to believe that the death of an eligible*
970 *adult that occurs during the course of assessment, case work, or follow-up may be*
971 *the result of abuse or neglect, the agency shall promptly report the matter to both*
972 *the appropriate law enforcement agency and coroner or medical examiner and*
973 *make subsequent contact with them in accordance with the time frame set forth in*
974 *Section 270.241(b).* [320 ILCS 20/3(c-5)]
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990 f) Upon request by an APS provider agency, law enforcement agencies, coroners
991 and medical examiners shall supply a summary of their action in response to a
992 reported death of an eligible adult. The APS provider agency shall maintain a
993 copy of the reports, and all follow-up with law enforcement, coroners and medical
994 examiners shall be documented in the case record of the eligible adult.
995
- 996 g) In all cases in which there is a substantiated finding of abuse, neglect or financial
997 exploitation by a guardian, the APS provider agency shall, within 30 days after
998 the finding, notify the probate court with jurisdiction over the guardianship.
999
- 1000 h) Case Closure
1001 An APS provider agency shall close a case when:
1002
- 1003 1) the alleged victim refuses services;
 - 1004
 - 1005 2) the alleged victim is deceased; however, an APS provider agency will still
1006 be subject to the requirements of subsections (c) and (e);
1007
 - 1008 3) the alleged victim has entered a long term care facility and resided there
1009 for 60 days; provided the Department may waive the 60-day limitation in
1010 cases in which the APS provider agency submits evidence that the waiver
1011 is necessary to protect the safety and well-being of the client;
1012
 - 1013 4) the alleged victim has moved out of the area; provided, if the alleged
1014 victim remains at risk and the APS provider agency is aware of the new
1015 location, the APS provider agency shall refer the case to the APS provider
1016 agency in the location of the new residence for case work and follow-up
1017 services;
1018
 - 1019 5) the victim is no longer at risk of abuse, neglect, financial exploitation, or
1020 self-neglect;
1021
 - 1022 6) the victim has received uninterrupted follow-up services for 12 months,
1023 which shall be considered an administrative closure;
1024
 - 1025 7) the report is not substantiated; or
1026
 - 1027 8) the alleged victim is determined to be ineligible for services.
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1029 (Source: Amended at 48 Ill. Reg. _____, effective _____)
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1031 **Section 270.275 Confidentiality and Disclosure**

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- 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 or reports of suspicious deaths due to abuse, neglect, or financial exploitation 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;*

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- 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 probate court with jurisdiction over the guardianship of an alleged victim for an in camera inspection.~~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, unless such guardian ad litem is the abuser or alleged abuser;*
 - 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*

- 1118 *written agreement between an APS provider agency and the coroner or*
1119 *medical examiner, under which the APS provider agency may furnish to*
1120 *the office of the coroner or medical examiner a list of all eligible adults*
1121 *who may be at imminent risk of death as a result of abuse, neglect,*
1122 *financial exploitation or self-neglect;*
1123
1124 14) *Department of Financial and Professional Regulation staff and members*
1125 *of the Illinois Medical Disciplinary Board or the Social Work Examining*
1126 *and Disciplinary Board in the course of investigating alleged violations of*
1127 *the Clinical Social Work and Social Work Practice Act [225 ILCS 20] by*
1128 *APS provider agency staff or other licensing bodies at the discretion of the*
1129 *Director of the Department on Aging;*
1130
1131 15) *Department of Healthcare and Family Services staff and its vendors when*
1132 *that Department is funding services to the eligible adult, including being*
1133 *given access to the identity of the eligible adult;*
1134
1135 16) *Department of Human Services staff and its vendors when that*
1136 *Department is funding services to the eligible adult or is providing*
1137 *reimbursement for services provided by the abuser or alleged abuser,*
1138 *including being given access to the identity of the eligible adult;*
1139
1140 17) *Hearing officers in the course of conducting an administrative hearing*
1141 *under the Act;*
1142
1143 18) A caregiver who challenges placement on the Adult Protective Services
1144 Registry shall be given the statement of allegation in the abuse report and
1145 the substantiation decision in the final investigative report; and
1146
1147 19) *The Illinois Guardianship and Advocacy Commission and the agency*
1148 *designated by the Governor under Section 1 of the Protection and*
1149 *Advocacy for Persons with Developmental Disabilities Act [405 ILCS 40]*
1150 *shall have access, through the Department, to records, including the*
1151 *findings, pertaining to a completed or closed investigation of a report of*
1152 *suspected abuse, neglect, financial exploitation or self-neglect of an*
1153 *eligible adult. [320 ILCS 20/8]*
1154
1155 e) An authorization for release of records by the Department or the APS provider
1156 agencies must be legally sufficient and include:
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1158 1) supporting documentation of the agency or guardianship evidencing
1159 current authority and the extent of the authority to act on behalf of the
1160 eligible adult or his or her estate; and

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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 48 Ill. Reg. _____, effective _____)

SUBPART E: ADULT PROTECTIVE SERVICE REGISTRY

Section 270.460 Variances

The Department/~~other entity~~ may grant variances from this ~~part~~Subpart in individual cases in which it is found that:

a) The ~~rule~~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: Amended at 48 Ill. Reg. _____, effective _____)