

# Adult Protective Services Policy

Department of Health & Human Services

**DHHS**



N E B R A S K A

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# Adult Protective Services

## Chapter 1.B Adult Protective Services Overview

- A. The Adult Protective Service (APS) Act (Nebraska Revised Statute §28-348) establishes a program designed to meet the needs of vulnerable adults who have been abused, neglected, or exploited. It places authority and responsibility for investigations and interventions in situations of abuse, neglect, and exploitation of vulnerable adults with the Department of Health and Human Services and local law enforcement agencies. The Act authorizes and requires the least restriction possible on the exercise of personal and civil rights consistent with the person's need for services.

The objective of Adult Protective Services is to prevent and reduce the harm to vulnerable adults from abuse, neglect, and exploitation, while supporting individuals in maintaining control over their lives and in making informed choices without coercion.

### B. Guiding Values

1. Every action taken by Adult Protective Services must balance the duty to protect the safety of the vulnerable adult with the adult's right to self-determination.
2. Vulnerable Adults who are victims of maltreatment should be treated with honesty, caring, and respect.

### C. Principles for Adult Protective Services

1. Nebraska has adopted the Principles for Adult Protective Services developed by the National Adult Protective Services Association. The principles are as follows:
  - a. Adults have the right to be safe.
  - b. Adults retain all their civil and constitutional rights unless some of these rights have been restricted by court action.
  - c. Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.
  - d. Adults are presumed to have decision-making capacity unless a court adjudicates otherwise.
  - e. Adults have the right to accept or refuse services.

### D. Adult Protective Services Practice Guidelines

1. Nebraska has adopted the Guidelines for Adult Protective Services developed by the National Adult Protective Services Association. CFS Specialist practice responsibilities include:
  - a. Recognize that the interests of the adult are the first concern of any intervention.
  - b. Avoid imposing personal values on others.
  - c. Seek informed consent from the adult before providing services.
  - d. Respect the adult's right to keep personal information confidential.
  - e. Recognize individual differences such as cultural, historical and personal values.
  - f. Honor the right of adults to receive information about their choices and options in a form or manner that they can understand.
  - g. To the best of one's ability, involve the adult as much as possible in developing the service plan.
  - h. Focus on case planning that maximizes the vulnerable adult's independence and choice to the extent possible based on the adult's capacity.
  - i. Use the least restrictive services first whenever possible—community-based services rather than institutionally-based services.

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- j. Use family and informal support systems first as long as this is in the best interest of the adult.
- k. Maintain clear and appropriate professional boundaries.
- l. In the absence of an adult's expressed wishes, support casework actions that are in the adult's best interest. (This means that if you have no knowledge of historical decision making of the person or the person has never had the ability to make decisions, then, making decisions is based on the standard of what is in the best interest of the person.)
- m. Use substituted judgment in case planning when historical knowledge of the adult's values is available. (This means you have knowledge of how a person historically made decisions, so, that information is used to make decisions.)
- n. Do no harm. Inadequate or inappropriate intervention may be worse than no intervention.

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## Chapter 1.C Records Retention

- A. The Records Retention Schedule for the Division of Children and Family Services is maintained by the Secretary of State. The retention periods must be followed as described in the schedule. The full schedule can be found at [http://www.sos.ne.gov/records-management/150\\_schedule.html](http://www.sos.ne.gov/records-management/150_schedule.html).
- B. Instructions for using the schedule:
  - a. Records retention and disposition schedules are designed to serve as your records management guideline for storing, and disposing of agency records, regardless of the media on which they reside, including paper, microfilm, diskettes, optical disks, CDs, DVDs, servers, computer hard drives, etc.
  - b. This schedule was written specifically for the records unique to your office and contains those records most common to most state government agencies. These retention schedules, which are approved by the State Records Administrator, provide your only ongoing authority to dispose of records. Listed below are some basic procedures to follow when applying your schedule:
    - i. Check your schedule to see what the retention period is. Note: your agency's unique schedule will take precedence over State Agencies General Records Schedule for any items which have differences in retention requirements.
    - ii. Contact your agency Records Officer for information regarding disposal of records.
- C. Schedule 150-1-1-2-7-1 refers to the Adult Protective Services Case File.

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## Chapter 10.A Role of CFS Supervisor

- A. Supervisors are the key to successful case practice, and staff support, utilizing their knowledge and experience serving vulnerable adults and their families. Consultation is important to ensure the consistent application of Department policy and to ensure that as many factors and ramifications as possible are considered when critical decisions are made. The CFS Supervisor has the responsibility to call to the attention of and redirect the CFS Specialist regarding any decision made on any case which is not consistent with the following:
1. The determination that someone is a vulnerable adult;
  2. The needs of the vulnerable adult;
  3. Self-determination;
  4. The vulnerable adult's decision-making capacity; and
  5. DHHS policy and practice.

- B. Supervisory responsibility for assigning intakes: The CFS Supervisor (or designated back-up in the absence of the supervisor) assigns the cases accepted for assessment/organization related investigations.

If the Hotline receives a report and the alleged victim does not live in the same Service Area where the allegation occurred, the case will be assigned to the CFS Specialist in the Service Area where the victim lives.

1. If necessary, a CFS Specialist in the Service Area where the allegation occurred can serve as a courtesy worker for the case. The CFS Specialists will conduct their investigations in conjunction with one another.

- C. Supervisory responsibility during assessment: CFS Supervisors will provide consultation and support related to the initial contact with the vulnerable adult to begin the investigation/assessment. CFS Supervisors, when necessary, will:
1. Assure adequate CFS Specialist preparation so that the CFS Specialist understands the nature and circumstances that represent a threat to a vulnerable adult;
  2. Assure that the CFS Specialist has a strategy for making the initial contact, for collecting information, and for evaluating the alleged victim's needs;
  3. Assist the CFS Specialist in considering possible action if an emergency exists when completing the initial face-to-face interview and agency response when a need for immediate action to protect the vulnerable adult arises;
  4. Assist the CFS Specialist in identifying potential barriers to visiting or communicating with the vulnerable adult;
  5. Address potential CFS Specialist safety issues;
  6. Consider additional preparation for the investigation involving issues around law enforcement participation for purposes of joint investigation;
  7. Assist the CFS Specialist with developing the protective interventions for the vulnerable adult;
  8. Discuss other resources the CFS Specialist may need for the intervention to be successful;
  9. Discuss with the CFS Specialist's planned course of action; and
  10. Verify that the planned response is the least intrusive necessary to meet the victim's needs.

- D. CFS Supervisor consultation early in the assessment process may involve:

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1. Identifying who would be the best source of information,
  2. Discussing the order in which people will be interviewed;
  3. Identifying the type of information to be gathered;
  4. Maintaining the balance between self-determination and safety of the vulnerable adult;
  5. Identifying the methods to determine vulnerable adult status and to determine the decision-making capacity of the alleged victim;
  6. Identifying methods to overcome barriers in information gathering such as guardian resistance, communication difficulties, or access to collateral contacts;
  7. Managing the location and circumstances of the interviews;
  8. Avoiding premature judgment and conclusions; and
  9. Addressing any CFS Specialist bias.
- E. When reading assessments or discussing the case situation with the CFS Specialist, the CFS Supervisor must consider the following characteristics about the information provided:
1. Breadth: Is the CFS Specialist's understanding and analysis of the adult and his/her situation based on information that covers the critical points (maltreatment, vulnerability, decision-making capacity, self-determination) and if the information gathered about the adult and alleged perpetrator is comprehensive.
  2. Depth: Is the CFS Specialists understanding of the situation based on more than superficial information? Is the information pertinent and detailed?
  3. Reliable: Is the information trustworthy and dependable, reasonable, believable, and can be justified?
  4. Pertinent: Is the information relevant, significant and useful in determining the presence of risk factors?
  5. Objective: Is the information factual, actual, and unbiased? Information exists without interpretation or value judgment;
  6. Clear: Is the information easily understood and unambiguous?
  7. Associated: Does the CFS Specialist understand how the information is connected and inter-related? How the information is linked?
  8. Reconciled: Has the CFS Specialist resolved differing perspectives so that discrepancies are reconciled?
  9. Supported: Is the information confirmed or corroborated by reliable sources outside the immediate family?
- F. Supervisory responsibility at the conclusion of the assessment: The supervisor will complete a case review to determine whether the CFS Specialist has gathered pertinent, relevant, and adequate information to arrive at the necessary conclusion. Conclusions include determining the following:
1. The alleged victim is a vulnerable adult;
  2. The vulnerable adult has decision making capacity;
  3. Vulnerable adult abuse, neglect, exploitation has occurred;
  4. Whether an emergency exists and immediate intervention is needed;
  5. Whether the vulnerable adult is in need of ongoing services; and/or
  6. Whether the case is ready to be closed.
- G. Supervisory Assistance During Legal Action: CFS Supervisor will provide direction to staff in accessing legal action by:
1. Discussing the option to invoke court authority, including helping the CFS Specialist explore less intrusive options;

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2. Providing step by step guidance to CFS Specialists regarding necessary documentation and processes required to invoke court jurisdiction, and assisting with preparation of CFS Specialists to provide testimony;
  3. Assisting CFS Specialists to produce documentation and take responsibility to expedite the process;
  4. Consulting with attorneys representing the interests of DHHS;
  5. Advocating for the interests of DHHS; and
  6. Attending court proceedings with CFS Specialists.
- H. Supervisor role during Service Coordination: The role of the CFS Supervisor is to respond to and meet the needs identified by CFS Specialists. CFS Supervisors have a responsibility to ensure that the tools and resources necessary for the delivery of services to vulnerable adults are available and accessible to the CFS Specialist.

The CFS Supervisor's responsibilities during service coordination are to:

1. Provide support, consultation and assistance to the CFS Specialist during critical decision points;
  2. Provide, develop, and maintain a comprehensive knowledge base for consultation, education and support;
  3. Evaluate CFS Specialist's skill and implement training to enhance worker's skill;
  4. Intervene in Department, community or legal system to ensure outcomes of service coordination are achieved;
  5. Support, facilitate, or develop the use of collaboration to enhance quality service delivery; and
  6. Identify and assist in removing barriers to service delivery.
- I. Weekly Supervision: The supervisor provides oversight and clinical guidance during the assessment and service coordination processes, and consults on critical case decisions. The goal of this oversight is to ensure high quality service for clients, through compliance with CFS Specialists standards, and consistency with program philosophy and service coordination principles.

To provide quality support and assistance to staff, weekly supervision sessions with individual CFS Specialists will be held. Supervision should be provided as outlined below:

1. Formal supervision/staff should occur at least weekly either by phone, webcam, or in person;
2. In-person supervision should occur at least once a month;
3. The primary focus of supervisory meetings should be to review the overall status of a CFS Specialist's caseload, to discuss specific cases and to provide direction. Other issues, such as training needs, should periodically be incorporated into these meetings;
4. During case discussions, the supervisor should ask probing questions to ensure that all relevant case issues are completely explored and addressed;
5. Daily supervision may be necessary for supervisors to follow-up with CFS Specialists on specific cases or certain aspects of cases in between these scheduled times. The extent and frequency of this follow-up will vary, and should be determined based on CFS Specialist experience and skill, complexity of the cases and severity of risk or potential risk to affected elders;

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6. It is critical that supervisors are available to their CFS Specialists for additional direction or consultation, especially during a crisis situation; and
  7. When appropriate, the supervisor should accompany the CFS Specialist on visits, assist with collateral telephone calls, and guide the CFS Specialist through legal proceedings.
- J. Supervisory responsibility at case closure following service coordination: When the supervisor approves a case closure, the CFS Supervisor is indicating agreement with the CFS Specialist that the client is not in a state of abuse, neglect, or exploitation and/or the client is choosing to discontinue services.

Supervisors will reject closure of a case if the client exhibits needs related to abuse, neglect, or exploitation. Supervisors may also reject a case closure for other reasons.

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## Chapter 11.A Critical Incident Reports

- A. Children and Family Service (CFS) Specialists will immediately report by phone and e-mail Critical Incidents involving vulnerable adults to their supervisors immediately, but no later than one hour after learning of the incident utilizing the Critical Incident Reporting form. The supervisor will immediately report via e-mail to **all** of the following individuals:
1. Service Area Administrator
  2. CFS Administrator
  3. CFS Director
  4. CFS Deputy Director
  5. Legal Services Chief Administrator
  6. Communications and Legislative Services Administrator
  7. Field Operations Administrator
  8. DHHS Chief Executive Officer (CEO)

- B. The term Critical Incident includes, but is not limited to:

1. Death of a Vulnerable Adult Resulting from Abuse or Neglect:
  - a. Abuse or neglect is a possible cause or contributing factor of a vulnerable adult death, or in any case of unexpected vulnerable adult death where there is not a clearly identified medical cause such as an illness, a trauma event such as a motor vehicle accident, or something similar;
2. Near Fatality:
  - a. Life threatening condition or serious injury of a vulnerable adult resulting from abuse or neglect;
3. Death or near death of a Vulnerable Adult with whom DHHS is working:
  - a. By other means, accidental or non-accidental (includes suicides and attempted suicides);
4. Allegations or arrests of a Vulnerable Adult with whom DHHS is working:
  - a. Allegations or arrests for serious illegal/criminal activity (i.e. homicide; manslaughter; aggravated or armed robbery, etc.)
5. High Profile:
  - a. Any other event that is highly concerning, poses potential liability, or is of emerging public interest such as contacts involving the news media; or
6. Any other incident designated by the Director.

This listing is not exhaustive and is meant to be used as a minimum guide. There may be situations other than the ones listed above that should be communicated with administration. If there is any question about an incident and whether or not it should be reported, please consult with a supervisor or local Protection and Safety Administrator.

- C. Communications and Legislative Services staff is the primary contact with news media regarding **any** Critical Incident. Any news media inquiry about a Critical Incident should be immediately referred to the Communications and Legislative Services Division of DHHS.
- D. Critical Incident reports are filed in the Appendix of the paper file.
- E. Documentation of a Critical Incident:

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1. Critical incidents shall be documented on the designated Adult Protective Services Critical Incident Reporting Form.
2. All applicable sections of the form shall be filled out with appropriate information.
  - a. Section A: Report Information
    1. This section shall include all pertinent information regarding the report
  - b. Section B: Type of Critical Incident
    1. Select the appropriate type of Incident based on known information.
    2. Utilize the definitions found in this part B of this policy.
  - c. Section C: Incident Report Information
    1. This section shall include all pertinent information about the report of the incident.
  - d. Section D: Adults Involved
    1. This section shall include information about the adults involved in the case at the time of the incident including prior intakes/DHHS history if pertinent.
  - e. Section E: Circumstances
    1. This section shall include the following information:
      - a. Written detail of the incident including the vulnerable adult's well-being (physical, mental, and emotional condition)
      - b. The current intake # (if applicable)
      - c. The current allegations (if applicable)
      - d. Current services being provided to the victim (if applicable)
  - f. Section F: Alleged Perpetrator(s)
    1. This section shall include the names and other pertinent information regarding the alleged perpetrator(s) (if applicable)
  - g. Section G: Legal Guardian
    1. This section shall include the name and other pertinent information regarding the victim's legal guardian (if applicable)
  - h. Section H: Adult's Residence at Time of Incident
    1. This section shall include pertinent information regarding the victim's residence at the time of the incident and following the incident.
    2. This shall also include information about any other agencies working with the adult at the time of the incident (if applicable).
  - i. Sections I and J: Notifications Made
    1. This section shall include information about any notifications made to appropriate people either in person or via email.

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## Chapter 12.A Funding for APS Services

### A. Purchased Services:

1. When providing protective services to adults, purchased service components may be provided, within limits, without regard to income, in order to stabilize the situation of an adult and provide the needed protection.
2. Adult Protective Service funds may be used to purchase goods or services necessary to reduce or eliminate danger or substantial risk of danger to individuals receiving adult protective services. Case service funds are available to meet short-term needs and may not be used when other funding sources are available, unless services would be delayed.
3. Purchased services that are often identified for APS include home-based services, adult day services, home-delivered or congregate meals, emergency shelter, transportation, other emergency needs, and any other services to stabilize the situation and/or prevent institutionalization.
4. The vulnerable adult is responsible for the costs of providing adult protective services if it is determined that the vulnerable adult is financially capable of paying for the services, either through the vulnerable adult's own income or through benefits received as a result of enrollment in services for which the vulnerable adult is eligible.
  - a. The following is the order in which the Department will determine the funding source for the purchase of services or items that the vulnerable adult needs to prevent further abuse and promote self-care and independent living.
    - i. The vulnerable adult's personal resources;
    - ii. Community resources;
    - iii. Other programs available to the vulnerable adult;
    - iv. The Department may purchase services under the Social Services Block Grant for the vulnerable adult without regard to income (WI) on a time-limited basis (up to 60 days) if no other options exist and those services are necessary to safeguard the vulnerable adult.

### B. Supervisory Approval:

The CFS Specialist will make the request for funds to the CFS Supervisor.

### C. Documenting Use of APS Funds

1. The CFS Specialist will document the use of APS funds in N-FOCUS system as follows:
  - a. Authorized use of funds using the service referral; and
  - b. Verification that the client received purchased services is documented.
2. When the need for services has been established using the general criteria, the CFS Specialist, the vulnerable adult, and his or her legal representative (as appropriate), will jointly determine the appropriate outcome(s) toward which the adult is working. The CFS Specialist will document the outcome(s) and authorized services in the APS case file.

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## Chapter 13.A Statutory References

### A. ADULT PROTECTIVE SERVICES ACT

1. The Adult Protective Services Act can be found in Nebraska Revised Statutes §28-348 to 28-387.

### B. GUARDIANSHIPS AND CONSERVATORS

1. For purposes of the Adult Protective Services regarding guardianships and conservatorships, the definitions and terminology found in Nebraska Revised Statutes §30-2601 to 30-2602.02.

### C. MENTAL HEALTH COMMITMENT ACT

1. For purposes of the Adult Protective Services regarding the Nebraska Mental Health Commitment Act, the following definitions and terminology are found in Nebraska Revised Statutes §71-901 to 71-963.

### D. POWER OF ATTORNEY FOR HEALTHCARE

1. For purposes of the Adult Protective Services regulations regarding Power of Attorney for healthcare, the definitions and terminology found in Nebraska Revised Statutes §30-3402 to 30-3432.

### E. UNIFORM POWER OF ATTORNEY

1. For purposes of the Adult Protective Services regarding The Uniform Power of Attorney Act, the definitions and terminology are found in Nebraska Revised Statutes §30-4001 to 30-4045.
  - a. Statutory form power of attorney can be found in Nebraska Revised Statute Section §30-4041.

## **Chapter 2.A Definitions**

Abuse means any knowing or intentional act on the part of a caregiver or any other person which results in physical injury, unreasonable confinement, cruel punishment, sexual abuse, or sexual exploitation of a vulnerable adult.

Activities of daily living (ADL) means those activities needed for self-care, such as dressing, bathing, toileting, mobility, eating, and continence.

Administrator means the administrator or other chief administrative officer of a treatment facility or his or her designee.

Administrative hearing means a due process hearing that is held to appeal a decision made by a state agency.

Adult and Child Abuse and Neglect Hotline (Hotline) means the statewide, 24-hour, toll-free number maintained by the Department for the purpose of receiving reports of suspected abuse, neglect, or exploitation of vulnerable adults.

Adult Protective Services (APS) mean those services provided by the department for the prevention, correction, or discontinuance of abuse, neglect, or exploitation. Such services shall be those necessary and appropriate under the circumstances to protect an abused, neglected, or exploited vulnerable adult, ensure that the least restrictive alternative is provided, prevent further abuse, neglect, or exploitation, and promote self-care and independent living. Such services shall include, but not be limited to: (1) Receiving and investigating reports of alleged abuse, neglect, or exploitation; (2) developing social service plans; (3) arranging for the provision of services such as medical care, mental health care, legal services, fiscal management, housing, or home health care; (4) arranging for the provision of items such as food, clothing, or shelter; and (5) arranging or coordinating services for caregivers.

Adult Protective Services Central Registry (Registry) means the system used by the Department to record the names of persons who allegedly abused, neglected, or exploited a vulnerable adult that has been substantiated through investigation.

Affidavit means a written statement of facts or opinion based upon facts, signed in the presence of a notary public or a judge or other person having authority to administer oath.

Agent means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney in fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent's authority is delegated

Assistive Technology Device means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with developmental disabilities.

Attorney in fact means an adult properly designated and authorized to make health care decisions for a principal pursuant to a power of attorney for health care and shall include a successor attorney in fact.

Bilateral Bruises- Bruises on both sides of the body – for examples, on the top of both shoulders, both sides of the face or inside both thighs. These types of bruises are rarely obtained accidentally.

Capacity to Consent means the mental ability to make a rational decision including the ability to perceive, appreciate all relevant facts and to reach a rational judgment based upon such facts.

Caregiver shall mean any person or entity which has assumed the responsibility for the care of a vulnerable adult voluntarily, by express or implied contract, or by order of a court of competent jurisdiction.

Cognitively impaired means (a) to have reduced mental awareness and not be able to make correct judgments; (b) cognitive impairment or loss is a temporary or permanent change within the brain that affects a person's ability to think, reason, and learn, or a breakdown in a person's mental state that may affect his or her moods, fears, and anxieties

Collateral contact means conversations—by telephone, in-person or in writing—that the worker has with persons on behalf of the client. This includes any professional providing formal services (e.g., therapists, teachers) and others important to the client (e.g., neighbors, ministers).

Conservator means an individual or corporation appointed by a court to manage the estate, property, and/or other business affairs of an individual whom the court has determined is unable to do so for him/her.

Credible evidence means information worthy of belief by a reasonable person.

Cruel punishment shall mean punishment which intentionally causes physical injury to a vulnerable adult.

Decision-Making Capacity means a non-legal judgment of a person's ability to make decisions and to understand and communicate regarding the nature and consequences of decisions relating to the person and relating to the person's property and lifestyle, including a decision to accept or refuse services. This judgment is based on observable behavioral, cognitive, and emotional characteristics.

Dementia means (a) an irreversible condition in which a person experiences memory and other losses in mental function; (b) a progressive mental decline due to organic brain disease, causing structural changes within the brain. Diseases that cause dementia include Alzheimer's Disorder, brain injury, vascular dementia, Parkinson's disease, or Huntington's disease.

DHHS shall mean the Department of Health and Human Services.

Developmental Disability Developmental Disability is defined in the Developmental Disability Services Act as: Intellectual disability or a severe, chronic disability other than mental illness which is attributable to a mental or physical impairment that is manifested before the age of twenty-two year, is likely to continue indefinitely, and results in either 1) In the case of a person under three years of age, at least one developmental delay; or 2) In the case of a person three years of age or older, a substantial limitation in three or more of the following areas of major life activity, as appropriate for the person's age: Self-care; Receptive and expressive language development and use; Learning; Mobility; Self-direction; Capacity for independent living; and Economic self-sufficiency.

Durable with respect to a power of attorney, means not terminated by the principal's incapacity.

Emergency means a situation in which there is immediate threat to life, health, or property to the vulnerable adult which requires immediate or same day intervention.

Emergency protective custody (EPC) means that part of the mental health commitment act which permits law enforcement officers to take into custody a mentally ill dangerous person that is likely to harm his or herself or others before a mental health commitment hearing can be held.

Essential services shall mean those services necessary to safeguard the person or property of a vulnerable adult. Such services shall include, but not be limited to, sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for physical needs, and proper supervision.

Executive function means higher level mental processes (as opposed to simple acts like recalling an event) such as planning for the future, organizing, and shifting attention from one topic to another.

Ex-parte means a hearing in which the court hears only one side of the controversy, such as Emergency Guardian or Emergency Conservator or when a court orders involuntary adult protective services or placement under the Adult Protective Services Act.

Exploitation means the taking of property of a vulnerable adult by any person by means of undue influence, breach of a fiduciary relationship, deception, or extortion or by any unlawful means.

False imprisonment means knowingly restraining a person without legal authority; or restraining or abducting another person under terrorizing circumstances which expose the person to the risk of serious bodily injury; or with intent to hold him or her in a condition of involuntary servitude.

Fiduciary relationship means a relationship in which one person holds a position of trust with respect to another person including a personal representative, payee, guardian, conservator, or trustee without regard to the length of the relationship or task.

Functional loss means (a) when a person has trouble performing an everyday action or is not able to perform the action at all, even though he or she used to be able to do it; (b) also called functional impairment

Full guardianship means the guardian has been granted all powers which may be conferred upon a guardian by law

Grossly impaired ability to live independently or to provide self-care means an inability to consistently perform the range of practical daily living tasks or to obtain services required for basic adult functioning.

Grossly impaired behavior means a considerable inability to communicate, ambulate, to complete personal hygiene, to access food, clothing, and care and/or is in need of a high level of supervision to prevent harm to self or others.

Grossly impaired judgment means a considerable inability to make sound/safe decisions due to impairments such as perceiving reality, short-term memory, or the presence of hallucinations and/or delusions.

Guardian means the person appointed by the court for someone found by clear and convincing evidence to be incapacitated and require continuing care or supervision. Nebraska law allows for, and favors, the appointment of a limited guardian.

#### Types of Guardians

Full Guardian — a person appointed to make all decisions in all areas of a person's life, for example, for a minor child or a person with advanced Alzheimer's. If no Conservator is appointed, the Guardian has other specific responsibilities for the estate. See *Guardian/Conservator Financial Responsibilities*, NebGuide G1595.

Limited Guardian — a person appointed to make decisions in only those areas in which the Ward was found to be unable to handle his/her own affairs.

Emergency Temporary Guardian — if an individual is alleged to be incapacitated and an emergency exists, the court may appoint an emergency temporary Guardian to address the emergency.

Guardian ad litem means an attorney appointed by the court in guardianship hearings for the purpose of completing an investigation into the necessity of guardianship and to make recommendations to the court.

Health care shall mean any treatment, procedure, or intervention to diagnose, cure, care for, or treat the effects of disease, injury, and degenerative conditions.

Health care decision shall include consent, refusal of consent, or withdrawal of consent to health care. Health care decision shall not include (a) the withdrawal or withholding of routine care necessary to maintain patient comfort, (b) the withdrawal or withholding of the usual and typical provision of nutrition and hydration, or (c) the withdrawal or withholding of life-sustaining procedures or of artificially administered nutrition or hydration.

Hearing limitations means a person who is deaf or hard of hearing.

Imminent Danger means exposure to serious injury, pain, or death or significant harm or loss is likely to occur at any moment or is impending without intervention.

Incapable shall mean the inability to understand and appreciate the nature and consequences of health care decisions, including the benefits of, risks of, and alternatives to any proposed health care or the inability to communicate in any manner an informed health care decision.

Incapacity (with respect to Power of Attorney) means an inability of an individual to manage property or property affairs effectively because the individual

1. Has an impairment in the ability to receive and evaluate information or make or communicate responsible decisions even with the use of technological assistance for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or lack of discretion in managing benefits received from public funds; or

2. Is:
  - a) Missing;
  - b) Detained, including incarcerated in a penal system; or
  - c) Outside the United States and unable to return.

Incapacitated person means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning himself or herself.

Incest means any person who knowingly intermarries or engages in sexual penetration with any person who falls within the degrees of consanguinity set forth in Neb. Rev. Stat. 28-702. See Neb. Rev. Stat. 28-703. The degree of consanguinity includes acts between parents and children, grandparents and grandchildren or every degree, between brothers and sisters of the half as well as the whole blood, and between uncles and nieces, aunts and nephews and includes children and relations born out of wedlock.

Intellectual disability means a disability that occurs before age 18 and is characterized by significant limitations in intellectual functioning and adaptive behavior as expressed in conceptual, social and practical adaptive skills.

Instrumental activities of daily living (IADL) means those activities needed to support independent living, such as housekeeping, food preparation, use of the telephone, doing laundry, using public transportation, taking medicine, handling finances, shopping, mobility, and home maintenance.

Interested person means children, spouses, those persons who would be the heirs if the ward or person alleged to be incapacitated died without leaving a valid last will and testament who are adults and any trustee of any trust executed by the ward or person alleged to be incapacitated. The meaning of interested person as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding. If there are no persons identified as interested persons above, then interested person shall also include any person or entity named as a devisee in the most recently executed last will and testament of the ward or person alleged to be incapacitated; for purposes of article 26 of the Nebraska Probate Code.

Involuntary Adult Protective Services means those services as defined in Adult Protective Services which are court-ordered as a result of an ex-parte order under the Adult Protective Services Act.

Knowingly means that a person, with respect to information:

1. Has actual knowledge of such information;
2. Acts in deliberate ignorance of the truth or falsity of such information; or
3. Acts in reckless disregard of the truth or falsity of such information

Law enforcement agency means the police department or the town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol.

Least restrictive alternative shall mean adult protective services provided in a manner no more restrictive of a vulnerable adult's liberty and no more intrusive than necessary to achieve and ensure essential services.

Legal representative means a person lawfully vested with the power and charged with the duty of taking care of another person or with managing the property and rights of another person, including, but not limited to, a guardian, conservator, power of attorney, trustee or other duly appointed person.

Limited guardianship means any guardianship which is not a full guardianship.

Living independently shall include, but not be limited to, using the telephone, shopping, preparing food, housekeeping, and administering medications.

Long-term care Ombudsman means one that investigates and resolves complaints of residents or families of residents in long term care residential facilities.

Mild Cognitive Impairment means an intermediate stage between the expected cognitive decline of normal aging and the more serious decline of dementia. It can involve problems with memory, language, thinking and judgment that are greater than normal age-related changes.

Mental health commitment means the involuntary commitment of persons found, by a mental health board hearing and by clear and convincing evidence, to be mentally ill and to present a substantial risk of serious harm to another person or to themselves.

Mental health professional means a person licensed to practice medicine and surgery or psychology in this state under the Uniform Credentialing Act or an advanced practice registered nurse licensed under the Advanced Practice Registered Nurse Practice Act who has proof of current certification in a psychiatric or mental health specialty.

Mentally ill means having a psychiatric disorder that involves a severe or substantial impairment of a person's thought processes, sensory input, mood balance, memory, or ability to reason which substantially interferes with such person's ability to meet the ordinary demands of living or interferes with the safety or well-being of others.

Mentally ill and dangerous person means a person who is mentally ill or substance dependent and because of such mental illness or substance dependence presents:

1. A substantial risk of serious harm to another person or persons within the near future as manifested by evidence of recent violent acts or threats of violence or by placing others in reasonable fear of such harm; or
2. A substantial risk of serious harm to himself or herself within the near future as manifested by evidence of recent attempts at, or threats of, suicide or serious bodily harm or evidence of inability to provide for his or her basic human needs, including food, clothing, shelter, essential medical care, or personal safety.

Mobility limitations means a person who requires supervision of or assistance with mobility, who is chair bound or bedbound, or while still independently mobile, demonstrates an unsteady gait or difficulty in walking.

Mood Disorders means a person that experiences disorders such as Bipolar disorder or Major Depressive disorder. Symptoms include severe sadness, weight loss, fatigue, lack of interest, diminished ability to think, or extreme changes in mood, thoughts, behaviors, and energy level.

Neglect means any knowing or intentional act or omission on the part of a caregiver to provide essential services or the failure of a vulnerable adult, due to physical or mental impairments, to

perform self-care or obtain essential services to such an extent that there is actual physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death.

Outpatient treatment means treatment ordered by a mental health board directing a subject to comply with specified outpatient treatment requirements, including, but not limited to, (1) taking prescribed medication, (2) reporting to a mental health professional or treatment facility for treatment or for monitoring of the subject's condition, or (3) participating in individual or group therapy or educational, rehabilitation, residential, or vocational programs.

Payee:

Protective payee means an individual assigned by the Health and Human Services System (HHSS) to receive public assistance payments on behalf of another person.

Representative payee means an individual appointed by the Social Security Administration (SSA) to receive and manage benefits administered through SSA.

Permit means to allow a vulnerable adult over whom one has a proximate or direct degree of control to perform an act or acts or be in a situation which the controlling person could have prevented by the reasonable exercise of such control.

Petition means a written request filed with a court asking that it take action in a particular case.

Physical injury means damage to bodily tissue caused by nontherapeutic conduct, including, but not limited to, fractures, bruises, lacerations, internal injuries, or dislocations, and shall include, but not be limited to, physical pain, illness, or impairment of physical function.

Power of attorney means writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used. A power of attorney created after January 1, 2013, under the Nebraska Uniform Power of Attorney Act is durable unless it expressly provides that it is terminated by the incapacity of the principal.

Power of attorney for health care shall mean a power of attorney executed which authorizes a designated attorney in fact to make health care decisions for the principal when the principal is incapable.

Principal means an adult who, when competent, confers upon another adult a power of attorney for health care or a power of attorney or a durable power of attorney.

Preponderance of evidence means the greater weight of the evidence is present in order to substantiate case. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.

Proper supervision means care and control of a vulnerable adult which a reasonable and prudent person would exercise under similar facts and circumstances.

Property means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest or right therein.

Protected Health Information (PHI) means any health information, including demographic information collected from an individual, that is created or received by a Health Care Provider, Health Plan, or Health Care Clearinghouse, and that relates to the individual's past, present, or future physical or mental health or condition, or the provision of or payment for that individual's health care, and that permits the identification of the individual or could reasonably be used, alone or in combination with other available information, to identify the individual.

Physical limitations means a person who has a condition that substantially impairs one or more basic physical activities such as walking, climbing stairs, reaching, lifting, or carrying.

Protected person means a minor or other person for whom a conservator has been appointed or other protective order has been made.

Protective proceeding means a *proceeding* to determine that a person cannot effectively manage or apply his or her estate to necessary ends, either because the person lacks the ability or is otherwise inconvenienced, or because the person is a minor, and to secure administration of the person's estate by a conservator or other appropriate relief.

Psychotic or thought disorders means a person that experiences disorders such as Schizophrenia, Delusional Disorder, or Brief Psychotic Disorder who has impaired thought processing or thought content. Symptoms include hallucinations, delusions, inability to analyze thoughts rationally, and flight of ideas.

Regional center means a state hospital for the mentally ill.

Report means any telephone call, personal contact, fax, email, or letter by an individual or entity to the Adult and Child Abuse and Neglect Hotline alleging abuse, neglect and exploitation of a vulnerable adult. (May also be referred to as an Intake).

Reporting Party means the person who submits information of abuse, neglect, or exploitation to the Hotline or law enforcement.

Representative Payee means an individual appointed by a government agency to receive funds on behalf of a beneficiary who is unable to manage his/her own finances.

Self-care shall include, but not be limited to, personal hygiene, eating, and dressing.

Self-neglect means that as a result of an adult's inability, due to physical and/or mental impairments or diminished capacity, s/he is unable to perform essential self-care tasks or obtain essential services to such an extent that there is actual physical injury or imminent danger of physical injury or death.

Severe cognitive impairment means clinically significant difficulties in the ability to remember, think, perceive, apply sound judgment, and adequately use deductive reasoning not attributable to a mental illness.

Sexual abuse includes sexual assault as described in section 28-319 or 28-320 and incest as described in section 28-703.

Sexual Assault means any person who subjects another person to sexual penetration or sexual contact (a) without the consent of the victim, (b) who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct.

Sexual exploitation includes, but is not limited to, unlawful intrusion as described in section 28-311.08 and causing, allowing, permitting, inflicting, or encouraging a vulnerable adult to engage in voyeurism, in exhibitionism, in prostitution, or in the lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult.

Speech limitations mean a person who has a condition that substantially impairs his or her ability to speak.

Substantial functional impairment means a substantial incapability, because of physical limitations, of living independently or providing self-care as determined through observation, diagnosis, investigation, or evaluation.

Substantial mental impairment shall mean a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or ability to live independently or provide self-care as revealed by observation, diagnosis, investigation, or evaluation.

Sun downing means agitated or confused behavior that occurs in the late afternoon or evening; most often seen in patients with dementia

Terminal condition shall mean an incurable and irreversible medical condition caused by injury, disease, or physical illness which, to a reasonable degree of medical certainty, will result in death regardless of the continued application of medical treatment including life-sustaining procedures.

Temporary guardian means a court or an individual appointed by the court in emergency situations. The court must specify the powers and duties of the temporary guardian in the letters of guardianship and will limit the powers and duties to those necessary to address the emergency. Temporary guardianship letters are effective for up to 90 days at which time a hearing must be held to establish a permanent guardian, if necessary.

Treatment means the support and services which will assist a subject to acquire the skills and behaviors needed to function in society so that the subject does not pose a threat of harm to others and is able to cope with his or her personal needs and the demands of his or her environment.

Undue Influence means when a person uses their role, relationship, or power to exploit or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or uses the person's role, relationship, or power to gain control deceptively over the decision making of the vulnerable adult.

Unlawful Intrusion means when any person knowingly intrudes upon any other person without his or her consent or knowledge in a place of solitude or seclusion by viewing or recording, either by video, audio, or other electronic means, of a person in a state of undress and have a reasonable expectation of privacy, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room.

Unreasonable confinement means confinement which intentionally causes physical injury to a vulnerable adult or false imprisonment as described in section 28-314 or 28-315.

Visual limitations mean a person who is blind or has impaired vision.

Vulnerable adult shall mean any person eighteen years of age or older who has a substantial mental or functional impairment or for whom a guardian has been appointed under the Nebraska Probate Code.

Ward means a person for whom a guardian has been appointed. A minor ward is a minor for whom a guardian has been appointed solely because of minority.

## **Chapter 2.B Common APS Medical Abbreviations and Acronyms**

Keep this hand out in your field book – there is room to add additional words.

/c – with

/s – without

### **A:)**

**AD** – Alzheimer’s disease

**ADD** – Attention deficit disorder

**ADA** – Americans with Disabilities Act

**ADL** – Activities of Daily Living

**AIDS** – Acquired Immune Deficiency Syndrome

**ALS** – Amyotrophic Lateral Sclerosis

**AMA** – Against medical advice

**ASHD** – Arteriosclerotic Heart Disease

### **B:)**

**BP** – Blood pressure

**bid/b.i.d** – twice daily/two times a day

**bx** - behavior

### **C:)**

**CA** – Cancer

**CAD** – Coronary Artery Disease

**CCP** – Comprehensive Care Plan

**CNA** – Certified Nursing Assistant

**CHF** – Congestive Heart Failure

**COPD** – Chronic Obstructive Pulmonary Disease

**CVA** – Cerebrovascular Accident (stroke)

### **D:)**

**DJD** – Degenerative Joint Disease

**DM** – Diabetes Mellitus

**DNR** – Do Not Resuscitate

**DOB** – Date of Birth

**DPOA/HC** – Durable Power of Attorney/Health Care

**DSG** – Dressing

**DX or dx** – diagnosed/diagnosis

### **E:)**

**EHR** – electronic health record

**EMT** – Emergency Medical Team

**ESRD/ERD** – Endstage Renal disease

**ETOH** – Alcohol

### **F:)**

**G:)**

**GI** – Gastrointestinal  
**GP** – General Practitioner  
**GSW** – Gun Shot Wound  
**GYN** – Gynecology

**H:)**

**HBP** – High Blood Pressure  
**HH** – Home Health  
**HHA** – Home Health Agency  
**HIPAA** – Health Insurance Portability and Accountability Act  
**HIV** – Human Immune Virus  
**HOH** – Hard of Hearing  
**HS** – hour of sleep or bedtime  
**HTN** – Hypertension (High Blood Pressure)  
**HV** – Home Visit  
**Hx** – History

**I:)**

**ICF/DD** - Intermediate Care Facility/Developmental Disabled  
(formerly ICF/MR – ICF/Mentally Retarded)  
**IDDM** – Insulin Dependent Diabetes Mellitus  
**IDP or IDN** – Interdisciplinary Note or Interdisciplinary progress note  
**IM** – Intramuscular  
**IV** – Intravenous  
**IR** – Incident Report  
**IQ**- Intelligence Quotient

**L:)**

**L** – Left  
**LTC** – Long-term Care

**M:)**

**MAR** – Medication Administration record  
**MA** – Medication Aide  
**meds** – medications  
**MDS** – Minimum Data Set (a comprehensive assessment tool used for care planning)  
**MH** – Mental Health  
**MI** – Myocardial Infarction  
**MMSE** – Mini Mental Status Exam  
**MOCA** – Montreal Cognitive Assessment  
**MR** – Mentally Retarded  
**MS** – Multiple Sclerosis  
**MVA** – Motor Vehicle Accident

**N:)**

**NA** – nurse aide or assistant (Nebraska does not certify nurse aides so the CNA is not always used)

**n/a** – not applicable

**NF** – Nursing Facility (only certified for Medicaid)

**NIDDM** – Non-Insulin Dependent Diabetes Mellitus

**NOS** – Not otherwise specified

**nv** – non-verbal

**O:)**

**O2** – Oxygen

**OT** –Occupational Therapy/Occupational Therapist

**P:)**

**PA** – Physician’s Assistant

**Para** – Paraplegia

**PCP** – Primary Care Provider

**POA** – Power of Attorney

**PRN** – as needed

**PS or DU** – pressure sore or decubitus ulcer

**Psy** – Psychiatric

**PT** – Physical Therapy/Physical Therapist

**PTSD** – Post Traumatic Stress Disorder

**PUD** – Peptic Ulcer Disease

**PVD** –Peripheral Vascular Disease

**Q:)**

**Q** – Every

**QD** – Everyday

**QH** – Every Hour

**QHS** – Every Night

**QID** – Four times a day

**QOD** – Every other day

**Quad** – Quadriplegia

**R:)**

**R** – Right

**RC** – Regional Center

**RCF** – Residential Care Facility

**RCH** – Residential Care Home

**RCU** – Restorative Care Unit

**RN** – Registered Nurse

**Rx** – Prescription

**RO** – Restraining Order

**ROM** – Range of Motion

**RP** – Reporting Party

**r/o** – rule out

**S:)**

**SA** – Substance Abuse

**SC** – Subcutaneous

**SED** – Severely Emotionally Disturbed

**SI** – Suicidal Ideation

**SNF** – Skilled Nursing Facility (only certified for Medicare)

**SOB** – Shortness of Breath

**SOC** – Share of Cost

**Subq** – subcutaneous

**ST** – Speech Therapy/Speech Therapist

**SW** – Social Worker

**T:)**

**TAR** – Treatment Record

**TIA** – Transient Ischemic Attack

**TID or t.i.d.** – 3 times a day

**Thx** – Therapy/Therapist

**Tx** – Treatment

**U:)**

**UTI** – Urinary Tract Infection

**unk** – unknown

**V:)**

**VNA** – Visiting Nurses Association

**W:)**

**w/** - with

**W/C** – wheel chair

**w/out** – without

**Y:) yo** – year old

This document was updated by NE APS from the one created by the APS Training Project - Bay Area Academy/SFSU for the APS Case Documentation & Report Writing training – June 2008.

## **Chapter 2.C Common Non-Medical APS Abbreviations and Acronyms**

Keep this hand out in your field book – there is room to add additional words.

### **A:)**

**AAA** – Area Agency on Aging  
**ADA** – Americans with Disabilities Act  
**ADC** – Adult Day Care  
**ADHC** – Adult Day Health Care  
**ADL** – Activities of Daily Living  
**ALANON** – Alcoholics Anonymous Support for Families/Friends  
**AP** – Alleged perpetrator  
**Approx.** – Approximately  
**APS** – Adult Protective Services

### **B:)**

**B&C** – Board & Care  
**BDI** – Beck Depression Instrument

### **C:)**

**CA** – County Attorney  
**CCL** – Community Care Licensing  
**CG** – Care Giver  
**CL** – client  
**CM** – case manager/case management

### **D:)**

**d/c** – discontinued  
**DD** – Developmentally Disabled  
**DIL** – Daughter-in-law  
**DOB** – Date of Birth  
**DPOA/HC** – Durable Power of Attorney/Health Care  
**DTR** – Daughter  
**DV** – Domestic Violence

### **E:)**

**ETOH** – Alcohol

### **F:)**

**FA** - Father  
**FD** – Fire Department  
**f/f** – face to face **f/u** – follow up

### **G:)**

**GDS** – Geriatric Depression Scale  
**GRDDTR** – granddaughter

**GRDS** – grandson

**H:)**

**HA** – Housing Authority

**HIPAA** – Health Insurance Portability and Accountability Act **HIV** – Human Immune Virus

**HUSB** – Husband

**HV** – Home Visit

**H&W** – Health & Welfare

**Hx** – History

**I:)**

**IADL** – Instrumental Activity of Daily Living

**IHS** – Indian Health Service

**ILP** – Independent Living Program

**I&R** – Information and Referral

**IQ**- Intelligence Quotient

**INCL** – Include/Including/Inclusive

**INFO** – Information

**L:)**

**L** – Left

**LRC** – **Lincoln** Regional Center

**LTC** – Long-term Care

**M:)**

**MCT** – Mobil Crisis Team

**MDT** – Multi Disciplinary Team

**meds** – medications

**MH** – Mental Health

**MOCA** – Montreal Cognitive Assessment

**MOW** – Meals-on-Wheels

**MVA** – Motor Vehicle Accident

**N:)**

**n/a** – not applicable

**NOS** – Not otherwise specified

**nv** – non-verbal

**O:)**

**P:)**

**POA** – Power of Attorney

**Q:)**

**R:)**

**R** – Right

**RO** – Restraining Order

**r/o** – rule out

**S:)**

**SAMSHA** – Substance Abuse and mental Health Services Administration

**SNF** – Skilled Nursing Facility

**SOC** – Share of Cost

**SRO** – Single Room Occupancy (Hotel)

**SSA** – Social Security Administration

**SSI** – Social Security Supplement Income

**T:)**

**t/c** – Telephone call

**U:)**

**unk** – unknown

**V:)**

**VA** – Veterans Administration

**VNA** – Visiting Nurses Association

**W:)**

**w/** - with

**w/out** – without

**Y:)**

**yo** – year old

This document was adapted (2013) from the document created by the APS Training Project - Bay Area Academy/SFSU for the APS Case Documentation & Report Writing training – June 2008.

### Chapter 3.A Confidentiality and Disclosure of Information

- A. With the exception of those instances described below, all information regarding vulnerable adults served by the APS Program is confidential. This section assures their rights of privacy are respected. Any time there is confusion about releasing information or when a subpoena is received by a local office requesting access to APS records, the CFS Specialist will contact the CFS Supervisor and/or Legal Services staff for direction.
- B. Registry Information:  
Any requests for information regarding information contained on the registry must be forwarded to Central Office.

Request for information from the registry by the person who allegedly abused, neglected, or exploited a vulnerable adult: See Central Registry Section 463 NAC 1-003.06

- C. Persons or Agencies Allowed Access to Records:  
The Department will allow access to Adult Protective Services records to any person legally authorized under Nebraska law.

Persons, officials, and agencies having access to such records include but are not limited to:

1. A law enforcement agency investigating a report of known or suspected abuse;
2. A county attorney in preparation of an abuse petition;
3. A physician who has before him/her a person whom s/he reasonably suspects may be abused;
4. An agency having the legal responsibility or authorization to care for, treat, or supervise an abused vulnerable adult;
5. Defense counsel in preparation of the defense of a person charged with abuse;
6. Any person engaged in bona fide research or auditing, except that no information identifying the subjects of the report is made available to the researcher or auditor;
7. The designated protection and advocacy system authorized pursuant to federal law and when acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness; and
8. For purposes of licensing providers of child care programs, the Department of Health and Human Services Regulation and Licensure.  
(See Neb Rev. Stat. § 28-377)

- D. The CFS Specialist will not release data that would be harmful or detrimental to the vulnerable adult or that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction.
- E. The CFS Specialist may release information necessary for the protection of a vulnerable adult to a Guardian Ad Litem for a vulnerable adult or a court appointed visitor in furtherance of purposes directly related to the Adult Protective Services Act.
- F. Format of Request: The request must be submitted using the Department approved form and must describe with sufficient detail regarding the information sought.

G. Request by or on Behalf of Vulnerable Adult:

1. If the vulnerable adult or guardian requests protected health information to be shared with a third party, a signed Authorization for the Disclosure of Protected Health Information is required to release information.

<http://dhhsemployees/sites/Is/HIPAA/Compliance%20Tools/Forms/AllItems.aspx>

2. If the vulnerable adult or guardian requests other information to be shared with a third party, a signed Authorization to Release Information.  
See Form ASD-46
3. The CFS Specialist will not release data that would be harmful or detrimental to the vulnerable adult or that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction.

H. Upon request, a vulnerable adult who is the subject of a report or the guardian of the vulnerable adult is entitled to receive a copy of all information contained in the registry and the documents produced by DHHS pertaining to his or her case. Material includes electronic case file information. The case file materials may be viewed during normal work hours within five business days of receipt of signed written request. The vulnerable adult may request that the information be mailed rather than instead of physically viewing the material. The information is mailed within five days of the request.

1. If the APS case is closed, then, the CFS Specialist requests that the person submit a signed, written request detailing specifically what information is being requested and submit to Central Office. Prior to the release of any information, the case file is reviewed as to what is prohibited and confidential.
2. If the APS case is open, the CFS Specialist will request a signed, notarized written request to examine the case file. The CFS Specialist requests that vulnerable adult specify what information is needed and for what timeframe. The CFS Specialist reviews the case file with the supervisor to determine what information is prohibited and confidential. Legal services are to be consulted if there are questions about what information may be released.
3. If the investigation is pending, the CFS Specialist will not release information.

I. Summary of Findings and Actions: Upon request, a physician or the person in charge of an institution, facility, or agency making a legally mandated report, must receive a written summary of the findings of and actions taken by the Department in response to such report.

The summary will contain the following:

1. The date of the report;
2. The name of the alleged victim;
3. The name of the alleged perpetrator;
4. The allegations; and
5. The findings.

If the report is substantiated, the summary may include the following:

1. Whether any services were offered and provided by the Department;

2. A description of practices that may have contributed to the abuse, neglect, or exploitation, if identified; and
  3. Recommendations of actions to prevent abuse, neglect, or exploitation and to respond to allegations of abuse, neglect, or exploitation.
- J. Information Sharing within the Department: The Division of Children and Family Services may share confidential information with other DHHS Divisions when necessary - See 465 NAC 2-005.02B for general rules regarding confidentiality and the administrative memo dated March 30, 2012 from CEO, Kerry Winterer.
- K. Prohibited information-  
The following is a list of prohibited or confidential information:
1. Information not produced by DHHS such as:
    - a) Medical records. Information is not released regarding the content of medical records. The CFS Specialist may inform the vulnerable adult where to obtain the medical records;
    - b) Copies of law enforcement reports;
  2. Information that would be detrimental or harmful to the client;
  3. Information from conversations between the CFS Specialist or Supervisor and the Legal Department; and
  4. The identity of the reporting party.
- L. Ombudsman (Neb Rev. Stat. § 81-8,245 Public Counsel; powers; enumerated)  
The Office of the Public Counsel (also known as the State Ombudsman's Office) is an independent complaint-handling office for the use of citizens who have complaints about the actions of administrative agencies of state government, that is, the bureaucracy of state government.
- By investigating and resolving citizens' complaints relating to the actions of state administrative agencies, the Ombudsman's Office seeks not only to provide administrative justice to citizens who have been wronged by state agencies, but also to promote accountability in public administration. Because the Ombudsman's Office is independent of the agencies that it investigates, it can be impartial in disputes between administrative agencies and citizens, and can promote reasonable and informal resolution of citizen grievances. This activity not only improves the relationship between citizens and their government, but it can also play an important role in holding powerful agencies accountable for their actions.
- The CFS Specialist may receive requests for information from the Office of the Public Counsel otherwise known as the Ombudsman's office. When this occurs, the CFS Specialist will contact their Supervisor who may consult with Legal. The CFS Specialist will forward all information in the case file to the Ombudsman's office, except Department attorney-client information. The CFS Specialist will document into N-FOCUS what information was released and when.
- M. Protection and Advocacy System: (See NE Rev. Statute §28-377 (7))  
The CFS Specialist may receive a request for information from the designated Protection and Advocacy which is Disability Rights Nebraska. Once a request is received, the CFS Specialist will submit the request to the Division of Legal and Regulatory Services.

Disability Rights Nebraska is independent of any public or private agency which provides treatment or services to people with disabilities.

N. Court Subpoenas:

Duties upon Receipt of Subpoena: When the CFS Specialist is served a subpoena; s/he must contact his/her supervisor. The supervisor will contact the Department's Legal and Regulatory Services for assistance.

# Adult Protective Services

## Chapter 4.A Intake

- A. DHHS has established criteria for determining when it is appropriate to intervene in the lives of vulnerable adults. Any level of intervention by the Department is intrusive because even minimal intervention invades the privacy of the individual. Adults have attained civil rights and those rights must be respected.
- B. The Department will utilize the APS Structured Decision Making (SDM) as the tool for screening reports of adult abuse, neglect, and exploitation.

Allegations which meet the definition of vulnerable adult abuse and/or neglect must be assigned for investigation. Intakes are assigned to a CFS Specialist who is available to respond and to coordinate the response with law enforcement per local area protocols.

- C. First Contact by Law Enforcement: There are two situations where law enforcement may make the first contact with the vulnerable adult and later provide a written report to DHHS. The CFS response to each report depends on the situation.
  - 1. Law enforcement is the first agency to receive a report of possible abuse or neglect and responds to protect the vulnerable adult. Law enforcement forwards the information to the hotline.
  - 2. The Child and Adult Abuse and Neglect hotline receives information from the reporting party and has determined an emergency response is required. Intake staff requests law enforcement to respond prior to closing the intake. Once information is received from law enforcement, the intake CFS Specialist makes a decision whether to accept for investigation.

These reports will be processed through the Hotline as new Intakes, and will be accepted for assessment if:

- a. The report meets screening criteria; or
  - b. The report indicates possible safety concerns that have not been addressed.
- D. In order to provide protection for the vulnerable adult and initiate the investigation immediately so as not to lose important information from witnesses or documents, when an intake is accepted for an Organization (ORG) related investigation and the reporting party is external to the Organization and there is an identified perpetrator, the following will occur:
    - a. The assigned CFS Specialist or On-Call CFS Specialist will review the intake and determine whether to involve law enforcement immediately for the preservation of evidence. If law enforcement requests the CFS Specialist wait to initiate the investigation, then the CFS Specialist will comply. If not, the CFS Specialist will contact the facility administrator or the person in charge within 24 hours to notify the facility administrator that an intake has been accepted for investigation and the CFS Specialist will begin to gather information for the investigation (i.e., how the ORG will provide safety for the alleged victim, request the alleged perpetrator not be allowed access to the vulnerable adults, or other information such as timecards
    - b. Calls received during normal business hours will be handled by the assigned CFS Specialist.
    - c. The Intake Unit will notify the on-call CFS specialist when calls are received after normal business hours, holidays and weekends.

# Adult Protective Services

Note: If the administrator or chief executive officer (CEO) is the alleged perpetrator, the investigator notifies either the Division that funds the program such as the Division of Developmental Disabilities, Home and Community Services (Medicaid), and/or the Licensure Unit.

- d. The following is a list of allegations and the preferred direction for the conversation between the CFS Specialist and the Administrator.

## **Sexual Abuse**

Determine whether:

- the alleged victim has an injury and its severity;
- the alleged victim has been seen by medical staff;
- injuries have been treated;
- a sexual assault exam was completed and by whom;
- the victim has showered; and
- the alleged victim needs accommodations in order to communicate with the investigator.

Direct the facility to:

- protect any physical evidence for APS or law enforcement, such as blood, clothes, or damage to the unit or room that was part of the incident;
- obtain photographs of any physical evidence that may not be available at the time of an on-site visit;
- re-assign the alleged perpetrator so he or she does not have alleged victim contact; and
- protect alleged victim and evidence, including taking appropriate steps to ensure alleged perpetrators and other witnesses do not discuss the investigation.

## **Physical Abuse or Neglect**

Determine whether:

- the alleged victim has an injury, and determine its severity;
- the alleged victim has been seen by medical staff;
- injuries have been treated; and
- the alleged victim needs accommodations in order to communicate with the investigator.

Direct the facility to:

- protect any physical evidence for APS or law enforcement, such as blood, clothes, or damage to the unit or room that was part of the incident;
- obtain photographs of any physical evidence that may not be available at the time of an on-site visit;
- re-assign the alleged perpetrator so he or she does not have alleged victim contact; and
- protect alleged victim and evidence, including taking appropriate steps to ensure alleged perpetrators and other witnesses do not discuss the investigation.

# Adult Protective Services

## **Exploitation**

Determine whether:

- the alleged victim has access to his or her own money or resources; and
- the alleged victim needs accommodations in order to communicate with the investigator.

Direct the facility to:

- re-assign the alleged perpetrator so he or she does not have alleged victim contact;
- notify any subcontractors; and
- protect alleged victim and evidence, including taking appropriate steps to ensure alleged perpetrators and other witnesses do not discuss the investigation.

- E. Intake: All reports of adult abuse and neglect are made to the DHHS Adult Abuse Hotline and assigned to the appropriate Tribe or DHHS Office.

Investigations:

1. The Omaha Tribe and Santee Sioux provide APS Services on their reservations.
2. The Ponca Tribe allows DHHS to provide APS services to their tribal members.
3. DHHS has entered into a Memorandum of Understanding with the Winnebago Tribe. DHHS APS in conjunction with Tribal CFS staff and tribal law enforcement, will conduct all investigations on the Winnebago reservation.

The Structured Decision Making<sup>®</sup> System  
for Adult Protective Services

# Intake Screening Policy and Procedures Manual

October 2012



Nebraska Department of Health and Human Services

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The National Council on Crime and Delinquency  
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**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
SDM<sup>®</sup> FOR APS INTAKE SCREENING**

**Intake Name:** \_\_\_\_\_

**Report Date:** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**Caregiver (if applicable):** \_\_\_\_\_

**Facility (if applicable):** \_\_\_\_\_

**Instructions:** In this section, determine if the report is subject to APS screening.

**REPORT TYPE**

- This is an APS information/referral report. **No screening required.**
- Courtesy interview requested by another APS agency. **No screening required.**

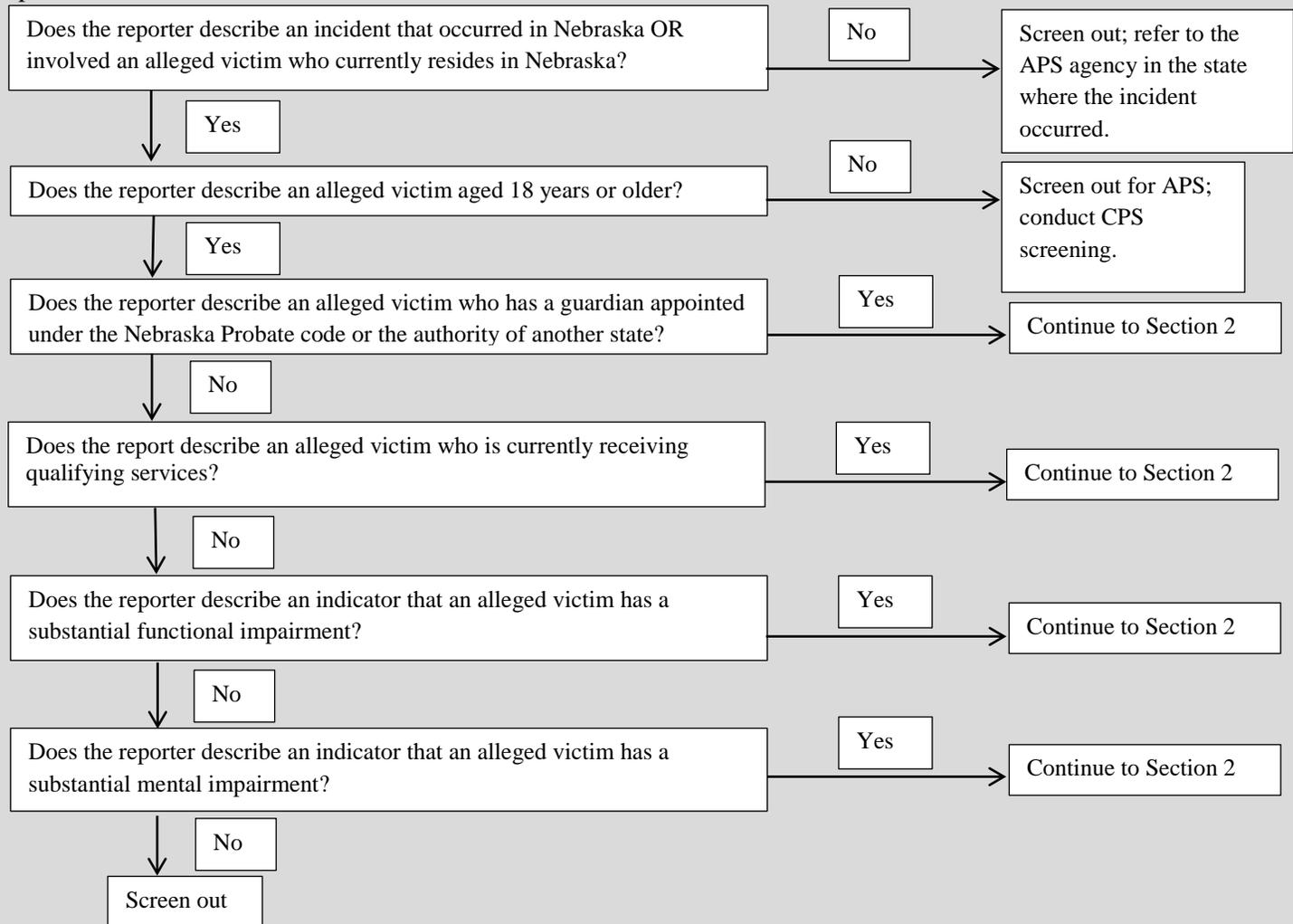
If this is not an APS information/referral report or a courtesy interview request, continue to complete the rest of the intake assessment.

**SPECIAL CONSIDERATION**

- The report involves a vulnerable adult who has a current open APS case. **Collateral contact required.**
- The report does not involve a vulnerable adult who has a current open APS case. No special consideration applies.

**SECTION 1: VULNERABLE ADULT STATUS**

Vulnerable adult status must be reassessed for each new report on an alleged victim. If a person was not previously identified as a vulnerable adult, his/her status may have changed in the interval between the previous and the current report.



**Instructions:** Information entered in this section will help you decide whether the report meets criteria requiring assessment, or if the report should not be accepted. Start by marking any allegations made by the reporter **that fit the definition** of an allegation listed in “Maltreatment Types.” If the reporter’s information does not fit the description of any of the maltreatment types below, mark “No Allegations Apply.” Then indicate the initial screening decision.

**SECTION 2: MALTREATMENT TYPES** (*Mark all that apply.*)

**Abuse**

- Physical abuse (including cruel punishment and other actions knowingly resulting in physical injury)
- Unreasonable confinement
- Methamphetamine exposure
- Sexual abuse
- Sexual exploitation

**Neglect by a Caregiver**

- Food
- Clothing/hygiene
- Shelter/environment
- Medical/behavioral health care
- Proper supervision/elopement

**Exploitation**

- Financial
- Property

**Self-Neglect**

- Food
- Clothing/hygiene
- Shelter/environment
- Medical/behavioral health care
- Lack of necessary supervision/wandering

- No Allegations Apply**

**SECTION 3: INITIAL SCREENING DECISION**

*Use the space below to mark the initial screening decision. If any allegations are marked above, select “Accept report.” If you marked “No Allegations Apply,” select “Do not accept report.”*

- Accept report: One or more allegation types are checked.
- Do not accept report: No allegations apply.

**Instructions:** If any overrides are present, mark them in Section 4. An overriding condition may be indicated in policy (i.e., one of the specific circumstances described below) or may be discretionary (i.e., at the worker's judgment, using information not considered elsewhere in the screening tool). If you exercise a discretionary override, you must indicate a reason and obtain the approval of your supervisor. Indicate the final screening decision, which is the initial screening decision from the previous section, changed (or not changed) by any overrides exercised.

#### **SECTION 4: CONSIDERATION OF OVERRIDES**

##### **Override to Accept Report:**

- Law enforcement/fire marshall/CFS administrator/county attorney/court order has requested investigation/self-neglect assessment.
- Discretionary override (requires supervisory approval). Reason: \_\_\_\_\_

##### **Override to Do Not Accept Report:**

- Insufficient information to locate vulnerable adult.
- Allegation already assessed or currently being assessed without new or additional information.  
**Communication with the current case manager is required if there is a current open assessment/investigation or case.**
- Collateral contacts indicate report is not credible.
- Discretionary override (requires hotline supervisory approval). Reason: \_\_\_\_\_
- No Overrides Apply.**

## SECTION 5: FINAL SCREENING DECISION

- Accept report.
  - Accept report for investigation.
  - Accept for self-neglect assessment—if the vulnerable adult is alleged to have self-neglected.
  - Accept for organization-related investigation—if a staff member in a group home or facility or a home health aide is the alleged perpetrator.
- Do not accept report.

### **If a report involves a child, consider a screening for CPS.**

- Screen report for CPS.
- Do not screen report for CPS.

## NOTIFICATION ANALYSIS

Regardless of the screening decision, some reports may require additional notifications (e.g., if a licensed organization, developmental disability organization, or other care entity is involved in the report; or if the alleged victim is part of a DDSC program case). Indicate if any additional notifications are required:

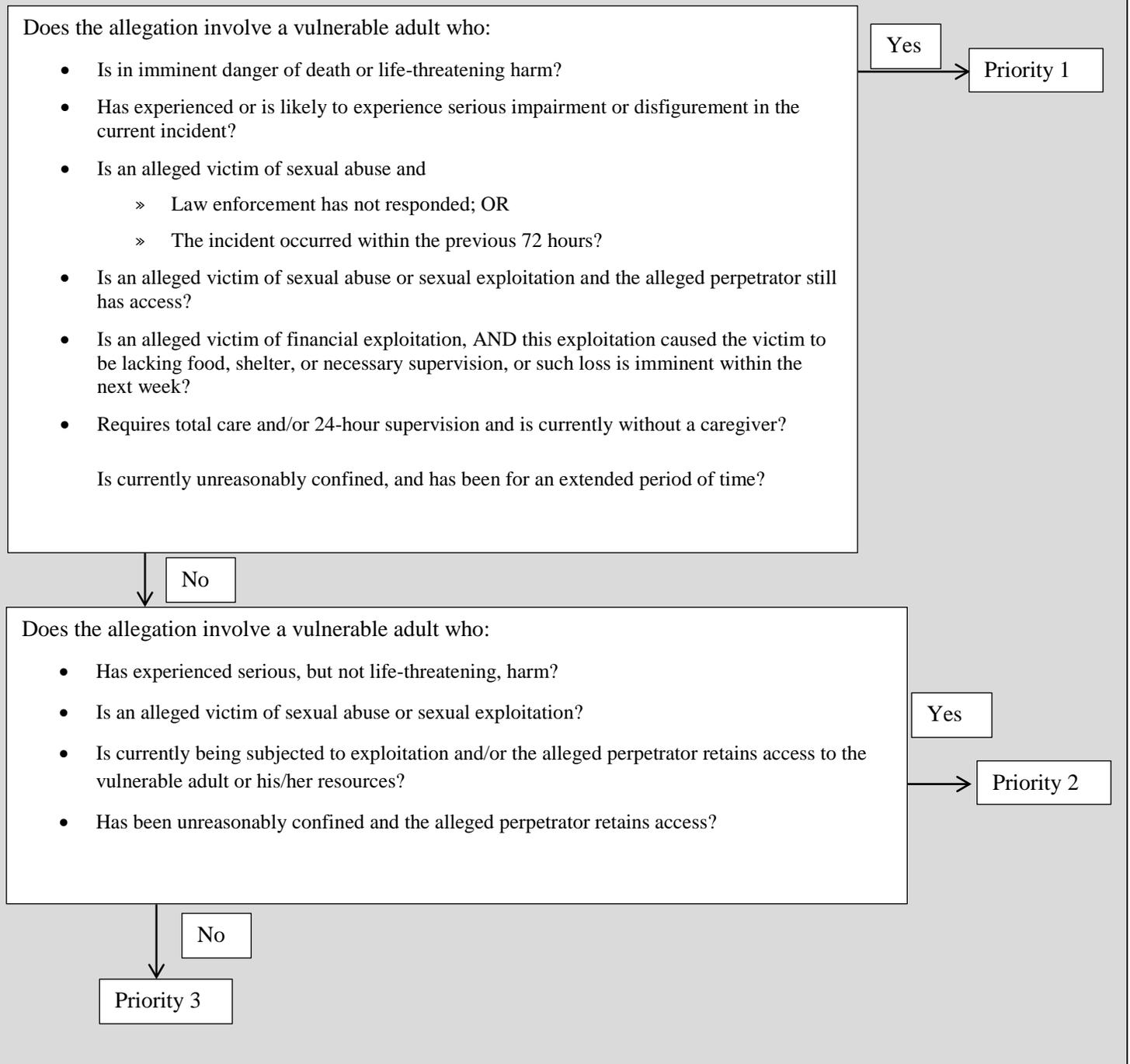
- Division of Developmental Disabilities
- Division of Public Health Licensure Unit—report concerns a licensed facility
- Nebraska Medicaid
- Medicaid Fraud and Patient Abuse Unit—report concerns a Medicaid provider
- Community referral
- Current worker
- Forward information to the APS agency of any other state involved in any allegation (e.g., exploitation allegation in which alleged perpetrator currently resides in another state)
- No additional notifications required

**If the final screening decision is “Do Not Accept Report,” the intake screening tool is complete.**

**If the final screening decision is “Accept Report,” continue to Section 6.**

**Instructions:** Complete the decision tree below for all reports accepted for investigation, including reports accepted using an override.

**SECTION 6: RESPONSE PRIORITY** (Required for accepted reports only)



**Instructions:** Indicate the initial response priority below. Then, indicate if any overrides will be used. Overrides may make the priority higher or lower, and may be indicated in policy (i.e., one of the specific circumstances described below) or may be discretionary (i.e., at the worker's judgment, using information not considered elsewhere in the decision tree). If you exercise a discretionary override, you must indicate a reason and obtain the approval of your supervisor. Indicate if the final response priority decision, which is the initial response priority, changed (or did not change) by any overrides exercised.

**Initial Response Priority** (*Indicate the fastest response priority from the decision tree above.*)

- Priority 1
- Priority 2
- Priority 3

## **SECTION 8: FINAL RESPONSE PRIORITY**

Override to a more urgent response:

- Law enforcement currently responding and requests immediate assistance.
- Discretionary override (requires supervisory approval). Reason: \_\_\_\_\_

Override to a less urgent response:

- Adult is in an alternative safe environment pending a Priority 2 or 3 response.
- Discretionary override (requires supervisory approval). Reason: \_\_\_\_\_

No overrides apply

### **Assigned Response Priority**

- Priority 1: Immediately, no later than eight hours from the time of the report; requires notification of law enforcement
- Priority 2: Within five working days of the report
- Priority 3: Within 10 working days of the report

Supervisory Approval: \_\_\_\_\_

Date: \_\_\_\_\_

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
SDM<sup>®</sup> FOR APS INTAKE SCREENING  
DEFINITIONS**

**REPORT TYPE**

**APS INFO/REFERRAL:**

Determine if screening is required. If the report is APS INFO/REFERRAL, no screening is required.

APS INFO/REFERRAL are reports in which the reporter does not intend to report an incident of maltreatment or self-neglect of a vulnerable adult and in which no allegation of maltreatment or self-neglect is made.

Mark APS INFO/REFERRAL when the report concerns resident-to-resident aggression in a residential setting or facility AND there is evidence the action was spontaneous or could not be anticipated. The alleged incident occurred in any health, mental health, or nursing facility and the alleged perpetrator and alleged victim are both residents of that facility AND there is reason to believe the facility took appropriate and reasonable action to prevent harm prior to this incident. If this incident is the first time a facility resident has engaged in violent or abusive behavior toward others OR if the facility took reasonable precautions to contain concerning behaviors prior to the incident (e.g., increased supervision, behavior modification plans, changing personal plans, moving rooms, medication changes), close as information only.

- Do not consider the facility to have taken reasonable action to prevent harm if multiple reports have been received concerning resident-to-resident aggression in the same facility. Continue to complete the rest of the assessment.
- Do not use if a serious injury (i.e., an injury requiring medical attention) has occurred. Continue to complete the rest of the assessment.

**VULNERABLE ADULT STATUS**

**Does the reporter describe an incident that occurred in Nebraska OR involving an alleged victim who currently resides in Nebraska?**

Mark “yes” if the allegation occurred in the state of Nebraska OR if the alleged victim is a current resident of Nebraska. Also include exploitation (financial and property) when the alleged victim resides in Nebraska, even if the alleged perpetrator resides elsewhere.

**Does the reporter describe an alleged victim aged 18 years or older?**

Mark “yes” if the alleged victim is an adult, defined as a person who has reached his/her 18th birthday. Mark “no” if the alleged victim is a state ward aged 18, **and** communicate with the current CPS case manager and DD service coordinator (if applicable).

**Does the reporter describe an alleged victim who has a guardian appointed under the Nebraska Probate code or the authority of another state?**

Mark “yes” if the alleged victim is a person for whom a guardian has been appointed under the Nebraska Probate Code (Neb. Rev. Stat. § 28-371). Also include persons with a guardian appointed by the authority of another state.

**Does the report describe an alleged victim who is currently receiving qualifying services?**

Mark “yes” if the alleged victim is currently ACTIVE in any of the following types of N-FOCUS program cases:

- AD – Waiver Aged and Disabled
- TBI – Waiver Traumatic Brain Injury
- Any DD program, including:
  - » DDSC – DD Service Coordination
  - » DDAID – DD State Aid
  - » DDAC – DD Adult Comp Waiver
  - » DDAD – DD Adult Day Waiver
  - » DDAR – DD Adult Resident Waiver
  - » DDCSA – DD Community Support Adult Waiver
  - » AUT – Waiver Autism

Also mark “yes” if the alleged victim is currently receiving care at the Beatrice State Developmental Center (BSDC), including the Bridges program. (The caller may know this information, or it may be recorded in the alleged victim’s N-FOCUS case in the case notes or indicated in the alleged victim’s address.)

**Does the reporter describe an indicator that an alleged victim has a substantial functional impairment?**

Mark “yes” if the alleged victim shows indications of a substantial incapability, due to physical limitations, of living independently or providing self-care as determined through observation, diagnosis, investigation, or evaluation (Neb. Rev. Stat. § 28 -368). Two conditions must be met to indicate vulnerability: The alleged victim must show indications of having a physical impairment, and this impairment must prevent independent living or provision of self-care. **At least one element from each column below must be present to mark this item.**

<p>Indications of physical impairment include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Hearing</li> <li>• Mobility</li> <li>• Any condition that impairs basic physical activities such as walking, climbing stairs, reaching, lifting, or carrying.</li> <li>• Speech</li> <li>• Visual</li> </ul>	<p>Self-care that may be prevented by this physical impairment include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Personal hygiene, eating, and dressing (Neb. Rev. Stat. § 28-366).</li> <li>• Activities necessary to support independent living (e.g., using the telephone, shopping, preparing food, housekeeping, self-administering medications, and managing money) (Neb. Rev. Stat. § 28-361).</li> </ul>
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**Does the reporter describe an indicator that an alleged victim has a substantial mental impairment?**

Mark “yes” if the alleged victim shows indications of a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or ability to live independently or provide self-care as revealed by observation, diagnosis, investigation, or evaluation (Neb. Rev. Stat. § 28-369).

Two conditions must be met to indicate vulnerability: The alleged victim must show indications of having substantial mental impairment, and this impairment must prevent independent living or provision of self-care. **At least one element from each column below must be present to mark this item.**

<p>Indications of substantial mental impairment include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Psychotic or thought disorders such as schizophrenia, delusional disorder, or brief psychotic disorder with impaired thought processing or thought content. Symptoms include hallucinations, delusions, and inability to analyze thoughts rationally.</li> <li>• Dementia characterized by short-term memory loss, impaired judgment, or intellectual impairment, including Alzheimer’s disorder or dementia-alcoholism type.</li> <li>• Mood disorders including bipolar disorder or major depressive disorder characterized by severe sadness; weight loss; fatigue; lack of interest; diminished ability to think; or extreme changes in mood, thoughts, behaviors, and/or energy level.</li> <li>• Substance abuse disorders characterized by chronic and long-term use of substances.</li> </ul>	<p>Self-care that may be prevented by this impairment include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Personal hygiene, eating, and dressing (Neb. Rev. Stat. § 28-366).</li> <li>• Activities necessary to support independent living (e.g., using the telephone, shopping, preparing food, housekeeping, self-administering medications, and managing money) (Neb. Rev. Stat. § 28-361).</li> </ul>
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**MALTREATMENT TYPES**

***Applying these definitions:***

*Do not screen out reports that meet any definition below because the reporter indicates the alleged victim may be unreliable due to mental impairment (e.g., dementia, mental health disorder) or the alleged victim’s inability to confirm abuse (e.g., non-verbal).*

Abuse means any knowing or intentional act on the part of a caregiver or any other person that results in physical injury, unreasonable confinement, cruel punishment, sexual abuse, or sexual exploitation of a vulnerable adult (Neb. Rev. Stat. § 28-351).

## **Abuse**

### **Physical Abuse**

Physical abuse includes cruel punishment and other knowing or intentional actions resulting in physical injury.

Physical injury shall mean damage caused by nontherapeutic conduct to bodily tissue including, but not limited to, fractures, bruises, lacerations, internal injuries, or dislocations; and shall include, but not be limited to, physical pain, illness, or impairment of physical function (Neb. Rev. Stat. § 28-363). Therapeutic contact includes both conventional medical intervention and alternative medicine and cultural practices (e.g., cupping and coining).

When determining if an action caused physical pain, consider whether the alleged victim gave any indication of pain (e.g., statement of pain, crying out, grimacing) and if a reasonable person would expect the action to result in pain (e.g., slapping, pushing into a wall, rough transferring). Include allegations of physical injury that resulted in the death of the alleged victim.

Cruel punishment is punishment that intentionally causes physical injury to a vulnerable adult (Neb. Rev. Stat. § 28-354). Cruel punishment shall include force-feeding or requiring the vulnerable adult to consume non-food items or inappropriate amounts of food, water, or non-food items; withholding of food, water, or required care; or use of sadistic measures or weapons with the intent to punish the vulnerable adult. Intent may be indicated by a knowing and purposeful action to cause harm or pain. Examples include, but are not limited to, striking a vulnerable adult in retaliation for the vulnerable adult's action or inaction, scapegoating a particular vulnerable adult and singling him/her out for physical harm, and habitual actions toward the vulnerable adult that cause or are likely to cause physical injury.

### **Unreasonable Confinement**

Unreasonable confinement shall mean confinement that intentionally causes physical injury to a vulnerable adult (Neb. Rev. Stat. § 28-370). Physical injury shall mean damage caused by nontherapeutic conduct to bodily tissue including, but not limited to, fractures, bruises, lacerations, internal injuries, or dislocations. Physical injury additionally includes, but is not limited to, physical pain, illness, or impairment of physical function (Neb. Rev. Stat. § 28-363). Unreasonable confinement includes, but is not limited to:

- The use of chemical or bodily restraints without a legal authority (e.g., under doctor's recommendation);
- Restraint for a reasonable period of time when the alleged victim is in immediate danger of harming self or others or outside of state/federal regulations;
- The improper use of medications resulting in a person becoming physically incapacitated or confined;
- False imprisonment, or knowingly restraining a person without legal authority;

- Restraining or abducting another person under terrorizing circumstances or under circumstances that expose the person to the risk of serious bodily injury;
- The intent to hold the vulnerable adult in a condition of involuntary servitude (including forcing a vulnerable adult to perform labor against his/her will) (Neb. Rev. Stat. § 28-314 to 28-315); and
- Any restraint or abduction of a vulnerable adult that presents a high risk of serious bodily injury.

### **Methamphetamine Exposure**

Any person has knowingly or intentionally caused or permitted a vulnerable adult to inhale, ingest, or have contact with:

- Methamphetamine;
- Any chemical intended for use in methamphetamine production; or
- Any object used or intended to be used in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body (Neb. Rev. Stat. § 28-457).

Exclude situations in which a vulnerable adult has been given medication that could be used in methamphetamine production under the advice of a medical professional.

### **Sexual Abuse**

Sexual abuse includes sexual assault, which means a vulnerable adult has been subjected to sexual penetration or sexual contact without his/her consent or when the alleged perpetrator knew or should have known the alleged victim was physically or mentally incapable of resisting or appraising the nature of his/her conduct (Neb. Rev. Stat. § 28-367, Neb. Rev. Stat. § 28-319 or 28320, and Neb. Rev. Stat. § 28-703). Examples of sexual abuse include, but are not limited to, fondling, sexual intercourse, and sexual stimulation (See Neb. Rev. Stat. Sections 28-317 to 28-321, 28-367, and 28-703).

Sexual abuse also includes incest, which mean intermarriage or sexual penetration between parents and children, grandparents and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, and between uncles and nieces, aunts and nephews (Neb. Rev. Stat. § 28-702).

When both parties involved have mental impairments, also consider if Neglect-Supervision (see Neglect) applies.

### **Sexual Exploitation**

Sexual exploitation includes any person causing, allowing, permitting, inflicting, or encouraging a vulnerable adult to engage in voyeurism, exhibitionism, or prostitution; or in the production or

distribution of lewd, obscene, or pornographic photographs, films, or other depictions (Neb. Rev. Stat. § 28-367.01).

Sexual exploitation also includes unlawful intrusion, which means any person knowingly intrudes upon any other person without his/her consent or knowledge in a place of solitude or seclusion by viewing or recording by video, audio, or other electronic means, a person in a state of undress in a place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, the person's home; and any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room (Neb. Rev. Stat. § 28-311.08).

### **Neglect**

Neglect means any knowing or intentional act or omission on the part of a caregiver to provide essential services to such an extent that there is actual physical injury or imminent danger of physical injury or death (Neb. Rev. Stat. § 28-311.08).

Imminent danger means exposure to serious injury, pain, death, significant harm, or loss is likely to occur and requires intervention to be avoided.

Essential services shall mean those services necessary to safeguard the person or property of a vulnerable adult. Such services shall include, but not be limited to, sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for physical needs, and proper supervision (Neb. Rev. Stat. § 28-357).

- Food. Lack of essential food or nutrition means the caregiver does not provide sufficient or appropriate food or withholds food from a vulnerable adult, **AND** this pattern is likely to result in physical injury to the vulnerable adult as evidenced by emaciation, malnutrition, dehydration, or weight loss. Include caregivers who do not provide food in adequate amounts, regular intervals, appropriate forms (e.g., pureed), and of sufficient nutritional value to sustain functioning, which results in injury or imminent danger of injury or death (e.g., malnutrition and dehydration).
- Clothing/hygiene. Failure to provide for physical hygiene means the caregiver does not provide care for the vulnerable adult's need for physical hygiene. This lack of hygiene is likely to result in serious risk to the physical health of the vulnerable adult as evidenced by severe rashes, ulcers, bedsores, tooth decay, avoidance by others, etc. Also include failure to provide clothing that is adequate to the weather conditions, resulting in severe sunburn, frostbite, etc.
- Shelter/environment. Lack of shelter means the caregiver does not provide shelter that is free from hazards, or the shelter provided jeopardizes the physical safety of the vulnerable adult. This may include but is not limited to:
  - » Situations where wiring is exposed;

- » Inadequate heat/cooling for the weather and vulnerable adult's needs;
- » Significant broken glass in the living area;
- » No access to water for drinking, cooking, or bathing;
- » Feces, urine, or rotting garbage in living areas;
- » No access to toilet facilities; and
- » Hoarding or infestations that result in illness or health or safety hazards, etc.

Include any situation in which the physical living conditions have resulted in physical injury or death.

- Medical/behavioral health care. Failure to provide treatment means the caregiver's pattern of refusing or failing to seek/obtain medical treatment or rehabilitative care for the vulnerable adult's conditions that have potentially injurious, life-threatening, or long-term health effects. Examples include failure to provide appropriate medication, medical or dental care, or speech or physical therapy; and failure to provide prescribed care for substance abuse and mental health issues when there is potential for lifelong negative impact. Include allegations that a facility has discharged a vulnerable adult due to unpaid bills when residence in the facility is essential to the care and/or safety of the vulnerable adult, and accidental injuries that result from the improper use of equipment or deviations from established care protocols.

If the reporter or caregiver suggests the caregiver is not providing treatment or rehabilitative care due to the caregiver's beliefs and disregards the vulnerable adult's direction, the report should be accepted if it meets the definition above.

If the reporter or caregiver suggests treatment or rehabilitative care is not being provided because the vulnerable adult is refusing due to his/her religious or cultural beliefs, the report should be accepted if it meets the definition above. The investigator will determine if the spiritual means for treatment are of a recognized church or religious denomination (Neb. Rev. Stat. § 28-383).

When the vulnerable adult retains capacity to make decisions regarding his/her care and refuses to comply with caregiver efforts to procure and provide care, consider Self-Neglect.

- Proper supervision/elopement. Proper supervision shall mean care and control of a vulnerable adult that a reasonable and prudent person would exercise under similar facts and circumstances (Neb. Rev. Stat. § 28-364). The caregiver fails to

provide supervision appropriate to the vulnerable adult's age, development, and the circumstances as evidenced by:

- » A vulnerable adult, unable to care for him/herself, is left alone;
- » A vulnerable adult has eloped from home or a facility and been injured or placed in imminent danger, or has eloped multiple times from the same living situation;
- » A facility has had multiple elopements;
- » Caregiver placed supervision responsibility with a person unwilling or incapable of providing for the vulnerable adult's basic or special needs;
- » Facilities have not appropriately supervised residents to the extent that residents of the facility are alleged perpetrators of serious harm to other residents;
- » Abandonment, meaning that a vulnerable adult is without an appropriate caregiver due to the act or decision of the responsible person not to care for the vulnerable adult; or
- » Caregiver cannot or will not provide supervision due to substance abuse, mental illness, or other behaviors.

If a caregiver uses physical force while supervising a vulnerable adult that does not result in injury, but may reasonably be expected to result in injury, this is also considered lack of proper supervision. (If injury does occur, consider one of the allegations under physical abuse.)

### **Exploitation**

Exploitation means the taking of property of a vulnerable adult by any person through undue influence, breach of a fiduciary relationship, deception, extortion, or by any unlawful means (Neb. Rev. Stat. § 28-358). Fiduciary relationship means a legal relationship in which one person holds a position of trust with respect to another person, including a personal representative, payee, guardian, conservator, or trustee without regard to the length of the relationship or task.

### **Financial Exploitation**

Any person has taken the financial assets of a vulnerable adult through undue influence, breach of a fiduciary relationship, deception, extortion, or any unlawful means. The allegation of financial exploitation includes both financial assets and means. Both elements must be present to indicate this allegation:

<p>Financial assets include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Cash</li> <li>• Access to bank accounts</li> <li>• Credit cards</li> <li>• Stock and bond funds/accounts</li> <li>• Debt taken out in the vulnerable adult’s name (e.g., mortgage, car loan, etc.)</li> <li>• Social Security benefits</li> <li>• Retirement accounts</li> <li>• Insurance</li> </ul>	<p>Means include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Undue influence, in which a person uses his/her role, relationship, or power relative to the vulnerable adult to persuade a vulnerable adult to make decisions contrary to his/her own interest.</li> <li>• Breach of a fiduciary relationship, in which a person with a relationship of trust with respect to the vulnerable adult violates that relationship, such as a person with signatory authority on a vulnerable adult’s account who removes funds from the account without permission/knowledge of the vulnerable adult.</li> <li>• Deception, in which a person lies about circumstances to persuade a vulnerable adult to transfer financial resources, e.g., telling the vulnerable adult that he/she needs funds to cover medical expenses that do not exist.</li> <li>• Extortion, in which a person obtains payment from the vulnerable adult through coercion, which includes blackmail and threats of physical violence.</li> <li>• Any other means including theft, identity theft, and forgery.</li> </ul>
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### Property Exploitation

Any person has taken the property of a vulnerable adult through undue influence, breach of a fiduciary relationship, deception, extortion, or any unlawful means. The allegation of property exploitation includes both property and means. Both elements must be present to indicate this allegation:

<p>Property includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Real estate</li> <li>• Automobiles</li> <li>• Jewelry</li> <li>• Medication</li> <li>• Furniture</li> <li>• Art</li> <li>• Personal possessions</li> <li>• Any physical property</li> </ul>	<p>Means include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Undue influence, in which a person uses his/her role, relationship, or power relative to the vulnerable adult to persuade a vulnerable adult to make decisions contrary to his/her own interest.</li> <li>• Breach of a fiduciary relationship, in which a person with a legal relationship of trust with respect to the vulnerable adult violates that relationship, such as a person who transfers ownership of the vulnerable adult’s home to him/herself without the vulnerable adult’s knowledge or consent.</li> </ul>
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	<ul style="list-style-type: none"> <li>• Deception, in which a person lies about circumstances to persuade a vulnerable adult to transfer financial resources, e.g., telling the vulnerable adult that transferring assets will help the vulnerable adult's tax situation.</li> <li>• Extortion, in which a person obtains property from the vulnerable adult through coercion, which includes blackmail and threats of physical violence.</li> <li>• Any other means including theft, identity theft, and forgery.</li> </ul>
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### Self-Neglect

Self-neglect means that due to physical and/or mental impairments or diminished capacity, an adult is unable to perform essential self-care tasks or obtain essential services to such an extent that there is actual physical injury or imminent danger of physical injury or death (Neb. Rev. Stat. § 28-361.01).

Essential services shall mean those services necessary to safeguard the person or property of a vulnerable adult. Such services shall include, but not be limited to, sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for physical needs, and proper supervision (28-357).

Essential self-care tasks include, but are not limited to, providing essential food, clothing, shelter and medical care; and obtaining goods and services necessary to maintain physical health, mental health, and general safety, and/or managing financial affairs. Inability to manage financial affairs is considered self-neglect only to the extent that it impairs the vulnerable adult's ability to provide him/herself with food, clothing, shelter, and medical care to the extent that the vulnerable adult's health and/or safety are at imminent threat (Neb. Rev. Stat. § 28-357).

- Food. Lack of essential food or nutrition means the vulnerable adult is unable to provide appropriate food or declines food and liquids **AND** this pattern is likely to result in physical injury to the vulnerable adult as evidenced by emaciation, malnutrition, dehydration, or weight loss. Include vulnerable adults who do not procure food in adequate amounts, regular intervals, appropriate forms (e.g., pureed), and of sufficient nutritional value to sustain functioning, which results in injury or imminent danger of injury or death (e.g., malnutrition and dehydration).
- Clothing/hygiene. Failure to provide for physical hygiene means the vulnerable adult is unable to provide care for his/her need for physical hygiene. This lack of hygiene will likely lead to serious physical health complications for the vulnerable adult as evidenced by severe rashes, ulcers, bedsores, tooth decay, avoidance by others, etc. Also include failure to procure clothing that is adequate to the weather conditions, resulting in severe sunburn, frostbite, etc.

- Shelter/environment. Lack of shelter means the vulnerable adult is unable to provide shelter that is free from hazards, or has shelter that jeopardizes his/her physical safety. This may include but is not limited to:
  - » Situations where wiring is exposed;
  - » Inadequate heat/cooling for the weather and the vulnerable adult's needs;
  - » Significant broken glass in living areas;
  - » No access to water for drinking, cooking, or bathing;
  - » Feces, urine, or rotting garbage in living areas;
  - » No access to toilet facilities; and
  - » Hoarding that results in health or safety hazards, etc.

Include any situation in which the physical living conditions have resulted in physical injury or death. Also include situations in which the vulnerable adult cannot manage resources to the extent that physical injury or death is imminent due to utility shut-offs or eviction.

- Medical/behavioral health care. Failure to provide treatment means the vulnerable adult's pattern of refusing or failing to seek/obtain medical treatment or rehabilitative care for his/her conditions that have potential injurious, life-threatening, or long-term health effects. Examples include failure to take appropriate medication, failure to seek or comply with medical or dental care or speech or physical therapy, and failure to follow prescribed care for substance abuse and mental health issues when there is potential for lifelong negative impact.

When the vulnerable adult's religious or cultural beliefs are given as a reason for not accepting medical or behavioral health care services or pursuing alternative treatment, the report should be accepted if it meets the definition above. The investigator will determine if the spiritual means for treatment are of a recognized church or religious denomination (Neb. Rev. Stat. § 28-383).

- Lack of necessary supervision/wandering. The vulnerable adult:
  - » Frequently wanders from home and is unable to identify self and/or home address; and/or
  - » Is insufficiently aware of his/her surroundings to the extent that dangers go unnoticed (e.g., vulnerable adult turns on gas and forgets to turn it off).

## **OVERRIDES TO ACCEPT**

**Law enforcement/fire marshall/CFS administrator/county attorney/court order has requested investigation/self-neglect assessment.**

## **OVERRIDES TO NOT ACCEPT**

### **Insufficient information to locate vulnerable adult**

The reporter does not provide sufficient information to locate the vulnerable adult. The vulnerable adult's current location is not known, nor is his/her residence or a reliable location where contact could be made (e.g., regular attendance at a day program, a homeless shelter, a location the vulnerable adult habitually visits).

### **Allegation already assessed or currently being assessed without new or additional information**

The report contains no new allegations in addition to a report that has already been accepted for assessment or investigation. The current report involves:

- The same alleged victim(s);
- The same alleged perpetrator(s);
- The same type of allegation as a previously assessed/investigated report; AND
- The information reported refers to the time prior to the assessment/investigation.

Do not apply this override if new perpetrators, victims, or allegations are involved, or if a new incident occurred subsequent to the assessment/investigation. **A cross-report to the current caseworker is required if there is a current open assessment/investigation or case.** This cross-report may be a telephone call to the current worker, an email, or any other form of communication.

### **Collateral contacts indicate report is not credible**

There is a pattern of reports from the same reporter, involving the same allegations, over a period of time. These reports have previously been assessed/investigated and unfounded. A collateral contact for the current report indicates the vulnerable adult is safe and the allegation is not credible.

## **RESPONSE PRIORITY 1**

### **Does the allegation involve a vulnerable adult who:**

#### **Is in imminent danger of death or life-threatening harm?**

The vulnerable adult has experienced physical harm and/or is in immediate danger of experiencing physical harm that is likely to result in death without immediate intervention, OR the vulnerable adult is a danger to him/herself and his/her actions are likely to result in death or life-threatening injury. Also include situations in which a vulnerable adult has died under conditions where abuse or neglect are suspected, AND other vulnerable adults remain in the setting (e.g., home, facility), AND the alleged perpetrator is unknown or is known and retains access. Life-threatening harm may also include living and environmental conditions that are immediately dangerous to the vulnerable adult and likely to result in death.

**Has experienced or is likely to experience serious impairment or disfigurement in the current incident?**

The vulnerable adult has experienced physical harm due to abuse or neglect that is likely to result in imminent loss of use of physical function (e.g., loss of hearing, loss of eyesight, loss of use of limbs) or severe disfigurement (e.g., significant scarring, loss of limbs or digits) in the currently reported incident. OR the reporter describes conditions in which such harm is likely in the imminent future. Include:

- Bone fractures that are alleged to have resulted from abuse;
- Brain damage;
- Skull fractures;
- Subdural hemorrhage or hematoma;
- Internal injury;
- Poisoning;
- Third-degree burns;
- Injuries due to suffocating or shooting;
- Bite marks and choke marks; and/or
- Severe malnutrition or dehydration.

**Is an alleged victim of sexual abuse and Law enforcement has not responded; OR The incident occurred within the previous 72 hours?**

The reporter alleges a vulnerable adult has been sexually abused, meaning that any person has subjected the vulnerable adult to sexual penetration or sexual contact without the consent of the alleged victim. Examples of sexual abuse include, but are not limited to, fondling, sexual intercourse, sexual stimulation, and incest.

In addition, one of the following two conditions must be met to assign the report to a priority 1 response:

- Law enforcement has not responded to the incident. Law enforcement may not have been informed of the incident or may have declined to begin an investigation.
- The incident occurred within the previous 72 hours. The most recent incident of sexual abuse occurred in the 72 hours prior to receipt of the reporter's call.

**Is an alleged victim of sexual abuse or sexual exploitation and the alleged perpetrator still has access?**

The reporter alleges a vulnerable adult has been sexually abused, meaning that any person has subjected the vulnerable adult to sexual penetration or sexual contact without the consent of the alleged victim. OR the reporter alleges a vulnerable adult has been sexually exploited.

In addition, the alleged perpetrator has access to the alleged victim. The alleged perpetrator has not been removed from the home or facility, or cannot be prevented from having contact with the vulnerable adult. If the report involves vulnerable adult-to-vulnerable adult sexual abuse and both persons receive services in the same location (e.g., are residents of the same facility, participate in the same day program), exclude situations in which service providers have taken action to separate the alleged victim from the alleged perpetrator and/or increased supervision so that the persons may not be together unsupervised.

**Is an alleged victim of financial exploitation AND this exploitation caused the victim to be lacking food, shelter, or necessary supervision, or such loss is imminent within the next week?**

The reporter alleges financial exploitation, AND the vulnerable adult is facing eviction/loss of housing and/or the loss of assets significant enough that he/she is unable to pay for necessary and basic services required for the health and well-being of the vulnerable adult (e.g., food, heat, electricity, water, nursing care). If the vulnerable adult is being evicted, there is an active eviction or discharge in place and other shelter has not been arranged.

**Requires total care and/or 24-hour supervision and is currently without a caregiver?**

The reporter alleges the vulnerable adult currently has no caregiver or person willing and able to take on the caregiving role AND:

- The vulnerable adult requires total care, meaning that he/she requires assistance to complete most activities of daily living (bathing, dressing, eating, transferring, toileting, and ambulation); OR
- The vulnerable adult requires 24-hour supervision (e.g., has advanced Alzheimer's and routinely wanders).

**Is currently unreasonably confined, and has been for an extended period of time?**

The reporter alleges unreasonable confinement AND has information that the vulnerable adult is currently confined AND has been confined for a period of time that a reasonable person would consider to be excessive. The more restricting the confinement, the shorter the period of time required to be considered "extended." For example, a vulnerable adult bound to a chair would be considered to be confined for an "extended period" after a shorter time than a vulnerable adult locked into a room, assuming the same impairments. Unreasonable confinement includes, but is not limited to:

- The use of chemical or bodily restraints without a legal authority (e.g., under doctor's recommendation, restraint for a reasonable period of time when the alleged victim is in immediate danger of harming self or others) or outside of state/federal regulations;
- The improper use of medications resulting in a person becoming physically incapacitated or confined;
- False imprisonment, or knowingly restraining a person without legal authority;

- Restraining or abducting another person under terrorizing circumstances or under circumstances that expose the person to the risk of serious bodily injury;
- The intent to hold the vulnerable adult in a condition of involuntary servitude (including forcing a vulnerable adult to perform labor against his/her will) (Neb. Rev. Stat. § 28-314 or 28-315); and
- Any restraint or abduction of a vulnerable adult that presents a high risk of serious bodily injury.

## **RESPONSE PRIORITY 2**

### **Does the allegation involve a vulnerable adult who:**

#### **Has experienced serious, but not life-threatening, harm?**

The vulnerable adult has experienced serious physical injury in the current incident including, but not limited to, bone fracture, dislocations, sprains, first- and second-degree burns, scalds, severe cuts, or any other physical injury that seriously impairs the health or well-being of the vulnerable adult (e.g., bruises/welts) and requires medical treatment. Include serious injuries that result from domestic violence.

#### **Is an alleged victim of sexual abuse or sexual exploitation?**

Any form of sexual abuse or sexual exploitation that fits the definition of maltreatment has been alleged by the reporter. Sexual abuse involves any person who subjects a vulnerable adult to sexual penetration or sexual contact without the consent of the victim. Examples of sexual abuse include, but are not limited to, fondling, sexual intercourse, sexual stimulation, and incest. Sexual exploitation includes, but is not limited to, unlawful intrusion OR any person causing, allowing, permitting, inflicting, or encouraging a vulnerable adult to engage in voyeurism, exhibitionism, prostitution; or in the production or distribution of lewd, obscene, or pornographic photographs, films, or other depictions.

#### **Is currently being subjected to exploitation and/or the alleged perpetrator retains access to the vulnerable adult or his/her resources?**

The vulnerable adult is able to meet his/her needs on a short-term basis (i.e., for the next week or 10 days) and the alleged perpetrator continues to exploit the vulnerable adult or retains contact or access to resources (e.g., access to the home, accounts, credit cards, etc.).

#### **Has been unreasonably confined and the alleged perpetrator retains access?**

The reporter alleges the vulnerable adult has been unreasonably confined in the current incident, AND the alleged perpetrator still has care of or supervision over the vulnerable adult.

Unreasonable confinement includes, but is not limited to:

- The use of chemical or bodily restraints without a legal authority (e.g., under doctor's recommendation, restraint for a reasonable period of time when the

alleged victim is in immediate danger of harming self or others) or outside of state/federal regulations;

- The improper use of medications resulting in a person becoming physically incapacitated or confined;
- False imprisonment, or knowingly restraining a person without legal authority;
- Restraining or abducting another person under terrorizing circumstances or under circumstances that expose the person to the risk of serious bodily injury;
- The intent to hold the vulnerable adult in a condition of involuntary servitude (including forcing a vulnerable adult to perform labor against his/her will) (Neb. Rev. Stat. § 28-314 or 28-315); and
- Any restraint or abduction of a vulnerable adult that presents a high risk of serious bodily injury.

### **RESPONSE PRIORITY 3**

**Any accepted reports not meeting criteria for response priority 1 or 2.**

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**SDM<sup>®</sup> FOR APS INTAKE SCREENING**  
**POLICY AND PROCEDURES**

- Which Cases:** Sections 1–5 of the screening tool are completed on all reports excluding information-only reports. This includes new reports of maltreatment on open cases.
- The response priority portion is completed only for reports with a final screening decision of “accepted.”
- Who:** The intake worker completes the screening tool and the supervisor reviews and approves.
- When:** The intake screening is documented by the end of the worker’s shift.
- The intake worker completes the screening tool as soon as possible, ideally during the reporting telephone call.
- If the completion of the intake assessment requires an additional collateral contact AND the worker is waiting for a response from the contact, an intake assessment may be completed after the end of the worker’s shift, but no later than 24 hours from the receipt of the report.
- If additional information is received after the end of the shift and prior to first contact with the vulnerable adult, the intake form may be revised.
- If the worker determines the report requires a P1 response, there is a mandatory consultation with the supervisor immediately upon completion of the intake decision. The supervisor reviews and approves the intake within 72 hours.
- Decision:** The screening criteria component determines whether a report should be accepted for investigation.
- The response priority component determines how quickly after acceptance the assigned worker must make face-to-face contact with the alleged victim. Possible response times are as follows:
- Priority 1: Within eight hours
  - Priority 2: Within five working days
  - Priority 3: Within 10 working days

## **Appropriate Completion:**

Determine if screening is required. If the report is APS information/referral, no screening is required.

Section 1: Eligibility. Complete the decision tree to determine if the report involves a person who qualifies under law as a vulnerable adult.

Section 2: Maltreatment Types. Indicate if the report fits the definition for any of the types of maltreatment listed. Mark all that apply.

Sections 3–5: Initial Screening Decision/Overrides/Final Screening Decision. Indicate whether the initial decision is to accept or not to accept the report. Then, consider if any of the overriding conditions listed apply. The final screening decision is based on the initial decision influenced by any overrides. If the final screening decision is to accept the report, indicate if the alleged perpetrator is a caregiver (meaning any person or entity who has assumed the responsibility for the care of a vulnerable adult voluntarily, by express or implied contract, or by order of a court of competent jurisdiction—Neb. Rev. Stat. § 28-353), the vulnerable adult him/herself, or another person.

Section 6–7: Response Priority and Final Response Priority. For each accepted report, complete the decision tree to determine the initial response priority. Consider if any overrides apply to increase or decrease the prioritization, and indicate the final response priority. Overrides may be applied if a policy condition is met, or at the discretion of the worker with supervisory approval.

# Adult Protective Services

## Chapter 4.B APS Investigation

- A. **Self-Determination versus Protection:** The CFS Specialist's goal is to balance self-determination with providing protections.
1. **Self Determination**
    - i. Adults have a right and responsibility to direct their own lives to the furthest extent. This means that each adult will:
      - 1) Be given every opportunity to make plans for him / herself to the degree possible, and
      - 2) Be given as much information about the alternatives and options that are available to assist in making an informed decision.
    - ii. The CFS Specialist acknowledges that as long as adults can recognize the consequences of decisions they have made about their lives, the right to make those decisions must be respected, provided they are capable of making that choice, harm no one in doing so, and commit no crime.
  2. **Protection**
    - i. Vulnerable adult abuse, neglect, and exploitation are crimes. Coordination with law enforcement to hold abusers accountable is essential to protect the vulnerable adult and to prevent recurrences of abuse, neglect, and exploitation.
    - ii. Domestic violence is not a specific category in the adult protective services act, but some victims of domestic abuse are also vulnerable adults and are eligible to receive Adult Protective Services. The CFS Specialist will give domestic violence program information to victims of domestic abuse who do not meet the criteria of a vulnerable adult.
- B. **Information Gathered:**
1. The investigation includes making a determination of whether the alleged victim meets the definition of a vulnerable adult and making a determination of whether abuse, neglect, or exploitation occurred. During the investigation, the CFS Specialist will identify unmet needs and make referrals as needed.
    - i. Information gathered during the investigation/assessment will be sufficient as evidenced by the following characteristics:
      - 1) **Breadth:** Is the CFS Specialist's understanding and analysis of the adult and his/her situation based on information that covers the critical points (maltreatment, vulnerability, decision-making capacity, and self-determination) and if the information gathered about the adult and alleged perpetrator is comprehensive.
      - 2) **Depth:** Is the CFS Specialists understanding of the situation based on more than superficial information? Is the information pertinent and detailed?
      - 3) **Reliability:** Is the information trustworthy and dependable, reasonable, believable, and can be justified?
      - 4) **Pertinent:** Is the information relevant, significant and useful in determining the presence of risk factors?
      - 5) **Objective:** Is the information factual, actual, and unbiased? Information exists without interpretation or value judgment;
      - 6) **Clear:** Is the information easily understood and unambiguous?

# Adult Protective Services

- 7) Associated: Does the CFS Specialist understand how the information is connected and inter-related? How the information is linked?
- 8) Reconciled: Has the CFS Specialist resolved differing perspectives so that discrepancies are reconciled?
- 9) Supported: Is the information confirmed or corroborated by reliable sources outside the immediate family?

## C. Cultural Considerations and Accommodations:

1. CFS Specialists will provide culturally competent practice by recognizing, respecting and responding to the culturally defined needs of the vulnerable adult.
2. With limited English speaking (LEP) or non-verbal individuals, the CFS Specialist will exercise considerable flexibility in order to complete the initial interview.
  - i. CFS Specialist must make every effort to utilize the services of a contracted interpreter who is sensitive to cultural issues. The CFS Specialist will not use family members to provide interpreter services.
3. The CFS Specialist will make and document efforts to provide information and protective services to vulnerable adults with communication impairments such as the use of readers, audiotapes, Braille, large print, sign language interpreters, writing materials, pictures, and objects.

## D. Conflicts of Interest:

1. Law Enforcement: If the intake alleges mistreatment by a member of the local law enforcement agency, the investigation will be completed with the assistance of the State Patrol.
  - i. Requests for assistance from the State Patrol need to go through the Attorney General's Office. The assigned CFS Specialist will contact the Criminal Bureau Chief or a member of his staff at 402-471-2682 to request Patrol assistance. The State Patrol has decision making authority about whether or not they will participate.
    - 1) If they agree to do so, the assigned officer will lead the investigation and determine how and when the alleged perpetrators will be contacted. The assigned Patrol officer will also determine the timing and sequencing of interviews.
    - 2) If the CFS Specialist believes any planned delay will be unsafe for the alleged victim involved, he or she will consult with his or her supervisor.
  - ii. If the allegation of maltreatment involves an officer in the State Patrol, the State Patrol will be the investigating agency, either assigning an officer from Internal Affairs or an officer from another service area to investigate in cooperation with the assigned CFS Specialist.
2. CFS Specialist: If the CFS Specialist has a conflict of interest in a specific case due to a personal relationship with parties in the case, the CFS Specialist will notify the Supervisor immediately. The Supervisor will make the decision about whether the assessment will be assigned to another CFS Specialist, or if necessary, to a CFS Specialist in another office within the Service Area or if a request will be made for assignment of a CFS Specialist from another Service Area.

## E. Response Times:

# Adult Protective Services

1. CFS Specialist: the assigned CFS Specialist shall make contact with the alleged victim within the following time frames:
  - i. Priority 1 The CFS Specialist will complete a face-to-face interview with the alleged victim(s) within 8 hours from the time the intake was accepted for assessment.
    - 1) If a CFS Specialist is unable to respond they must notify law enforcement of the emergency nature of the intake and request that law enforcement respond immediately. The State Patrol may be contacted if local law enforcement is not available. The CFS Specialist will follow up with the contact with the alleged victim within 24 hours of the law enforcement contact.
  - ii. Priority 2 The CFS Specialist will complete an initial face-to-face contact and interview the alleged victim(s) within 0-5 calendar days from the date the intake was accepted for assessment.
  - iii. Priority 3 The CFS Specialist will complete an initial face-to-face contact and interview the alleged victim(s) within 0-10 calendar days from the date and time the Intake was accepted for assessment.
  
2. Law Enforcement Involvement: Law enforcement may intervene with or without Department involvement.
  - i. If law enforcement contact occurred prior to the Intake accepted date and time, the CFS Specialist will respond within the time frames as defined above.
  - ii. If law Enforcement was the only contact the victim(s) had on the date the Intake was accepted:
    - 1) Priority 1 - the CFS Specialist must make contact with the victim(s) within 24 hours of the law enforcement contact.
    - 2) Priority 2 - the CFS Specialist must make contact with the victim(s) within 0-5 calendar days of the law enforcement contact.
    - 3) Priority 3 - the CFS Specialist must make contact with the victim(s) within 0-10 calendar days of the law enforcement contact.
  - iii. If the CFS Specialist receives an Adult Abuse/Neglect report and requests law enforcement to make immediate contact with the vulnerable adult, the investigation will be completed, regardless of information obtained by the law enforcement contact.
  - iv. The CFS Specialist is able use the law enforcement contact date as the first contact with the victim if the law enforcement contact occurs after the date of the Intake and it is clear in the report that the vulnerable adult was seen and immediate concerns were addressed.
  
3. Response Time Exceptions – Supervisors: There are circumstances when the CFS Specialist will not be able to meet the identified response time. Approved exceptions will be documented in N-FOCUS in the Exception Narrative of the Intake window based on the definitions below.
  - i. Unable to Locate: The CFS Specialist must make a “good faith” effort to locate the alleged victim before determining that the response time cannot be met.
  - ii. Unable to Identify: The CFS Specialist has made ‘good faith’ efforts to identify the alleged victim or the alleged perpetrator. These actions can include contacting the reporting party to obtain additional information that

# Adult Protective Services

would provide sources of information to identify the adult i.e. employers, social service agencies etc. Efforts to identify the alleged victim and/or the alleged perpetrator must be documented on N-FOCUS.

- iii. Refused: The alleged victim refused to meet with the CFS Specialist or the alleged perpetrator refuses access to the victim.
    - 1) The CFS Specialist will contact law enforcement to assist if any person refuses to allow the CFS Specialist to begin an investigation, interferes with the CFS Specialist's ability to conduct such an investigation, or refuses to allow access to the alleged victim;
  - iv. Death of the Victim: The alleged victim died prior to the CFS Specialist making contact.
    - 1) The CFS Specialist will continue with the investigation and document their findings in the Investigation Summary. If there is a reason to suspect that mistreatment contributed to the death of the vulnerable adult, the CFS Specialist will inform the county attorney of the concerns.
4. Administrative Exceptions: The CFS Specialist and Supervisor may request a Response Time Exception from an Administrator for:
- i. An Administrative exception
    - 1) Administrative exceptions are used when the situation does not meet the Unable to Locate, Unable to Identify, Refusal, or Victim Death exception criteria and the response time was beyond the CFS Specialist's control. Examples include learning of court action for abuse of a vulnerable adult via the newspaper and DHHS had no prior knowledge of the case.
  - ii. A Law Enforcement Hold
    - 1) Law Enforcement Holds are used when Law Enforcement requests that an alleged victim or alleged perpetrator not be contacted due to a pending criminal investigation. These shall be used if the law enforcement request extends outside the indicated timeframes.
5. Good Faith Efforts: Good faith efforts require using reasonable methods to locate the parties involved in a report including (but not limited to) checking with the following:
- i. the reporting party;
  - ii. Department information systems (Medicaid, Food Stamps, other services);
  - iii. Criminal History Records (Justice/NDEN);
  - iv. Department of Motor Vehicles Records;
  - v. Child Support Enforcement;
  - vi. law enforcement agency;
  - vii. utility companies;
  - viii. Post Office;
  - ix. neighbors; and
  - x. known service providers such as hairdresser, barbers, bank staff, or restaurant staff

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**Note:** The adult's failure to respond to notes left on the door, letters, or phone messages is not evidence of sufficient effort to contact the adult. If the alleged victim is located and declines contact, an investigation must be completed using the available information.

## **F. Worker Safety:**

1. Worker safety must be considered during contacts in the investigative phase. When there is a threat of violence to a worker, law enforcement will be contacted to assist with or conduct the investigation. When concerns exist about risk to staff from communicable diseases or environmental hazards, appropriate health authorities may be called to assist in the contacts.

## **G. Investigation Time Frames:**

1. Priority 1, 2, and 3 Investigations shall be completed within 60 calendar days from the date the report was accepted for investigation. A 15 calendar day extension may be granted by the supervisor.
2. The request for extension and supervisor decision is documented in the Investigation Narrative Section under Consultation Point.
  - i. Reasons an extension may be requested include, but are not limited to: delays in receiving financial or medical records, requests from law enforcement, or scheduling medical appointments for the vulnerable adult to determine the need for a guardian.
  - ii. The CFS Specialist will request and document investigation extensions and the supervisor's decision to approve the request in the consultation point narrative. An administrative exception is available to account for requests from Law Enforcement to hold the investigation and shall be documented in the intake narrative.
3. The CFS Specialist will complete the investigation documentation and change the status to Ready to Review 10 calendar days prior to the due date. This allows the CFS Supervisor 10 calendar days to review, send back for revisions if needed, and update the status to final by the due date.

## **H. Conducting the Initial Face-to-Face interview the alleged victim**

1. Preparation for the initial face-to-face interview with the alleged victim.
  - i. Review available information: The assigned CFS Specialist will review information gathered at intake and any other existing case records, specifically any prior abuse/neglect reports or law violation reports involving the adult and alleged perpetrator.
  - ii. The CFS Specialist will contact the reporting party for additional information as necessary.
  - iii. Coordinate with law enforcement:
    - 1) Law enforcement duty under the APS Act is to:
      - a. Make an investigation if deemed warranted because of alleged violations of Neb. Rev. Stat. §28-386;
      - b. Take immediate steps, if necessary, to protect the vulnerable adult; and
      - c. Institute legal proceedings if appropriate. The law enforcement agency shall notify DHHS if an investigation is being conducted. Such notification shall be made no later

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than the next working day following receipt of the report.  
(See Neb. Rev. Stat. §28-373)

- 2) If law enforcement does not make the initial contact, the CFS Specialist will contact law enforcement and determine if law enforcement will be investigating.
- 3) If law enforcement determines no investigation is warranted at this time, the CFS Specialist will begin the investigation as directed by the duties of DHHS. The CFS Specialists will document in N-FOCUS the reason Law Enforcement declined to conduct an investigation.
- 4) When information is obtained to strengthen the allegation that the crime of Abuse of a Vulnerable Adult has occurred, the CFS Specialist will forward information to law enforcement for review and a decision of whether law enforcement will initiate a criminal investigation.
- 5) If law enforcement decides to initiate a criminal investigation, then, the CFS Specialist will work jointly to outline the investigative step.
- 6) The CFS Specialist will defer to law enforcement to schedule interviews if law enforcement plans to investigate the allegations.

## 2. Initial Face-to-Face Interview

- i. The CFS Specialist will have initial face to face contact with the alleged victim(s) preferably in their residence within the established time frames as determined by the priority, unless requested by law enforcement to do something different. The alleged perpetrator should not be present during the interview.
- ii. The CFS Specialist will inform the CFS Supervisor of any requests by law enforcement to delay interviews, if the CFS Specialist is concerned that a delay will be unsafe for the alleged victim(s). This includes law enforcement requests for the CFS Specialist to have no contact with the alleged victim(s) within the time frame based on the priority response. The CFS Specialist will document this consultation in the N-FOCUS consultation point narrative.

## 3. Interview of Alleged Victim(s) if emergency intervention is needed:

- i. The CFS Specialist will immediately contact emergency services and law enforcement to request assistance when the victim is unable to consent to entry or the victim fails to respond and information in the report or observed on the scene indicates the victim needs emergency services.
- ii. When there is an emergency identified, the CFS Specialist will immediately contact one or more of the following for assistance:
  - 1) Depending on information received, 911 may be the appropriate immediate response action;
  - 2) Law enforcement agency to request assistance; or
  - 3) CFS supervisor.

## 4. Interview of the alleged victim(s) when no emergency exists:

- i. The CFS Specialist will build rapport with the alleged victim and review the allegations in order to obtain the alleged victim's perspective of the situation. Although the alleged victim/vulnerable adult may be reluctant or

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unable to share information about the incident or allegations due to fear of losing their caregiver or fear from threats by alleged perpetrator, the CFS Specialist will continue the investigation regardless of an initial denial of the allegations by the alleged victim.

5. Alleged Victim's Refusal:
  - i. The legal authority to investigate allegations of abuse of a vulnerable adult overrides preliminary objections to the investigation expressed by the vulnerable adult. The CFS Specialist will make efforts to determine the alleged victim's ability to understand their current situation and the possible consequences should present conditions persist. Once the vulnerable adult demonstrates unimpaired decision making capacity, the CFS Specialist will respect the individual's right to privacy, autonomy and self-determination regarding any further APS interventions.
6. Alleged Victim with a Guardian:
  - i. The CFS Specialist will make initial contact with the alleged victim regardless of the consent or knowledge of the guardian. The CFS Specialist will notify the guardian of the initial contact and allegations as soon as possible after the initial interview, unless the guardian is the alleged perpetrator. If the guardian is the alleged perpetrator, the CFS Specialist will schedule notification and interviews as appropriate.
  - ii. The CFS Specialist may notify the guardian prior to the initial interview if the guardian is not alleged to be a perpetrator, although consent is not required.
  - iii. The CFS Specialist will enter the name of the guardian into N-FOCUS in the Professional Relationships area and designate the guardianship begin date.
7. Vulnerable Adult Determination:
  - i. The CFS Specialist will make an initial determination of whether the alleged victim meets the definition of a vulnerable adult (per Neb. Rev. Stat. §28-371) by gathering information to show that the alleged victim has one or more of the following:
    - 1) A guardian appointed under the Nebraska Probate Code. (guardianship information may be available on Nebraska Data Exchange Network, NDEN);
    - 2) A substantial mental impairment; and/or
    - 3) A substantial functional impairment.
  - ii. In order to make an initial determination vulnerability, the CFS Specialist will:
    - 1) Gather information about physical and mental conditions and ability to live independently and/or provide self-care from the alleged victim during the initial contact;
    - 2) Gather Medical Information (if relevant);
    - 3) Make observations of the environment and the alleged victim's behavior;
    - 4) Complete necessary screenings using reliable, tested, and validated screening tools, including but not limited to:

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- a. Short Portable Mental Status Questionnaire (SPMSQ; a.k.a. the Goldfarb)
  - b. Montreal Cognitive Assessment (MOCA)
  - c. The Saint Louis University Mental Status (SLUMS) Examination
  - d. Confusion Assessment Method (CAM)
  - e. Activity of Daily Living
  - f. Instrumental Activity of Daily Living
- iii. When making an initial determination whether a substantial mental or functional impairment is present, the CFS Specialist will identify the substantial condition or limitation and describe the alleged victim's ability to live independently or to provide self-care. The CFS Specialist makes determinations using all the information gathered and does not rely on one screening tool.
  - iv. The CFS Specialist will analyze the information to determine whether the impairment is a substantial mental condition and/or physical limitation that impacts daily living. The CFS specialist will not base the conclusion on the results of one screening tool.
  - v. The CFS Specialist will document how the identified impairment grossly impairs judgment or behavior and/or results in a substantial incapability to live independently or to provide self-care. The CFS Specialist will consider how and to what degree the physical limitations or mental conditions substantially affect his or her ability to:
    - 1) Provide personal protection;
    - 2) Provide necessities such as food, shelter, clothing, mental or health care;
    - 3) Obtain services necessary;
    - 4) Carry out activities of daily living;
    - 5) Manage own resources;
    - 6) Comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation; and
    - 7) Care for self.
  - vi. Initial Vulnerable Adult Conclusion:
    - 1) Alleged Victim does not meet the definition of a Vulnerable Adult:
      - a. If the CFS Specialist concludes that the alleged victim does not meet the definition of a vulnerable adult (victim does not have a substantial mental or functional impairment), the investigation will be closed. If the CFS Specialist identified any service needs during the initial contact, the CFS Specialist will make referrals to the appropriate community services.
      - b. **Note:** If the alleged victim is not a vulnerable adult, forgo the interview with the alleged perpetrator and do not send out a notification letter to the alleged perpetrator.
    - 2) Alleged Victim meets the definition of Vulnerable Adult:
      - a. Once the CFS Specialist has made the determination that the alleged victim meets the definition of a vulnerable adult, the CFS Specialist will document all of the information they used to make their conclusion. This information will include the score and explanation of the

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score, of each assessment tool used; and any other evidence gathered from observation, from medical professionals, and interviews with other collateral contacts. Although the CFS Specialist does not need permission to interview collaterals, the CFS Specialist will inform the vulnerable adult of his or her intent to contact collateral sources for information.

- b. **Note:** The CFS specialist will continue to gather additional information prior to discontinuing the investigation when the initial vulnerable adult determination cannot be made at the initial visit.

## 8. Determination of Alleged Victim's Decision-Making Capacity:

- i. The CFS Specialist will utilize all information obtained to determine the decision-making capacity of the victim.
  - 1) When the CFS Specialist determines the alleged victim demonstrates an understanding of their situation and the possible consequences, the CFS Specialist will respect the right of the alleged vulnerable adult/victim to refuse to participate in an investigation, make referrals, and/or terminate the investigation;
  - 2) When the CFS Specialist determines the alleged victim does not understand their situation and/or the possible consequences, the CFS Specialist will consult with a CFS Supervisor to determine the next course of action.
- ii. Decision Making Capacity Screening
  - 1) The CFS Specialist will complete an initial screen for the alleged victim's ability to consent to services or decision making capacity by using observations, the information obtained from collateral contacts, and, when appropriate, screening tools for decision making capacity.
  - 2) The CFS Specialist will assess the process the vulnerable adult uses to make a decision rather than assessing the decision itself. A decision-making capacity screening may require multiple face-to-face visits with the alleged victim. The level of the alleged victim's capacity to make decisions will influence the investigation process and outcome and the services offered. If needed a medical or mental health professional opinion may be used to assist in determining decision making capacity.
- iii. Vulnerable adults generally should be considered capable of making a decision to consent to or refuse services if they demonstrate the following:
  - 1) Ability to Communicate a Choice: Assess the adult's ability to make and communicate a choice from the realistic choices available. Assess the adult's ability to maintain the choice made until it can be implemented.
  - 2) Ability to Understand Relevant Information: Assess the adult's ability to understand information that is relevant to the choice that is to be made (i.e., gangrene will likely end in death without treatment).

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- 3) Ability to Compare Risks and Benefits of Available Options: Assess the adult's ability to compare risks and benefits of available options. This requires weighing risks and benefits of a single option and weighing more than one option at the same time. Can the adult give a logical explanation for the decision he/she reached in terms of its risks and benefits?
  - 4) Ability to Comprehend and Appreciate the Situation: Assess the adult's ability to comprehend and appreciate the situation. An adult may be able to understand relevant information (i.e., gangrene will likely end in death without treatment) and yet be unable to appreciate his/her own situation (i.e., believes his/her own gangrenous foot will not cause his/her death or disregards medical opinion and denies that the foot is gangrenous). An adult who comprehends and appreciates the situation will acknowledge illness when it is shown to be present and acknowledge the risks and benefits of available treatment options for him/her.
- iv. Procedure
- 1) To begin screening the vulnerable adult's decision making capacity to consent to services, the CFS Specialist will request permission to administer one or more of the screening instruments.
  - 2) The CFS Specialist will review records about background and history to determine:
    - a. The vulnerable adult's short and long term memory;
    - b. The vulnerable adult's ability to plan and execute a plan;
    - c. The vulnerable adult's ability to recognize risk factors;
    - d. The vulnerable adult's ability to understand and follow directions;
    - e. The existence of indicators of affective disorders such as depression
    - f. The existence of indicators of substance use disorders, dementia, psychosis, traumatic brain injury, and impaired decision making.
  - 3) Determination of Vulnerability: After the initial contact with the alleged victim, the CFS Specialist will determine about the alleged victim's capacity to consent or refuse services.
- v. When the CFS Specialist observes diminished capacity, the CFS Specialist will review the past screenings for capacity, any updated medical reports, and complete updated screenings.
- vi. On subsequent visits, the CFS Specialist will observe and document the continued status of the vulnerable adult's decision-making capacity. Screening for decision-making capacity is an ongoing process and not a one-time event.
- vii. If the vulnerable adult is unable to make an informed choice due to a lack of decision making capacity, appropriate intervention may include a medical assessment to determine whether decision making capacity may be improved or restored.
- viii. Referral for evaluation:
- 1) If there is evidence that the alleged victim's decision-making capacities may be impaired and there are concerns about the

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alleged victim's immediate needs, the CFS Specialist may make a referral for professional diagnostic or clinical evaluation.

- 2) Referral Letter to medical or mental health professional should contain the following information:
  - a. Client background;
  - b. Reason alleged victim was contacted and the date;
  - c. Purpose of referral;
    - i. Capacity to do what?
  - d. Medical and functional information known;
  - e. Living situation; family make-up and contacts; social network;
  - f. Environmental/social factors that the worker believes may affect capacity;
  - g. Client's values and preference to the extent known; client's perception of problem; and
  - h. Whether a phone consultation is wanted prior to the written report.
9. APS Interventions:
  - i. At the end of the initial interview and throughout the investigation the CFS Specialist will identify the risk factors and concerns of the vulnerable adult. The CFS Specialist may make referrals to community programs or may arrange for services to meet the client's needs and these services may include, but not be limited to: medical care, initiation of legal services, emergency transportation, and the emergency provision of food, clothing, shelter or supervision.
  - ii. Information Referrals:
    - 1) Arranging services may include, but is not limited to:
      - a. Connecting the vulnerable adult to supportive community resources such as personal assistance services, home delivered meals, friendly visitors and telephone reassurance;
      - b. Assisting the non-offending caregiver or guardian to provide the needed services;
      - c. Assisting the vulnerable adult to voluntarily move into out-of-home care such as a hospital, nursing home, or other facility pending the completion of the investigation;
      - d. Referral of the caregiver to supports groups, respite services, and legal and financial planning;
      - e. Request the assistance of the State Fire Marshal and County Department of Health inspections of the adult's living arrangement, as appropriate, when the adult's living arrangement presents a hazard;
      - f. If the alleged victim is not receiving any services, the CFS Specialist will make referrals (as needed) to:
        - i. Access Nebraska;
        - ii. Behavioral Health;
        - iii. Division of Developmental Disabilities;
        - iv. NE Medicaid and Long-term Care;
        - v. Local area agency on aging;
        - vi. The medical community; or

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- vii. Other community services.
- 2) Access current services:
  - a. The CFS Specialist will determine what programs or services the client is currently receiving.
    - i. If the alleged victim is a recipient of Division of Developmental Disability services, the CFS Specialist will work with the DD Service Coordinator to review the service plan and make any adjustments to the Individualized Program Plan.
    - ii. If the alleged victim is a recipient of Social Services for the Aged and Disabled program, the CFS Specialist will determine what services are authorized and work with the universal case manager to determine what other services may be required.
    - iii. If the alleged victim is a recipient of Aged and Disabled Waiver or Home and Community Based services, the CFS Specialist will collaborate with the service coordinator to update the service plan to provide for safety.
    - iv. The CFS Specialist will gather information about the alleged victim's health insurance or coverage by NE Medicaid. If the alleged victim has accessed behavioral health services or medical services, the CFS Specialist will consult with the current providers to determine if changes are needed in the treatment plan.
    - v. The CFS specialist will determine what resources the alleged victim holds that may assist in purchasing identified services.
- 10. Documentation:
  - i. The CFS Specialist will document the following information and conclusions:
    - 1) the vulnerable adult determination and the supporting description of the mental condition and/or physical limitation, the level of the impairment, and the impact on ability to live independently and/or provide self-care;
    - 2) the conclusion about the alleged victim's decision making capacity and a description of the tools used to made the conclusion and the alleged victim's response to the conclusion;
    - 3) The initial needs of the vulnerable adult and the services arranged. Immediate interventions are services or resources arranged by the CFS Specialist to resolve the alleged victim's immediate problems prior to making a finding of the report; and
    - 4) A description of the CFS Specialist's next steps.

## I. Continuing the investigation/assessment:

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1. Although the investigative steps may vary depending on the initial allegations and other factors, all APS investigations involve gathering information to support or refute the allegations.
  2. Every step taken and all information collected during an investigation have the potential to be examined in court. While most cases of abuse, neglect, or exploitation do not result in court action, evidence will be gathered and collected as though every case will be contested in court. The CFS Specialist will collect relevant and reliable information to answer the questions of who, what, when, how, and, if possible why.
  3. The CFS Specialist will gather testimonial, documentary, demonstrative evidence and document the presence of any physical evidence gathered by law enforcement.
  4. The CFS Specialist determines how much information to gather in order to develop a full understanding of the case facts. The CFS Specialist will gather all available evidence to analyze and conclude if there is a preponderance of the evidence to substantiate the allegations.
  5. Credible evidence for all allegations may include one or more of the following:
    - i. Victim statements;
    - ii. Admission by the alleged perpetrator;
    - iii. Witness statements;
    - iv. Verification from a medical practitioner;
    - v. Verification from facility documentation; and
    - vi. Visual observation by the CFS Specialist or Law Enforcement.
- J. **Observe/visit the allegation site:**
1. The CFS Specialist may visit the site where the alleged incident of maltreatment occurred as soon as possible after the incident in order to document observations of the incident site. This may be especially helpful in cases of neglect, physical abuse, unreasonable confinement, or sexual abuse. A view of the location is often important to reconcile various descriptions of the incident. Viewing the location of the incident with one or more witnesses to the incident can assist the witnesses to provide a more detailed explanation of the physical positions of various persons involved and a demonstration of how the incident occurred.
  2. The CFS Specialist will also consider whether the physical site of the incident changed since the incident took place. By looking for obstacles, witnesses may have had in viewing the incident or any difficulty in hearing because of the setting or proximity to the incident, the CFS Specialist is able to determine credibility of the witness account. By viewing any equipment that is relevant to the allegation such as wheelchairs, hospital beds, or other medical equipment, the CFS Specialist also gathers a perspective of the validity of the allegations. The CFS Specialist will consider whether a picture or diagram of the physical location may be helpful for making a case status determination.
- K. **Collect Testimonial Evidence:**
1. The CFS Specialist will gather testimonial evidence during the interviews with the alleged victim, the alleged perpetrator, and other witnesses. After the initial contact with the alleged victim, the CFS Specialist will schedule other interviews with the vulnerable adult/victim as often as necessary in order to complete the investigation.

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- i. Interview collaterals:
  - 1) The CFS Specialist will schedule interviews with available sources that have information about the vulnerable adult, the alleged perpetrator, and the allegations.
- ii. Interview Guardian/Conservator:
  - 1) If the alleged victim has a guardian or conservator, the CFS Specialist will interview the guardian or conservator. The purpose of the interview is to explain the CFS Specialist's role and obtain pertinent information from the guardian/conservator.
- iii. Interview the Alleged Perpetrator:
  - 1) Before contacting the perpetrator, the CFS Specialist will consult with law enforcement as part of the joint investigation process. The CFS Specialist may extend the case and document any holds requested by law enforcement into N-FOCUS.
  - 2) The CFS Specialist will have face-to-face contact with the alleged perpetrator. When all attempts to contact the alleged perpetrator for an in-person contact have been exhausted, the CFS Specialist will write a letter or leave a note informing the alleged perpetrator to contact the CFS Specialist in order to schedule a meeting. The letter should not contain information about the allegations or that the person has been identified as an alleged perpetrator. The purpose of the interview with the alleged perpetrator is to provide him/her an opportunity to admit or deny the allegation and to provide an explanation of the allegations. The CFS Specialist will inform the alleged vulnerable adult victim that the alleged perpetrator will be interviewed.
  - 3) When the alleged perpetrator is a minor, the CFS Specialist will obtain written permission from a parent or a legal guardian before completing a private interview as the minor may not be interviewed without permission. The CFS Specialist documents the reason for not interviewing the minor and continues to complete the investigation without the interview.
  - 4) During the interview with the alleged perpetrator, the CFS Specialist will request the complete home mailing address, birth date, and social security number of the alleged perpetrator and explain that this information is necessary for notification if the findings of the investigation. The CFS Specialist will mail the notification of findings to the last known address.
  - 5) Efforts to Locate the Alleged Perpetrator
    - a. When the CFS Specialist has made a good faith effort to locate the alleged perpetrator and has not been successful, the CFS Specialist will consult with the CFS Supervisor to determine the next steps
  - 6) Perpetrator in Custody
    - a. If the alleged perpetrator is in custody of law enforcement or corrections, the CFS Specialist will contact Law Enforcement and request:
      - i. To interview the alleged perpetrator in custody; or
      - ii. To interview the alleged perpetrator jointly; or

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- iii. To receive a transcript or recording of the law enforcement interview.
- 7) Forgoing a Perpetrator Interview:
  - a. The CFS specialist has the option to forgo an interview with the alleged perpetrator only if the:
    - i. Alleged perpetrator refuses to be interviewed;
    - ii. Law Enforcement, County Attorney, or Attorney General requests it; or
    - iii. The Alleged perpetrator's whereabouts are unknown and the CFS Specialist has made good faith efforts to locate him/her.
- 8) Alleged Perpetrator Holding Power of Attorney:
  - a. If a CFS Specialist discovers through investigation that an alleged victim has appointed a power of attorney who is the alleged perpetrator and the allegations of abuse, neglect, or exploitation have been substantiated, the CFS Specialist will review the allegations and the findings with the alleged victim to determine the options and to assist the vulnerable adult to develop an intervention.
    - i. If the vulnerable adult still has capacity as determined through investigation, and the vulnerable adult is at risk for continued abuse, neglect, or exploitation due to the existence of the Power of Attorney, the vulnerable adult may choose to revoke the power of attorney and create a new one.
    - ii. If the vulnerable adult lacks capacity as determined through investigation, and the vulnerable adult is at risk for continued abuse, neglect, or exploitation due to the existence of the Power of Attorney, the CFS Specialist will pursue alternative decision makers for the vulnerable adult using the least restrictive options available.

## L. Collect Documentary Evidence:

- 1. Documentary evidence is any type of record such as medical records, cancelled checks, bank statement, ATM records, "overdue notices", business records, phone records, legal documents, letters, computer files, law enforcement reports, cell phone and text messages, and hospital records.
- 2. The CFS Specialist will determine the type of documents needed to provide information to support or refute the occurrence of the allegation; support the determination of vulnerable adult status; support the determination of the perpetrator; and support the decision-making capacity conclusion.
  - i. **Written Statements:** At the conclusion of each interview by the CFS Specialist, it is preferable to obtain a written summary of the individual's account of the incident and the events surrounding it. The CFS Specialists will obtain written statements when the person is willing. The CFS Specialist may write the statement and have the individual review and sign and date the document. When the statement is completed, the CFS Specialist should ask the individual to sign and date the statement

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after they have read it thoroughly, making and initialing any corrections they believe are needed to more accurately reflect their account of the incident. An alternative is to have the individual write the statement themselves. Once the statement is prepared, signed and dated by the person providing the statement, it shall be witnessed by the CFS Specialist. The CFS Specialist will advise the person making the voluntary statement that the statements may be shared with law enforcement or with the court and the person may be required to testify during the court proceeding.

- ii. **Law Enforcement Reports** – The CFS Specialist will request, review, and use law enforcement reports to determine what evidence may exist or what may need to be obtained based on the information already collected by LE.
- iii. **Letters, texts, voicemail, or emails** - The CFS Specialist will request to see any communications from the alleged perpetrator as they may contain evidence of threats or apologies for violent behavior.
- iv. **Medical records:** The CFS Specialist may use medical records to demonstrate the medical history of the vulnerable adult, document injuries or evidence of a sexual assault, have a record of the plan for care, and/or follow-up.
  - 1) The CFS Specialist will obtain medication lists from the vulnerable adult's physician. People are more vulnerable to manipulation when they have certain psychological or medical conditions such as dementia. It is important to document all medical conditions and medications.
  - 2) The CFS Specialist will obtain copies of discharge plans to document what the alleged perpetrator knew about taking care of the alleged victim.
  - 3) **Health Insurance Portability Accountability Act (HIPAA):** When working to gather information from health care professionals, the CFS Specialist may need to provide education regarding the exceptions to the federal regulation. Under the federal regulations related to implementation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), disclosure of protected health information is permitted, with or without the alleged victim's consent, if the sharing of this information is related to reporting of abuse/neglect, or is necessary to comply with state requirements related to conducting Adult Protective Service investigations. (45 CFR 164.52(k)).
  - 4) **Medication(s):** Medications can play a key role in abuse and neglect cases and will be documented. CFS Specialist should record the prescription data, i.e., doctor, pharmacist, date, name, and strength of medication, directions for dosage, number prescribed, and number of dosages remaining. The CFS Specialist will document the doses and times taken. Medical experts who have specialized training in assessment of mental capacity may be contacted to provide detailed assessment as needed.
  - 5) **Court Orders** - The CFS Specialist will obtain a copy of the guardianship/conservatorship legal documents to verify the type of

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guardianship and level of authority. The CFS Specialist will review the documents to determine the type of guardianship.

- 6) **Legal documents** – The CFS Specialist will obtain and review copies of power of attorney documents, living wills, or power of attorney for healthcare. When the CFS Specialists discovers that the vulnerable adult has executed a power of attorney, the CFS Specialist should obtain the document for the vulnerable adult's case file to verify the type of power of attorney, level of authority and the effective dates of the power of attorney.
- 7) **Financial Records** -- The CFS Specialist may also need to educate financial institutions of the Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults.
  - a. The Gramm-Leach-Bailey-Act establishes a general rule that a financial institution may not disclose any nonpublic personal information about a consumer to any nonaffiliated third party unless the financial institution first provides the consumer with a notice that describes the disclosure (as well as other aspects of its privacy policies and practices) and a reasonable opportunity to opt out of the disclosure, and the consumer does not opt out. However, section 502(e) of the GLBA provides a variety of exceptions to this general rule that permit a financial institution to disclose information to nonaffiliated third parties without first complying with notice and opt-out requirements. Generally, disclosure of nonpublic personal information about consumers to local, state, or federal agencies for the purpose of reporting suspected financial abuse of older adults will fall within one or more of the exceptions. These disclosures of information may be made either at the agency's request or on the financial institution's initiative.
  - b. The following are specific exceptions to the GLBA's notice and opt-out requirement that, to the extent applicable, would permit sharing of nonpublic personal information about consumers with local, state, or federal agencies for the purpose of reporting suspected financial abuse of older adults without the consumer's authorization and without violating the GLBA:
    - i. A financial institution may disclose nonpublic personal information to comply with federal, state, or local laws, rules and other applicable legal requirements, such as state laws that require reporting by financial institutions of suspected abuse. (15 U.S.C. 6802(e)(8) and implementing regulations at \_\_\_\_15(a)(7)(i)).<sup>10</sup>
    - ii. A financial institution may disclose nonpublic personal information to respond to a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by federal, state, or local authorities or to respond to judicial process or government regulatory authorities having

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jurisdiction for examination, compliance, or other purposes as authorized by law. (15 U.S.C. 6802(e)(8) and implementing regulations at \_\_\_\_15(a)(7)(ii)-(iii)).

- iii. A financial institution may disclose nonpublic personal information to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability. (15 U.S.C. 6802(e)(3)(B) and implementing regulations at \_\_\_\_15(a)(2)(ii)). For example, this exception generally would allow a financial institution to disclose to appropriate authorities nonpublic personal information in order to:
  1. Report incidents that result in taking an older adult's funds without actual consent; or
  2. Report incidents of obtaining an older adult's consent to sign over assets through misrepresentation of the intent of the transaction.
  3. To the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), a financial institution may disclose nonpublic personal information to law enforcement agencies (including the CFPB, the federal functional regulators, and the FTC), self-regulatory organizations, or for an investigation on a matter related to public safety. (15 U.S.C. 6802(e)(5) and implementing regulations at \_\_\_\_15(a)(4)).
  4. In addition, a financial institution may disclose nonpublic personal information with the consumer's consent or consent of the consumer's legal representative. (15 U.S.C. 6802(e)(2) and implementing regulations at \_\_\_\_15(a)(1)).

## M. Authorization to Release Information:

1. The CFS Specialist will ask the vulnerable adult to sign a release of information in order to obtain documents needed from a third party.
2. Authorization to Release Information:
  - i. The CFS Specialist will inform the vulnerable adult of the need for documents and how the documents will be used. The CFS Specialist will ask the alleged victim to sign an Authorization to Release Information to allow the release of the information. When the CFS Specialist has determined the vulnerable adult exhibits an impaired decision making capacity, no Authorization to Release information will be obtained from the vulnerable adult. (See Section for Administrative Subpoena)

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- ii. If the vulnerable adult has appointed an agent under a durable power of attorney, or when a guardian has been appointed, that person should be consulted along with the vulnerable adult regarding the investigation and the need to obtain records.
3. Refusal to Authorize:
  - i. If the alleged victim or the guardian refuses to sign an authorization to release information, the CFS Specialist will attempt to determine the reasons the vulnerable adult does not want the information released and address the concerns (See Section for Administrative Subpoena).
4. HIPAA:
  - i. Under the federal regulations related to implementation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), disclosure of protected health information is permitted, with or without the alleged victim's consent, if the sharing of this information is related to reporting of abuse/neglect, or is necessary to comply with state requirements related to conducting Adult Protective Service investigations. (45 CFR 164.52(k)).
5. Administrative Subpoenas:
  - i. The CFS Specialist may need to obtain necessary subpoenas to acquire additional information, as necessary.
  - ii. The CFS Specialist will consult with the CFS Supervisor to request a subpoena to obtain information about the vulnerable adult when the information is needed for the investigation and/or for protective services and the CFS Specialist is unable to obtain authorization for a release of information or it is not in the best interest of the investigation to have the vulnerable adult sign an authorization. If the CFS Specialist has identified indicators that the vulnerable adult has impaired decision making, the CFS Specialist will not ask the vulnerable adult to sign an authorization to release information because this may hinder any criminal prosecution.
  - iii. These subpoenas are issued by DHHS in order to obtain information regarding the vulnerable adult who is the subject of an allegation of abuse, neglect, or exploitation. Prior to issuing this type of administrative subpoena, every attempt should have been made to obtain the needed information through other means.
  - iv. In order to request a subpoena, the APS CFS Specialist must gather the following information:
    - 1) Person (victim):
      - a. Name
      - b. Social Security Number
      - c. Date of Birth
    - 2) Agency/Facility you are requesting information from:
      - a. Complete name
      - b. Complete address: Street/PO Box, City/Town, State, Zip Code
      - c. Attention to: If desired
      - d. Verify address prior to supervisor's approval
    - 3) Required documentation:
      - a. Specifically list out what information is being requested.
        - i. Example: Financial records - copies of cancelled checks, ATM transactions, signature card.

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- ii. Example: Medical records - Inpatient records, emergency records.
      - b. State the time period of the requested records.
        - i. Example: From October 2007 through December of 2009.
    - 4) DO NOT include:
      - a. Victim address
      - b. Description of case
  - v. Once the CFS Specialist has collected the required information, the request is forwarded to the supervisor for approval.
  - vi. If the CFS Supervisor approves the request for subpoena, he/she will follow the service area procedure for processing.
  - vii. A copy of the subpoena will be sent to the CFS Specialist once it has been processed.
  - viii. The subpoena will allow the recipient 10 business days to collect and return the requested information. All subpoenas are sent by Certified Mail.
- 6. Out of State Subpoena Requests:
  - i. Subpoenas issued by Nebraska that request information are not enforceable in other states.
  - ii. The CFS Specialist and the CFS Supervisor will review the case and determine the best method to gather the information which is dependent on the client need and the investigation need.
    - 1) If possible, have the alleged victim sign a release of information. However, if there is concern about the capacity of the alleged victim, this option may have a negative impact on any prosecution of the APS case.
    - 2) The worker will determine if the entity has a branch in NE. If the entity describes another process to access the information, include all information in the request for the subpoena – all addresses, contact numbers, and expressed instructions.
    - 3) If the financial institution does not have a local branch, the worker may call the entity and ask if they will honor a Nebraska subpoena, and if so, proceed with requesting a subpoena. Include the name and contact information to send the subpoena. If the subpoena will not be honored, go on other alternatives.
    - 4) Other alternatives include:
      - a. Request a temporary guardianship and have the temporary guardian request the records.
      - b. Request that the Adult Protective Service program of law enforcement of the state where the records are located obtain the information.
  - iii. *Citation: Neb. Rev. Stat. § 81-119 Departments; investigations; power to compel testimony and produce documents Nebraska Chapter 81. State Administrative Departments Article 1. The Governor and Administrative Departments (a). General Provisions Current with Acts Received as of April 29, 2013 § 81-119. Departments; investigations; power to compel testimony and produce documents Each department created by section 81-101 shall have power through its head, or any deputy, assistant, or employee, when authorized by him or her, to make a thorough*

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*investigation into all the books, papers, and affairs of any person, firm, or corporation when in the judgment of such department such examination is necessary to the proper performance of its duties and the efficient enforcement of the laws. Such department may subpoena witnesses to attend investigative hearings and have such witnesses bring with them books, accounts, and documents necessary for a thorough investigation. Such witnesses may be examined under oath. These powers shall not be used for criminal investigations. Cite as Neb. Rev. Stat. § 81-119 Source: Laws 1919, c. 190, § 24, p. 442; C.S.1922, § 7265; C.S.1929, § 81-123; R.S.1943, § 81-119; Laws 2008, LB952, § 1.*

## **N. Collect Demonstrative Evidence**

1. The CFS Specialist will collect and/or document demonstrative evidence, which includes but is not limited to, images or documents that capture physical evidence such as photographs, diagrams, or maps. The CFS Specialist will create investigatory aids such as maps or drawings that can aid in proving or disproving the allegation.
  - i. **Diagrams** represent incident scenes and living environments as well as help persons reviewing the diagrams to visualize the setting when a photograph cannot accurately depict the scene. Diagrams and drawings need not be expert or drawn to scale, but will show where people and objects were located when the events occurred, and dimensions of rooms, halls, doorways, and so on, if the information is significant.
  - ii. **Body maps and Anatomical Drawings** are also types of demonstrative evidence. The CFS Specialist will indicate and describe all injuries and compare the body map to the victim statements, law enforcement reports, and witness statements. The CFS Specialist may use the body map to show injuries caused by restraints such as chains, belts, cords, tape, or rope.
  - iii. **Photographs/Video:** Photographs and videos add an additional source of evidence to the case record. Visual documentation of an injury or lack of alleged injury, the physical condition of the alleged victim, scenes of the incident, and overall appearance of the living environment often strengthens the CFS Specialist's conclusions.
    - 1) With the consent of the vulnerable adult or legal guardian, the CFS Specialist may take photographs.
      - a. Examples of situations when photographs are recommended include evidence of:
        - i. abuse such as bruises, lacerations or burns;
        - ii. improper and dangerous use of restraints or other devices such as belts, rags, electrical cords;
        - iii. improper positioning such as leaning or hypo/hyper-extension of neck and/or trunk;
        - iv. physical condition of person related to care issues, e.g., pressure ulcers, unkempt clothing, and poor personal care; client's bed that is torn and soiled;
        - v. extensive pest infestation;
        - vi. exposed wiring;
        - vii. alleged victim's room verses the rest of the rooms in the house; and

# Adult Protective Services

- viii. destruction of property that may indicate a struggle or use of intimidation
- 2) How to take Photographs
  - a. The CFS Specialist will take photographs so each relevant object appears in at least three photographs: an overview, a mid-range, and a close-up.
    - i. **Overview:** The overview or “long-range” shot captures the entire person or area of concern. Because a close-up does not indicate where the object was located, the overview shot should cover the entire scene/environment to bring out the relationships between the objects. Leave measuring labels, rulers, and scales out of an overview photo.
    - ii. **Mid-range:** a “mid-range” shot captures a narrower region of the injury or area of concern. This shot shows a relevant object in its immediate surroundings.
    - iii. **Close-up:** a “close-up” shot captures a detailed image of the injury or area of concern. The close-up photograph shows a key detail clearly. Have a “standard” in the close-up shot to indicate the actual size of what is being photographed. Measuring scales, labels, and rulers may be added to the close-up scene to accomplish this purpose, e.g., placing a ruler with readable graduations next to the wound will show its actual size in the photo. Other standards include coins, dollar bills, or pencils. If the ruler or scale covers the area of injury or concern, also take a close up picture without the ruler.
  - b. Labeling Photos
    - i. The CFS Specialist will label each photograph using a standard label attached to the back of the photo and will never write on the photograph.
    - ii. Include the following information:
      - 1. Date and time of photo
      - 2. Name of photographer
      - 3. Physical location and, if applicable, body part location
      - 4. Identity of the person in the photograph, if applicable
      - 5. Date of birth of the person in the photograph, if applicable.
- 3) The CFS Specialist may share photographs with law enforcement when requesting law enforcement to participate in the investigation. Upon request, the CFS Specialist will share photographs with law enforcement.
- 4) When Law Enforcement takes the lead in any investigation, the CFS Specialist will not take any photographs that may interfere

# Adult Protective Services

with law enforcement. The CFS Specialist will consult with Law Enforcement prior to taking any photos. These photos can be included in the case record.

- 5) The CFS Specialist will only use equipment issued by DHHS in taking photographs. The use of personal equipment is not allowed.

**O. Coordinate with Law Enforcement about any Physical Evidence**

1. Physical evidence is any substance or item related to an allegation that can be seen or touched. Examples of physical evidence include fingerprints, bruises, weapons, stained clothing, or medication bottles. CFS Specialist will rely on Law Enforcement for collection of physical evidence.

**P. New Allegations during the Investigation:**

1. If during the process of information gathering, new allegations of abuse, neglect, or exploitation are identified, the CFS Specialist will enter the new allegations into the intake on N-FOCUS or will request that the hotline unit add the new allegation.

**Q. Allegations about a new victim:**

1. If any new victims are identified during the investigation, the CFS Specialist will report those allegations to the Adult/Child Abuse and Neglect Hotline.

**R. Documentation:**

1. Documentation is required to provide a record of the investigation and actions taken by the Department.
2. The narrative should contain facts and observations and avoid expressing opinions. Narrative documentation will be clearly written; well organized; easy to read; and free of errors in spelling and grammar.
3. Investigation Narratives Documentation:
  - i. The CFS Specialist will document the activities of the investigation in N-FOCUS in the Investigation Narratives section. These narratives provide the reader with the detailed step-by-step progression of the investigation and contains the information gathered from the alleged victim, alleged perpetrator and other collaterals (interviews and efforts to contact participants) and a summary of information gathered from documents such as medical records, legal documents, and financial records.
  - ii. Timeframe for Entry of Contacts
    - 1) The CFS Specialist will document all investigation contacts and attempted contacts within 3 business days of the attempt. Most contacts should be documented as soon after they occur as possible, to maximize both the accuracy of documentation and the efficiency of casework.
4. Investigation Summary Narratives:

The CFS Specialist will review the investigation narratives and determine the information to be documented in the investigation summary. A more detailed description of the subcategories is found in Chapter 4.C Investigation Summary.

**S. Courtesy Interview:**

# Adult Protective Services

1. Upon request, all offices shall provide assistance to another office or state evaluating or assessing an allegation of vulnerable adult abuse. Use the following procedure for courtesy interviews:
  - i. The requesting state or office makes a call to the Intake Unit and requests a courtesy interview. The requesting state/office explains the situation and forwards materials as necessary. If the CFS Specialist receives a call requesting a courtesy interview, the CFS Specialist will direct the person to the call the hotline.
  - ii. The CFS Specialist receiving the request conducts the courtesy interview within one week of receiving the request and receiving the written materials necessary to conduct the interview. Any variation from this time limit must be discussed and agreed upon between offices/states.
  - iii. The CFS Specialist forwards the results of the interview to the requesting state/office immediately following completion of the interview, and follows this call or email with a written summary of the interview within 20 working days.

## **T. Reports Involving Members of Indian Tribes:**

1. There are 4 recognized tribes in Nebraska.
  - i. Omaha Tribe of Nebraska is a federally recognized tribe, which occupies the Omaha Reservation in northeastern Nebraska and western Iowa.
  - ii. Santee Sioux Nation is in Knox County located in the north central part of Nebraska.
  - iii. Winnebago Tribe of Nebraska and the Winnebago Reservation lies in the northern half of Thurston County in northeastern Nebraska.
  - iv. Ponca Tribe of Nebraska does not have a reservation. They are headquartered in Niobrara, Nebraska. Their service delivery area consists of fifteen counties in Nebraska, Iowa and South Dakota.
2. Intake
  - i. All reports of adult abuse and neglect are made to the DHHS Adult Abuse Hotline and assigned to the appropriate Tribe or DHHS Office.
3. Investigations:
  - i. The Omaha Tribe and Santee Sioux provide APS Services on their reservations.
  - ii. The Ponca Tribe allows DHHS to provide APS services to their tribal members.
  - iii. DHHS has entered into a Memorandum of Understanding with the Winnebago Tribe. DHHS APS in conjunction with Tribal CFS staff and tribal law enforcement, will conduct all investigations on the Winnebago reservation.

## **U. Death of an Alleged Vulnerable Adult:**

1. Despite the best efforts of communities, law enforcement and the Department some vulnerable adults will die of abuse or neglect each year. When a vulnerable adult dies under circumstances in which abuse or neglect may be the cause or contributing factor, there may be a need to protect others from the same perpetrator. The perpetrator should be listed on the Adult and Child Abuse and Neglect registry if the allegations are substantiated.
2. When an alleged victim dies during an APS investigation, the CFS Specialist, in consultation with the supervisor, shall determine if the alleged victim's death was

# Adult Protective Services

the result of natural causes, self-neglect, or an alleged perpetrator's actions could have contributed to the death of the client.

- i. When a vulnerable adult dies during an APS investigation and it was determined that abuse or neglect was not a contributing factor, Department staff shall:
  - 1) Follow the Critical Incident Protocol
- ii. When a vulnerable adult dies under circumstances in which abuse or neglect may be the cause, or a contributing factor, Department staff will take the following actions:
  - 1) Follow the Critical Incident Protocol;
  - 2) Coordinate Department response with the appropriate law enforcement agency;
  - 3) Unless prohibited by law enforcement, the assigned CFS Specialist will complete an investigation with the purpose of the investigation to determine what each person's role in the incident was, what they knew or should have known, and to determine if their actions or inaction contributed to, or allowed the vulnerable adult's death to occur;
  - 4) At the conclusion of the law enforcement investigation and DHHS investigation, the CFS Specialist will enter the finding on the Central Registry; and
  - 5) At that time, if it has been determined by credible evidence that the death was caused by abuse or neglect, or abuse or neglect was a contributing factor to the vulnerable adult, the CFS Specialist will document this on N-FOCUS by the use of the Death Indicator.

## V. Abbreviated Investigation

1. All reports of abuse/neglect/exploitation will be thoroughly investigated, however, there are limited instances where a CFS Specialist interviews the vulnerable adult and concludes immediately that there is no abuse, neglect, or exploitation occurring.
2. In these limited instances, the CFS Specialist may recommend no further investigation and clearly document the basis for this conclusion.
3. When the allegations of abuse, neglect, or exploitation are CLEARLY ENTIRELY WITHOUT SUBSTANCE, the CFS Specialist may enter finding of unfounded without completing the full investigation.
  - i. For example, there are allegations of injury due to abuse and the CFS Specialist finds that there are no injuries whatsoever.
  - ii. Another example includes situations where there are allegations that living conditions are unsanitary or unsafe and the CFS Specialist finds the home in good condition and without any hazards. In these instances, the CFS Specialist determines that an investigation is not needed.
4. For an abbreviated investigation, the CFS Specialist will complete the following activities:
  - i. Interview and observe the alleged victim;
  - ii. Complete a home visit if the allegations pertain to hazardous home conditions;
  - iii. Contact at least one other person or professional having knowledge of the situation to corroborate the decision; and

# Adult Protective Services

iv. Provide referrals to community services if needed.



**DELEGATION OF AUTHORITY FOR  
ISSUING AGENCY SUBPOENAS FOR  
ADULT PROTECTIVE SERVICES**

As Chief Executive Officer of the Department of Health and Human Services, I hereby delegate authority to issue agency subpoenas to the following employees of the Division of Children and Family Services:

- Director of the Division of Children and Family Services
- All Deputy Directors of the Division of Children and Family Services
- All Service Area Administrators
- Field Operations Manager

The individuals listed above are authorized to issue agency subpoenas necessary to carry out the duties of Adult Protective Services.

Signed this 21 day of July, 2015.

Courtney N. Phillips, MPA  
Chief Executive Officer  
Department of Health and Human Services

*Effective Aug. 3, 2015*

## Chapter 4.C Investigation Summary

- A. The investigation summary is a written record of the facts and the conclusion.

The CFS Specialist will:

1. review all the gathered evidence or facts that support or refute the allegations.
2. will analyze and weigh the evidence,
3. describe their analysis and discuss their resolution of any conflicting information in witness statements or other observable facts,
4. describe the evidence collected and provide a conclusion about the validity of the allegations,
5. complete the Investigation Summary which contains narrative sections that summarize the critical and relevant components of the investigation, and
6. complete the Investigation Summary which contains narrative sections that summarize the critical and relevant components of the investigation.

The investigation summary is not meant to be a rewrite of case recording forms, but a brief overview of the relevant information from the investigation. The investigation narratives are intended to be a succinct, chronological record of the process of the investigation and contain all relevant information collected. The CFS Specialist will not identify the reporting party.

Any person reading the investigation summary will have a comprehensive picture of the investigation without having to read through each detail contained in the contact, evidence, other narratives or case file. The summaries can be especially useful when providing summaries to law enforcement, county attorneys, facilities, or anyone else who has a right to receive summaries of an APS investigation. The following sections will detail each domain topic and subtopics and what information should be summarized in each.

- B. N-FOCUS system automatically prints the names, allegations, summary and recommendations. The CFS Specialist will complete the investigation summary in N-FOCUS.

### Summary Narratives

The investigation summary contains the following sections;

1. ALLEGED VICTIM
2. ORGANIZATION PROVIDER
3. SAFETY RESPONSE
4. ALLEGED PERPETRATOR
5. EVIDENCE/CONTACT SUMMARY
6. MALTREATMENT
7. RECOMMENDATIONS FOR SERVICES
8. RECOMMENDATIONS TO COUNTY ATTORNEY
9. ORGANIZATION RECOMMENDATIONS
10. OTHER RECOMMENDATIONS

The following sections describe what is expected to be documented in each section.

#### 1. ALLEGED VICTIM

Determine Vulnerable Adult Status:

This purpose of this section is to document the conclusion of whether the alleged victim meets the definition of a vulnerable adult and the supporting reasons for the conclusion.

For Example, If an adult has a guardian appointed by a court in Nebraska this automatically qualifies the adult as vulnerable adult. **Write the name and contact information of the guardian.**

Example: Mr. Smith has a court appointed guardian/conservator, Joe Allen, so according to NE State law; Mr. Smith meets the definition of a vulnerable adult.”

This person meets the definition of a vulnerable adult due to the diagnosis of (XXXX) conditions that impacts their ability to live *independently*.

### Substantial Functional Impairment

Describe the following:

Activities of Daily Living Skills (ADLS)

Independent Activities of Daily Living Skills (IADLS).

List what ADLS they can do.

What ADLS can't they do?

What is the condition or diagnosis?

What IADLS can and cannot do?

Describe the physical impairments?

Medical information must always be attributed to the source; labels or diagnoses should not be used unless furnished by a medical professional. Medical information **must** consist of **specific facts** regarding the adult's condition as observed by medical / mental health professionals.

When legal action is being considered, the CFS Specialist must **request the medical / mental health personnel to describe how the existence of a condition, or the combination of conditions, places the adult in danger or harm and how imminent the harm to the adult will be if those conditions are not alleviated within a relatively short period of time.** *It is not enough* to say that the adult would be better off if removed from the home or not sent home with a relative of questionable caring skills.

In this section, the worker summarizes specific functional impairment(s) which support the conclusion that the alleged victim meets the definition of a vulnerable adult. This subtopic addresses how the adult functions on a daily basis and **how and if their ability to function or live independently is limited**, This would include describing any functional impairment, diagnosis, or conditions and describing how each supports the vulnerable adult determination limits the adult from living independently or providing self-care. These functional impairments may include, but are not limited to the following areas:

- a. Movement, Mobility, or Balance
- b. Respiratory Functions
- c. Dimensional Extremes (extreme obesity, extreme small stature)
- d. Sensory Functions (vision, hearing, sensation)
- e. Speech/Language Functions

- f. Stamina or Fatigue
- g. Congenital Defect
- h. Developmental Disability affecting physical function
- i. Physical Health
- j. Knowledge of basic needs for daily life

Include a brief description of how the physical limitation impacts the adult's ability to live independently or provide self-care.

#### Substantial Mental Impairment

The worker may also determine the presence of a substantial mental impairment. The worker documents any specific mental impairment(s) which support the vulnerable adult determination. This would include **listing any diagnosis, conditions, or impairments and describing how each limits the adult from living independently or providing self-care.** These impairments may include, but are not limited to:

- a. Mental Health
- b. Substance Abuse
- c. Problem Solving Ability
- d. Judgment and Decision Making
- e. Ability to Function Independently/Dependent on Others
- f. Ability to think and Communicate Rationally
- g. Self-care, self-preservation, and self-protection
- h. Coping and Stress Management
- i. Self-Control
- j. Psychotic or Thought Disorders
- k. Memory Disorders (Dementia, Alzheimer's, etc.)
- l. Mood Disorder (Bipolar Disorder, Depression)
- m. Intellectual Impairment
- n. Developmental Disability
- o. Traumatic Brain Injury
- p. Chronic Substance Abuse/Addiction

Examples of an impairment or disturbance in the functioning of the mind or brain may include the following:

- a. Conditions associated with some forms of mental illness
- b. Dementia
- c. Significant learning disabilities
- d. The long-term effects of brain damage
- e. Physical or medical conditions that cause confusion, drowsiness or loss of consciousness, delirium, concussion following a head injury, and;
- f. The symptoms of alcohol or drug use.

In this area the worker summarizes the alleged vulnerable adults functioning abilities. The CFS Specialist will provide a summary of the adult and their functioning in the world.

Employment  
Relationships – past and present

Family relationships  
General attitude  
Strengths, aspirations  
Legal issues  
Transportation  
History of Domestic Violence  
Communication and Social Skills  
Home and Financial Management  
Citizenship and Community Involvement  
Cultural Practices

The CFS Specialist will describe the physical and mental conditions and functional impairments present and will describe the supporting evidence for the conclusion. The evidence may include environmental observations, statements and opinions which lead to the conclusions regarding the victim's extent of impairment.

#### Determine Decision Making Capacity

During the investigation, the CFS Specialist will gather information that will be used to draw a conclusion about the adult's ability to make decisions. This conclusion is important when completing service planning. The CFS Specialist makes a conclusion about the vulnerable adult's ability to make decisions and understand the consequences.

In this area the worker summarizes the vulnerable adult's ability to consent for services. When involving the Department in an adult's life consent is needed to provide services and as part of the investigation the worker should indicate whether the adult demonstrates the ability to consent to services. Conditions that might affect capacity include:

Cognitive Impairments  
Severe Mood Disturbances  
Perceptual Distortions  
Thought Processing Defects

#### EXAMPLE

Client demonstrates the ability to consent for services by keeping doctor's appointments, paying bills in a timely manner, and when refusing services offered, has a reasonable answer explaining why he doesn't want assistance.

During the interview with the alleged victim/adult, the CFS Specialist will complete a decision making capacity screening. The CFS Specialist will interview the alleged victim/adult about making a decision and will document the following:

- a. Does the person have a general understanding of what decision they need to make and why they need to make it?
- b. Do they understand the consequences of making, or not making, the decision, or of deciding one way or another?
- c. Are they able to understand and weigh up the relative importance of the information relevant to the decision?

- d. Can they use and retain the information as part of the decision-making process?
- e. Can they communicate their decision?
  - Reasoning and understanding of decisions
  - Understanding benefits and risks of decisions
  - Ability to perceive danger
  - Understanding alternatives
  - Making consistent decisions

Information is obtained from medical or psychiatric sources, if available, to assist in the determination. In making this determination, the APS specialist assesses and considers:

- a. the vulnerable adult's short and long term memory;
- b. the vulnerable adult's executive functioning by their ability to plan and execute a plan;
- c. the vulnerable adult's ability to recognize risk factors;
- d. denial of problems by the vulnerable adult or caretaker;
- e. the vulnerable adult's executive functioning by his or her ability to understand and follow directions;
- f. indicators of affective disorders such as depression or bipolar disorder; and
- g. indicators of substance abuse, dementia, delirium, psychosis, traumatic brain injury, uncharacteristic socially inappropriate behaviors, impaired decision-making, and other factors.

The CFS Specialist's assessment of a vulnerable adult's mental capacity to consent to protective services takes into account the vulnerable adult's awareness of:

- a. the limitations and deficiencies in the physical environment;
- b. the vulnerable adult's own physical or mental limitations;
- c. resources available to assist in meeting the vulnerable adult's needs; and
- d. the consequences to the vulnerable adult if nothing is done to improve the situation.

If a vulnerable adult is deficient in all or most of the areas above, he or she may lack the capacity to consent to protective services and it may be appropriate for the CFS Specialist to consult with the supervisor to petition the court for an order authorizing the provision of needed services.

If a vulnerable adult expresses awareness of all four areas above, it is likely that the present circumstances are the vulnerable adult's choice, though in some cases a vulnerable adult might express awareness in these areas and still lack the capacity to consent to provision of services.

If a vulnerable adult appears unaware of the consequences of the present situation, and an emergency exists, legal intervention is appropriate.

The CFS Specialist may also use this section to summarize their observations regarding a person's decision making capacity and documents any

recommendations regarding possible substitute decision making. The CFS Specialist will describe the tools used, observations, and the findings regarding the victim's capacity to consent to adult protective services.

When the alleged victim has a substitute decision maker in place, the CFS Specialist will provide a description of any substitute decision makers for the alleged vulnerable adult. Other types of substitute decision makers may help support the finding of vulnerable adult, but do not absolutely determine someone to be a vulnerable adult. Substitute decision makers may be informal or formal and the worker should describe both in this section. Informal substitute decision makers may not have any legal authority or a contract in place, and formal substitute decision makers include the following:

Power of Attorney  
Durable Power of Attorney  
Power of Attorney for Health Care  
Protective Payee  
Representative Payee

The CFS Specialist will document the name of the substitute decision maker, contact information, the date of beginning of the substitute decision maker and the limits of decision making, if any. If the substitute decision maker is a court appointed guardian or conservator. The CFS Specialist document the county where the court decision was made.

If there is a power of attorney, the CFS Specialist will document the type of power of attorney, the limits of decision making, and the effective date and reason.

If there is a self-neglect assessment, then, the impact of the self-neglecting behavior will be documented in this section.

## **2. Organization Provider**

Describe the prior history of abuse/neglect reports involving the organization or provider, factors that contributed to abuse/neglect including staffing patterns and activities of staff at time of the alleged incident, training of staff, policy/procedures, and home or facility attitudes.

## **3. Safety Response**

The CFS Specialist assesses for current safety and document the conclusion in this section. Documentation includes a description of the circumstances or events affecting the safety of the vulnerable adult at the first face-to-face visit, a description of the development and implementation of a safety intervention either by the APS worker or the organization/family.

The worker uses the section to describe any conditions, events, or circumstances which place the vulnerable adult in a situation which is presently dangerous at the first face-to-face or at any time the worker is meeting with the client. At the end of the investigation, the CFS Specialist will document the adult's current situation.

## **4. Alleged Perpetrator**

When there is an alleged perpetrator, the CFS Specialist will include the following information:

- a. A description of the relationship of the alleged perpetrator to the vulnerable adult,
- b. Attitudes of the alleged perpetrator toward the vulnerable adult,
- c. behavioral or emotional issues of the alleged perpetrator,
- d. financial issues of the alleged perpetrator, or
- e. history of abuse or violence by the alleged perpetrator.

While assessments will document previous contacts with a person, if the finding of a previous investigation is unfounded, it can NOT be a basis for a future placement of a name on the Central Registry. The decision to place a person's name on the Central Registry should not be influenced by more than the specific case allegations.

If the alleged perpetrator is a caregiver, the CFS Specialist should provide a summary of their ability to care for the vulnerable adult, reasons for being a caregiver, satisfaction in the role, or any other pertinent information about the caregiver's role.

## 5. Evidence/Contact Listing

In the Evidence/Contact listing, the CFS specialist will list the critical pieces of information that led to the conclusion. In this area the CFS Specialist describes the relevant evidence and contacts which support the findings. The CFS Specialist will determine what information/evidence is relevant to the investigation decision and what information is irrelevant. This summary will make the most pertinent information readily available to the reader without having to read each contact or evidence narrative.

A victim may not be willing to testify or may be unable to testify due to mental or physical impairments, hospitalization or death. **It is important to be able to build a case without the testimony of the victim.**

Example:

The APS investigation involved direct contact with client, with a collateral person, who affirms that client has been doing very well and has not had a lot of problems, review of N-FOCUS records, contact with Aging Partners, and a referral for services.

Example

2-4-10	interview with alleged victim
2-5-10	interview reporter
2-10-10	interview perpetrator
5-16-10	letter from physician dated xx-xx-xxxx

Example

Worker interviewed victim in her home.  
Worker consulted with staff of AAA.  
Worker consulted with CPS worker  
Worker talked to granddaughter by phone.  
Worker talked to granddaughter at the office.

Worker consulted with staff at Senior Center.  
Worker reviewed medical record dated XX-xx-xxx

## 6. **Maltreatment**

After collecting and analyzing all the gathered information, the CFS Specialist will make a conclusion about the allegations.

The CFS Specialist will succinctly restate the allegation, followed by a description of undisputed facts of the investigation and the types of evidence that are contradictory.

The CFS Specialist will reconcile discrepancies, weighing credibility where indicated and offer a probable timeline of events based upon the evidence found to be credible. The CFS Specialist will document a logical conclusion based on a preponderance of the evidence that clearly outlines the reasoning behind all judgments

The CFS Specialist will succinctly summarize the allegations being investigated in the Maltreatment section.

The CFS Specialist will:

- identify each allegation of maltreatment,
- the findings of those allegations,
- circumstances surrounding the maltreatment, and
- any other information related to the maltreatment.  
Example: The allegation is that alleged perpetrator abused/neglected/exploited vulnerable adult by [specific action], resulting in [specific harm or pain or imminent danger of physical injury or death].

A preponderance of the evidence indicates that this [did/did not] occur. Or:

There is not a preponderance [supporting/refuting] the allegation.

Note: This model offers a formula that is suitable for most cases.

### Findings of fact:

- Organize and record a series of statements that leads to the conclusion.
- Write concise statements, each statement stating one fact.
- Each fact is separated from the next by a line space.
- Use a bulleted format; do not write in narrative paragraphs.
- For each fact, attribute the source of the evidence.
- Identify in parentheses ( ) after each statement of fact, the sources in the report that on which the statement of fact is based.
- For each statement, think, “evidenced by”.

The sources are indicated by:

Witness statements: Identify which witness.

Documentary evidence: Identify the record or evidence by the headings in the evidence sections.

Example: (Pharmacy record). If more than one pharmacy record, include the date to establish which record. Example: (Pharmacy record, 3/02/08).

Examples of finding of facts:

Statement of fact (sources for those facts)

The alleged victim was malnourished and was hospitalized as a result; (ER report 4-8-10)

The Alleged Victim was kicked in the back. (Witness, John Waters. RP, Alleged Victim statements; ER report, 04/07/08, photographs of bruises, 04/10/08).

### Perpetrated

When investigating perpetrated allegations, the conclusions include whether:

1. the alleged victim meets the definition of vulnerable adult;
2. the allegations meet the definition of Abuse, Neglect, and Exploitation;
3. the allegations more likely than not occurred;
4. the alleged perpetrator was a caregiver; and
5. the alleged perpetrator more than likely caused the abuse, neglect, and exploitation resulting in the consequences

During the analysis phase, the CFS Specialist will compare statements made by the alleged victim, the alleged perpetrator, witnesses, and others for consistency, and identify significant discrepancies or contradictions.

The CFS Specialist will:

1. determine which statements or portions of statements are credible and why,
2. identify the undisputed facts versus suppositions and opinion,
3. list the evidence to support the allegation and the evidence that does not support the allegation; and
4. determine whether the preponderance of the evidence has been established.

### **Credibility**

The CFS Specialist will consider the following factors, at a minimum, to determine whether or not the information is credible:

- Any motives the person might have for reporting false information, including the person's interest or lack of interest in the outcome of the report;
- The ability of the person to provide thorough and internally consistent statements and explanations;
- Any physical, intellectual, mental, psychological or character trait which might preclude the person from providing accurate information; and
- Consistency of information provided by the person, with known facts and circumstances, and with corroborating evidence obtained from other sources.

When there are inconsistencies, the CFS Specialist will gather additional information or document how the inconsistencies are resolved.

Following the statements of fact, the CFS Specialist will write the conclusion.

The conclusion states:  
Whether or not the incident happened  
Whether or not there was wrongdoing or self-neglect.

When findings fact are correctly written, the reader will be able to tell exactly what happened by reading the investigation summary and the findings of fact.

**Summary of the investigation's findings;**

1. Include a list of collateral contacts in the Investigation Summary.
2. Pertinent information obtained from interviews;
3. Pertinent information obtained from medical or other records reviewed;
4. Pertinent information obtained from Law Enforcement;
5. Relevant timeline of events that include dates, narrative, and reference documents that would be used as evidence.

**Example narrative:**

The conclusion is supported by specific evidence that is credible because of [specific reasons]. Or: Specific evidence not supporting the conclusion is not credible because of [specific reasons].

The alleged perpetrator's actions [fit/do not fit] the relevant definition of A/N/E because of [specific reasons].

Or: No preponderance exists because of [specific reasons].

*Note:* This model can be used as a formula in many cases, but not all. If there is no conflicting testimony and the vulnerable adult is credible, for example, there is no need to assess credibility.

**Conclusion:**

Following the statements of fact, write the conclusion statements:

For perpetrator related cases: The CFS Specialist concludes based on the statement of acts that:

The incident happened: (answer "yes" or "no")

Wrong-doing was substantiated: (answer "Department Substantiated or Unfounded.")

For self-neglect cases:

In this investigator's conclusion based on the statement of facts that:

The incident happens: (answer "yes" or "no")

Self-neglect was Department Substantiated or Unfounded.

Self-neglect was confirmed or not confirmed.
--

The documentation in the investigative summary should NOT contain information in regard to a recommendation about the question of expungement.

The statute allows anyone to challenge the accuracy of the listing or attempt to show good cause as why their name should be expunged. The CFS Specialist may include information about the seriousness or the on-going risk in the investigation summary.

**"Department Substantiated"** means the greater weight of the evidence collected during an APS investigation determines that abuse, neglect, and/or exploitation occurred and the alleged victim meets the definition of a vulnerable adult. The worker will document specific events of maltreatment including the severity, duration, and locations of the events.

**"Agency Substantiated"** means the greater weight of the evidence collected during an APS investigation determines that abuse, neglect, and/or exploitation occurred and the alleged victim meets the definition of a vulnerable adult. The worker will document specific events of maltreatment including the severity, duration, and locations of the events.

The CFS Specialist will determine if the incident rose to the level of the definition according to the APS act. The documentation should specify whether the elements for each allegation are present and meet the criteria for a finding of agency substantiation.

The CFS Specialist will provide details on how each element of the allegation definition has been met.

For example, if the worker determines that the disabled adult has been physically abused, the documentation should provide enough information to understand how the decision was reached. Once the worker has described how each of the criteria has or has not been met, an overall decision on whether the report is agency substantiated should be documented.

For self-neglect assessments, this section does not apply.

## 7. **Nature/Circumstances**

In this section the worker summarizes the following:

- a. circumstances surrounding the identified maltreatment including who else may have been involved;
- b. an analysis of previous maltreatment;
- c. influences leading to maltreatment;
- d. any perpetrator explanations of maltreatment;
- e. identified intent of maltreatment;
- f. attitude of the alleged perpetrator; and
- g. other problems occurring in association with the maltreatment.

## 8. **Recommendations for Services**

In this section the worker will summarize the following:

- a. Whether the client will be offered ongoing service coordination; if it will be closed with no services, referrals made, opened for ongoing services,

- b. A description of why ongoing service coordination is needed for the safety of the vulnerable adult or to prevent abuse, neglect, or exploitation;
- c. A description of the facility actions to protect the vulnerable adult;
- d. A description of the services being recommended and why; and
- e. A listing of completed referrals.

The CFS Specialist will document whether protective services were offered and the alleged victim's decision to consent to or refuse services. If there is a substitute decision maker in place, the CFS Specialist documents their decision to consent to or refuse services. If no services are needed the worker will document that there is no need for consent for services.

**9. Recommendations to County Attorney**

The worker will document recommendations to the county attorney. If there is a conclusion that there has been a violation of the APS act, then, the information will be forwarded to the county attorney. This may also include any recommendations for a mental health board hearing or other court action initiated by the county attorney.

For self-neglect assessments, this section does not apply.

The Investigation Summary replaces the letter to the County Attorney and fulfills the regulation to inform the County Attorney of the investigation and findings.

For example,

"I send this investigation summary (as per section Ne Rev. Stat. section 28-374) to inform you that there is reasonable cause to believe that there has been a violation of the Adult Protective Services Act. Please review and consider this case for prosecution. This case fits the criteria in the following ways: "

**10. Organization Recommendations**

The CFS Specialist describes any recommendations made to the organization/provider to better provide for safety or prevent/discontinue abuse or neglect and also describe any actions that the organization/provider has already taken to provide safety or correct a situation. For self-neglect assessments, this section does not apply.

**11. Other Recommendations**

The CFS Specialist will describe any other recommendations made during the course of the investigation/assessment including any communication to the Division of Public Health-Licensure Unit or other DHHS agencies.

Protective Services

- 1. Statement of any action taken by APS-  
  - Services offered and accepted,
  - No services needed
  - Services refused.
- 2. Statement of any action taken by the facility, if applicable.

# ADULT PROTECTIVE SERVICES

## Chapter 4.D Organization Related Investigation

### Investigation Of Allegations When The Alleged Perpetrator is Staff Of An Organization

A. Organization Related Investigations – The CFS Specialist will conduct an investigation of abuse, neglect and exploitation reports which occur in a facility or allegations against a provider of home based services.

1. Most facilities are licensed or regulated by the Division of Public Health, the Division of Medicaid and Long Term Care or the Division of Developmental Disabilities.
2. Adult Protective Services does not investigate the organization itself.
3. The CFS Specialist will respond based on the Priority response time set by the Hotline and will make all attempts to include representatives of the Licensing Unit, Division of Developmental Disabilities or NE Medicaid in the investigation process in order to reduce the trauma to all the parties involved.
4. The CFS Specialist will conduct interviews and gather information as described in the chapter on Investigations but will work with other entities to collaborate with interviews and collecting information so as to reduce trauma to the alleged victim and streamline work processes. The intake unit has completed the notification process.

B. The CFS Specialist will complete the following steps:

1. Planning the investigation

The CFS Specialist will plan their investigation as outlined in Preparing for Investigation Section and will coordinate with other Department Divisions with related responsibilities:

The CFS specialist will recognize that other entities may have regulatory or statutory responsibilities connected to an organization or subject involved in an APS report. When an APS report is accepted for investigation and an organization is involved or is the site of the allegation, the CFS Specialist will give other agencies and programs an opportunity to participate in a joint investigation or share information.

If staff from other agencies or programs are not available to participate in a joint investigation within the timeframe that APS will initiate the investigation, the APS investigation shall not be delayed.

2. Coordinate with Local Law Enforcement:

The CFS Specialist should attempt to coordinate with local law enforcement to investigate the report of abuse, neglect, or exploitation. Should the local law enforcement agency decline to investigate the allegation of abuse, neglect, or exploitation the CFS Specialist will proceed with the investigation without local law enforcement. The CFS Specialist will document in N-FOCUS the reason for law enforcements denial to pursue investigation.

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Law enforcement will focus primarily on conducting a criminal investigation. The role of the CFS Specialist is to:

1. Determine if abuse, neglect, or exploitation has occurred;
2. Assess the safety of the adults involved;
3. Recommend action and follow through to assure adult safety; and
4. Assess the cause of the problem and make recommendations to reduce risk of recurrence.

3. **Medicaid Fraud Control Unit:**

The Medicaid Fraud Control Unit (a branch of law enforcement) investigates and prosecutes violations of Medicare and Medicaid laws and regulations including Medicaid provider fraud and patient abuse and neglect in Medicaid provider facilities. When APS receives a report of abuse, neglect, or exploitation and the subject of the report receives funds through Medicaid or Medicare or resides in a facility that receives funds, the CFS Specialist will attempt to coordinate with the Medicaid Fraud Control and Patient Abuse Unit. If the Medicaid Fraud Control and Patient Abuse Unit declines to investigate the allegation of abuse, neglect, or exploitation or be unable to investigate within APS timeframes the CFS Specialist proceeds with the investigation without the Medicaid Fraud Control and Patient Abuse Unit. There are times when the Medicaid Fraud and Patient Abuse Unit will take the lead on the investigation and the CFS Specialist will follow the direction they give.

4. **Division of Public Health, Licensure Unit:**

The CFS Specialist will initiate the investigation according to the Priority set by the Adult and Child Abuse and Neglect hotline.

The Licensure Unit also contains an intake function and these workers enter the complaints/reports into their own data system with a number assigned that is different than the CFS intake number. Each week, the Licensure Unit submits a report to the APS Program specialist indicating their initial decisions and their assigned response time. The APS Program Specialist forwards the report to the APS supervisors for review. The Licensure Unit will forward reports containing information with an alleged perpetrator who has a professional license the Professions and Occupations Investigations Unit.

The Licensure Unit uses the following system to describe their response time.

Immediate Jeopardy (IJ) means “A situation in which the provider’s noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or a death to a resident.” **42 CFR 488.301; 42 CFR 489.3**

Priority:

A=IJ onsite 2 days

B=Non-IJ High (onsite 10-15 days depending on program)

C=Non-IJ Medium (onsite 45 days)

D=Non IJ-Low (onsite next survey or 6 months depending on program)

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E=Offsite/Desktop review

The CFS Specialist is able to contact representatives from the Licensure unit in Central Office. The ORG chart <http://dhhs.ne.gov/Org%20Charts/PublicHealth.pdf> will assist the CFS Specialist to identify who to contact. The contact person is the program manager assigned responsibility for the type of facility or service. The CFS Specialist does not contact the local surveyors. When the CFS Specialist is aware of a licensing report that is labeled Priority A or B, they are able to contact the Licensing Unit Program Manager and request any initial information. When the Licensing Unit's response time is longer than the CFS response time, the CFS Specialist may contact the program manager after their first visit, especially to share any information that may alter the Licensing Unit's decision.

Licensure Unit staff are a valuable resource for understanding medical terms and care plans. The CFS Specialist may consult licensing staff regarding facility licensing standards at any point during the investigation. If a joint investigation is appropriate and necessary, licensing will focus on policy, procedure, practice, and documentation, which relate to specific standards.

The Licensing Unit submits a summary of their findings to the APS Program Specialist who forwards them to the CFS Specialist as they are completed. The summary of findings is stored in the document imaging section of the organization in N-FOCUS.

The CFS Specialist will provide a copy of the Organization Notification Letter to the Licensure Unit.

## Cross Referral to Licensure Unit

While conducting an APS investigation, the CFS Specialist may become aware of some general complaints regarding the operation of, or the care provided within, the facility, such as poor care or poor conditions, which may be in violation of licensing standards. In these cases, a call will be made to the Licensure Unit Complaint intake line (402) 471-0316 or by faxing the complaint to (402) 471-1679.

<http://www.hhs.state.ne.us/crllinvestinvest.htm#Ways>

## 5. Division of Developmental Disabilities:

The CFS Specialist will coordinate and communicate information regarding the investigation with the DD surveyor/investigator.

In all cases involving a Division of Developmental Disabilities certified organization; the CFS Specialist will contact the DD Surveyor and coordinate actions towards the completion of the investigation. The CFS Specialist will also contact the DD Service Coordinator assigned to the client and request information about the client's plan of care and to discuss how the client will be protected during the investigation.

For clients who are identified as a DOJ covered individual, the CFS Specialist will follow the additional steps listed below.

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The intake unit will identify DOJ covered individuals and provide this identification in the Intake narrative. It will be the responsibility of the APS Supervisor or Administrator reviewing the Intakes for assignment to immediately identify these Intakes and let the assigned worker know that this Intake involves a DOJ covered individual.

For intakes accepted for investigation by APS, the DDD program manager will send an email to the APS Supervisors and the CFS Program Specialist specifying the Intake # and the name and contact information of the assigned DDD Surveyor/Consultant.

The CFS Specialist must initiate action on all accepted Intakes that involve a DOJ covered individual by the next business day of the incident being reported. The CFS Specialist must complete the investigation/assessment within 30 business days of the incident being reported, or as soon as practicable so as to eliminate any undue delay.

Initiate Action means that the CFS Specialist has reviewed the intake and has made a decision about the plan to investigate. This decision point must be documented in N-FOCUS in the Investigation Narrative section - Subject: Contact. The contact will also be included in the Investigation Summary under Evidence/Contact summary section.

For example:

- Priority 2 Intake is accepted for investigation - the CFS Specialist will review the Intake; contact the assigned DDD Surveyor and schedule a time and date to begin the investigation.
- Priority 3 Intake is accepted for investigation, the CFS Specialist will review the intake information and decide what steps are needed such as: obtaining the IPP from the DDD Service Coordinator or calling the facility to schedule a face-to-face interview for Wednesday.  
These decisions will be documented on N-FOCUS (investigation narrative, contact) and will meet the definition for initiating action. Initiating action within one day does not negate the current priority response time frames established for APS.

## Completing the investigation for DOJ covered individuals

All interviews have been conducted, evidence obtained and the CFS Specialist has gathered and analyzed all the information to determine if either abuse/neglect/exploitation occurred. A decision to open an ongoing case or other action will be determined. The investigation needs to be completed and documented on N-FOCUS within 30 business days of intake assignment.

Exception: If the CFS Specialist has not been able to gather all of the necessary evidence or interview all of the relevant parties within the 30 business day time frame, the CFS Specialist must document the information that is outstanding and any action they are taking to obtain that information. The CFS Specialist will update the status of completing the investigation a minimum of every 5 business

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days until the investigation is complete. This information will be documented in the Investigation Narrative – Consultation Point – Investigation timeframe extension.

## Collaboration of Investigation:

- The DD Surveyor will conduct the investigation related to how the provider agency provided safety for the individual and identify any actions that need to be taken to provide ongoing safety for individuals by the provider agency.
- The CFS Specialist will conduct the investigation to assess the safety of the individual and determine if abuse, neglect, or exploitation occurred. The CFS Specialist will document in the Investigation Summary, under the heading of Safety how the alleged victim was unsafe; what safety interventions were taken by APS and/or by the Organization; what safety services were established.

## Conducting the Investigation:

- Once the DD Program Manager has notified the APS Supervisor with the intake number and name of assigned DDD Surveyor/Consultant, the assigned CFS Specialist must make contact with the assigned DD Surveyor.
- The assigned CFS Specialist will follow APS procedures related to gathering information and conducting interviews.
- The DD Surveyor and the CFS Specialist will collaborate and conduct joint interviews whenever practicable (feasible) and necessary for the investigation. If schedules cannot be synced, APS response time frames for the first face-to-face contact will not be extended. APS response times established in policy must be met.

## Upon completion of the investigation:

- DDD will provide the CFS Program Specialist with a copy of DDD's citations and recommendations issued to the provider.
- The CFS Specialist will provide a copy of the Organization Notification Letter to the DD Surveyor.

## 6. Long-Term Care Ombudsman:

When APS receives a report of abuse, neglect, or exploitation within a long-term care facility, the CFS Specialist may attempt to contact the long-term care ombudsman to gain collateral information relating to the allegations of abuse, neglect, or exploitation. The long-term care ombudsman may be unable to share information because of their Federal statutory requirement to maintain the privacy and confidentiality of the resident. A release of information may be required for the LTC Ombudsman to share information.

The CFS Specialist will report to the Long-Term Care Ombudsman any violations of patient rights in the long-term care facility that they may discover in the course of the investigation.

The Long Term Care Ombudsmen provides information to persons regarding how to locate an appropriate facility, how to obtain quality care, and how to resolve problems.

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If the resident wants, the Ombudsman can assist him/her with complaints. Reports of resident rights violations are reviewed using specific screening criteria. Some reports will involve dignity and privacy issues that need to be addressed, but may not always rise to the level of abuse and neglect. The Long-Term Care (LTC) Ombudsman program has primary responsibility for handling complaints in this arena. Some reports will involve elements of both abuse and neglect and resident's rights issues and should be handled in a coordinated, cooperative manner by the LTC Ombudsman and the Department. The CFS Specialist may confer with the LTC Ombudsman assigned to the facility to coordinate efforts.

## 7. Aged and Disabled Waiver (NE Medicaid)

Aged and Disabled Waiver is a DHHS program that manages federally approved Medicaid waiver to provide non-medical services such as Assisted Living and Respite Care for children and adults with disabilities and aged persons who would otherwise live in a nursing facility.

The Division of Medicaid and Long-term Care makes contractual arrangements with the Area Agencies on Aging and the League of Human Dignity to provide Medicaid Waiver services. The Home and Community Based Waiver Service Coordinators are responsible for assessing and determining their client's level of care, developing a plan to assure health and welfare, giving choices between waiver services and institutional care, authorizing services and monitoring services delivery. Resource Developers are responsible for determining that potential providers meet waiver program standards, claims are coded and billed correctly and for continuing monitoring of services delivered. These staff receives alerts when an intake is received involving one of their clients.

The CFS specialist can expect to be contacted by service coordinators looking for information that will help them to ensure safety for clients. Questions that they might ask are:

- Was a care provider a perpetrator and should not have access until investigation is complete?
- Does a client need to have plan adjusted to address safety concerns?
- What are the safety concerns for the client?

Information can be shared with these staff under the authority that they are in charge of the care of the vulnerable adult. If the Service Coordinator is the alleged perpetrator, the CFS Specialist will contact the HCBS Waiver Unit staff located in Central Office to review the case.

## 8. Initial Contacts

The CFS Specialist will coordinate with all involved DHHS divisions conducting reviews and investigations to maximize the opportunities to gain factual information, minimize the number of interviews and minimize the degree of intrusiveness. If interviews cannot be conducted jointly with licensing or developmental disabilities, the CFS Specialist will follow priority response time assigned by the adult and child abuse and neglect hotline.

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The CFS Specialist or Supervisor will contact the administrator or director of the facility, agency or program regarding the report of any abuse or neglect allegations in order to ensure that action is being taken to protect other vulnerable adults during the investigation. Contact with the administrator or director may be simultaneous with the first visit to the facility, agency or program.

If the administrator or director is the alleged perpetrator, seek supervisory or program consultation for consideration of alternative notification. When appropriate, in compliance with local protocol, notify law enforcement.

The CFS Specialist or Supervisor will contact the facility to:

- a. Inform the director/administrator of the report.
- b. Arrange for safety (alleged victim and others).
- c. Document the director/administrator's plan to keep residents safe.
- d. Make arrangements to interview the alleged victim and other relevant collateral sources.
- e. Identify a contact person (may be the director/administrator).
- f. Identify interviewees (as much as possible).
- g. Plan for personal visit to facility.
- h. Identify documents needed:
  - 1) Organizational chart
  - 2) Staffing records for specified dates
  - 3) Relevant facility policy and procedure
  - 4) Relevant internal logs including medical logs
  - 5) Relevant incident reports
  - 6) Vulnerable adult's facility case record
  - 7) Internal investigation
  - 8) Information from alleged perpetrator's personnel file:
  - 9) Job description including requirements and responsibilities
  - 10) Clarifications, reprimands, disciplinary actions
  - 11) Vulnerable adult abuse registry check and criminal history check Policy and procedure 'check-off'
  - 12) Relevant training history
  - 13) Mandatory reporter training certification
  - 14) Keep the administrator or the administrator's designee informed as to the progress of the assessment.

If the administrator is alleged to be the person responsible for the abuse, The CFS Specialist will consult with the supervisor regarding how to proceed with the investigation.

Regardless of the order in which the interviews are conducted, the cooperation of the administrator will be requested during the investigation.

The CFS Specialist will:

- a. Inform the director/administrator of the report;

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- b. Arrange for safety (alleged victim and others) or request a copy or description of the plan for safety devised by the Organization;
- c. Make arrangements to interview the alleged victim and other relevant collateral sources;
- d. Identify witnesses and others to interview;
- e. Plan for personal visit to facility; and
- f. Identify documents needed.

The CFS Specialist will contact the organization's administrator or designee to schedule a meeting to interview other persons with information relating to the allegation or to gain access to organization records and inform the administrator or, or administrator's designee, that the visit is for the purpose of seeing a resident about whom a protective services report has been received.

If CFS Specialist is denied access to the facility or to the resident, The CFS Specialist will explain the APS statutory responsibility and authority to evaluate any adult is in need of protective services. If access continues to be denied, the CFS Specialist will call law enforcement and request assistance.

9. Interview the alleged victim (privately if all at possible), making all reasonable efforts to communicate with and observe the alleged victim. Some alleged victims who cannot communicate verbally may be able to convey reliable information with the use of appropriate tools such as figure drawings or dolls. Some alleged victims may have more receptive than expressive language—that is, they may be able to respond to questions and statements with gestures, and or indicate feelings by facial expression and body language. All of these types of non-verbal responses, while not definitive, can serve to indicate to the CFS Specialist areas of information to pursue further with collateral contacts such as facility staff or other family members.

In addition, the CFS Specialist will observe and document information about the alleged victim's physical condition, mental functioning, behaviors, and status, including any injuries or indicators of neglect or maltreatment and will draw a conclusion as to whether the adult meets the criteria of a vulnerable adult.

10. Notification of Guardians. The CFS Specialist will make contact with the legal guardian as soon as possible following the interview with the vulnerable adult. The following information will be provided to the legal guardians of an adult alleged to have been abused or neglected in a facility:
  - a. Notice that a report alleging neglect, physical abuse or sexual abuse has been received and information on the nature of the maltreatment;
  - b. Notice that Adult Protective Services is conducting an investigation of the allegations; and
  - c. The safety/protective or corrective measures taken.

11. Interview Collaterals/witnesses

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The CFS Specialist will interview the organization's case worker assigned to the alleged victim if one is identified to gather information about the vulnerable adult and the facility.

The CFS Specialist will document these contacts (or attempts to contact) in N-FOCUS.

The CFS Specialist will interview each available witness identified by any source as having personal knowledge relevant to the report of abuse or neglect or other complaint.

12. Internal Investigation: The facility or organization may have completed an internal investigation. The CFS Specialist will request a copy of the report. A facility's incident report or investigation summary will not be the sole basis for the findings of an APS investigation, but used as one piece of evidence for the entire investigation. The CFS Specialist will create a detailed timeline to document the facts of the known, reported, or suspected abuse or neglect. The CFS Specialist can compare the timeline with the actions taken or not taken by the facility during its internal investigation of the suspected abuse or mistreatment.

The following list of questions may be used to assist in creating a timeline:

- a. Who first saw or suspected abuse or mistreatment and when?
- b. What was the immediate response of the witness or witnesses?
- c. Who was notified of the suspected abuse or mistreatment and when?
- d. Did the resident receive a medical evaluation? By whom and when?
- e. If the resident did not receive a medical evaluation, why not?
- f. What type of paperwork was generated to document the suspected abuse or mistreatment and when?
- g. Did the facility make an effort to secure physical and/or photographic evidence?
- h. Did the facility have its employees write witness statements? When?
- i. When, how, and by whom was the survey agency first notified?
- j. When did you arrive at the facility to begin the investigation?
- k. When and with what other agencies did you consult during the agency investigation?
- l. When did the CFS Specialist notify the facility of the APS findings?
- m. On what date was the final report completed?

The CFS Specialist will determine the identity of the individual responsible for the care of the vulnerable adult at the time of the alleged abuse by evaluating the following information:

- a. Was the person responsible for the care following orders?
- b. Did the person take reasonable measures to protect the vulnerable adult?
- c. Was the vulnerable adult left in a high-risk situation without protection?
- d. Did the abuse happen more than once?
- e. Did the person have the authority or ability to intervene to protect the vulnerable adult?
- f. Did the person respond in a reasonable fashion?

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- g. Did the person participate or implement the act that resulted in abuse of the vulnerable adult?
  - h. Does the alleged abuse meet the definition of vulnerable adult abuse?
  - i. Did the person know about the abuse?
  - j. Did the person direct another employee to commit an act that caused abuse to a vulnerable adult?
  - k. There must be clear and specific documentation that each person you determine to be responsible for the abuse either:
    - l. Knew about the abuse and did not intervene, or
    - m. Caused the abuse to occur, or
    - n. Directed another employee to commit acts that resulted in abuse of the vulnerable adult.
13. Use of Physical Restraints
- Each program has specific criteria regarding use of restraints. Typically, restraint is justified when a vulnerable adult is out of control or a danger to self or others. Licensing personnel can provide assistance in locating specific policy. **Note:** Minor injuries resulting from properly administered physical restraint are not vulnerable adult abuse. Corporal punishment is not permitted in facilities, agencies, or programs.
- C. The Organization Related Investigation Summary will be documented in N-FOCUS in the Organization Related Investigation narrative sections of N-FOCUS to document decisions and recommendations. Correspondence for Investigations are automatically created and saved on N-Focus for Org. Related Investigations whenever the investigation is placed in 'Final' Status. The CFS Specialist is able to reprint these versions of the correspondence at any time and may print the correspondence prior to the investigation being placed in 'Final' status, however, that correspondence is not saved.
- 1. The CFS Specialist will make all efforts to identify the alleged perpetrator even if no name is in the investigation. These efforts to identify the alleged perpetrator will be documented in the Perpetrator section of the investigation summary.
  - 2. Full names of facilities and agencies are used when mentioned for the first time, as individuals outside the immediate area may not understand any acronyms.
  - 3. When completing an Organization Related Investigation, the CFS Specialist will document the director/administrator's plan to keep all clients safe.
  - 4. Case Status Determination in an Organization Related Investigation. The CFS Specialist will make a finding at the end of the investigation. Once these determinations have been made the following will occur:
    - a. The finding will be entered into N-FOCUS.
    - b. The case findings will be shared with the alleged perpetrator and facility director
    - c. Recommendations about changes in practice and conditions that would reduce the likelihood of abuse or neglect will be provided to the director of the facility.

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The CFS Specialist must ensure that there is clear and specific documentation that each alleged perpetrator:

- a. Knew about the abuse and did not intervene, or
- b. Caused the abuse or neglect to occur, or
- c. Directed another employee to commit acts that resulted in abuse of the vulnerable adult.

A facility, agency or program cannot be identified as a perpetrator. To determine a perpetrator within the chain of command for a facility, agency, or program, the CFS Specialist must establish the direct supervisor, director of nursing, director, or administrator either:

- a. Knew about the abusive situation and failed to respond to it, even though having the authority to do so.
- b. Directed other employees to commit acts that caused abuse.

The CFS Specialist will consult with the CFS supervisor when considering a person other than the direct caretaker is responsible for the abuse.

**Substantiated Reports.** When reports of adult abuse, neglect and/or exploitation are substantiated, the CFS Specialist will:

- a. Assess present situation of the vulnerable adult involved and assure steps are taken to protect the adult; and
- b. Inform the adult's legal guardian as soon as possible.

## Service Recommendations

The CFS Specialist will evaluate the vulnerable adult's support systems and ability for self-protection in current living arrangement. The CFS Specialist will make recommendations for any action viewed as necessary or advisable to protect the vulnerable adult, based on the vulnerable adult's ability to receive adequate care in a safe environment.

## Organization Related Recommendations

The CFS Specialist will make recommendations for any action viewed as necessary to protect other vulnerable adults who reside in the facility or receive care from the agency or program. When making Organization related recommendations, the CFS Specialist's focus is on identification of the risk factors for abuse, neglect, or exploitation and recommendations related to prevention. The CFS Specialist may consult with Licensing or DDD staff when creating the recommendation. Even though, APS doesn't have any authority to follow up or intervene with these recommendations, the recommendations are helpful for the organization and may be useful information if there are subsequent allegations.

Recommendations about changes in practice or conditions that will reduce the likelihood of maltreatment may be offered.

- One role of the CFS Specialists is to prevent reoccurrence of abuse, neglect, and exploitation.

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- One method to assist organizations who provide services to vulnerable populations is to identify risk factors and to make recommendations that will help prevent.

For example, a risk factor is:

- Accepting residents whose needs cannot be met by facility.

The recommendations may be: According to statements from various staff and a consultation with Division of Developmental Disabilities, APS has reason to believe that there may be residents whose needs cannot be met. Accepting residents whose needs cannot be met is a risk factor that may lead to maltreatment. To help prevent any future abuse, APS recommends that the admission protocol be reviewed and updated as needed.

Other risk factors are:

- High personnel turnover; frequent “reorganization”
- High employee absenteeism; high overtime demands
- Inconsistent and unclear expectations of staff

The recommendation may be “A review of employee files and statements indicated that there has been a high degree of turnover (absenteeism or overtime) and I want to remind you that this can be a risk factor for neglect because staff that is new may be unfamiliar with the care plan.”

Possible ORG Related recommendations may be made regarding the following topics:

- a. Adequate staffing ratio and coverage requirements, including contingency plans for staff absences, emergencies, and assignment of new employees.
- b. Staff receives adequate training before being left alone with difficult patients or clients.
- c. Staff job descriptions, behavioral guidelines and expectations, evaluations, corrective or disciplinary actions and grievance policies.
- d. Staff orientation and ongoing training plans.
- e. Supervision of all levels of staff, including chain of command for the facility, agency or program, according to the table of organization, is clear to all staff.
- f. Required written communications are complete and adequate.
- g. Criminal and abuse background checks are conducted on staff

The CFS specialist will indicate that they have sent the ORG Notification correspondence to the Organization.

## County Attorney Recommendations

When the allegations are substantiated, the investigation summary is forwarded to the County Attorney as a request to pursue criminal charges due to a violation of the Adult Protective Services Act pursuant to NE Rev. Statute 28-374(4).

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## 14. Summary of Findings and Actions:

### a. Notifications in Organization Related Investigations:

At the conclusion of the investigation, the CFS Specialist will provide a letter to the facility director informing him or her of the outcome of the investigation, and any suggested improvements in practice that may be deemed necessary. Letters to the facility director will clearly explain that the findings and recommended improvements represent only the opinion of the Division of Children and Family Services, Adult Protective Services. It may be possible that the facility will receive additional findings and recommendations from other divisions who have also participated in the assessment or investigative process, because each Division has unique statutory and regulatory obligations and guidelines.

N-FOCUS will allow the CFS Specialist to create a letter that will include the end date of the investigation, list the allegations with findings, the persons involved and the organization recommendations from the Investigation summary narratives. The CFS Specialist can select this letter to be sent to the organization, a person on N-Focus (ARP), or manually enter the name and address. The worker can print the letter locally or later in an overnight batch process.

### b. Notification to Medicaid, Licensure Unit and/or the Division of Developmental Disabilities

The CFS Specialist will provide a copy of the Organization Notification letter that describes the findings to the Licensing Unit or the Division of Developmental Disabilities. Although it is not necessary to reveal confidential information related to the details of the investigation, it is necessary to confirm that an investigation has been initiated and completed, and situations resolved in a manner which protects the clients whether receiving DD services or AD waiver services.

### c. Notification to the Long Term Care Ombudsman (LTC Ombudsman)

When the LTC Ombudsman is the reporter of the alleged abuse, neglect, or exploitation, the CFS Specialist is allowed to provide the LTC Ombudsman with a copy of the summary of findings and actions of specific investigations and services provided.

### d. Notification of service coordinator/caseworker

The CFS Specialist will notify Resource Development staff, Service Coordinators, Child Care Licensure staff, Medicaid Waiver Provider, Medicaid Managed Care Vendor who are responsible for the care or arrangement of care for the vulnerable adult of the case status determination at the conclusion of the investigation, as needed.

### e. Notification of Professionals and Occupations

If the alleged perpetrator is a licensed professional and the investigation is substantiated, the CFS Specialist will make a referral to the Professional and Occupational Licensure staff.

# ADULT PROTECTIVE SERVICES

**Email:** [DHHS.InvestigationsPOL@nebraska.gov](mailto:DHHS.InvestigationsPOL@nebraska.gov)

**Phone:** (402)471-0175

**Fax:** (402) 471-6238 or (402) 742-8335

**Written complaints may be submitted to:**

Michael Grutsch, PA-C

DHHS Division of Public Health Investigations

1033 O Street, Suite 500

Lincoln NE 68508

# Adult Protective Services

## **Chapter 4.E Abuse/Neglect reports on DHHS Employees, Family Members of an Employee, or Others having access to N-FOCUS**

- A. When a report of Adult or Child Abuse or Neglect is made and involves a DHHS employee or a family member of a DHHS employee, the employee and all staff members need to ensure that they may not access any records unless there is a "need to know". "Need to know" is based on a business need to create, develop or review information in order to complete the job function.
- B. Service Area Administrator Responsibilities when a DHHS Employee or Family Member (spouses, parents, siblings and children) of an Employee is listed as a Perpetrator in an Accepted Report of Adult/Child Abuse or Neglect:**
1. When it is brought to the Service Area Administrator (SAA) or designee's attention, they will inform the appropriate DHHS Administrator of any Accepted Report of Adult/Child Abuse or Neglect that involve employees.
  2. The SAA or designee in consultation with Human Resources and Development, must determine any action that may need to be taken with the CFS employee based on the Intake. This may include reassignment of duties; paid or unpaid leave; modifying access to N-FOCUS; or the initiation of disciplinary proceedings.
  3. The Intake Accepted for Assessment will not be assigned to any CFS Specialist or Supervisor Unit with a personal relationship or when a conflict of interest with the individuals involved exist. The SAA, in consultation with the CFS Supervisor and CFS Administrator, will determine if the investigation can be conducted by staff within the Service Area or if there is a need to contact another Service Area for assistance.
- C. Intake:**
1. The Intake is documented in N-FOCUS and notice in a FAX will be sent to the appropriate law enforcement agency. The Intake will also be available to law enforcement on the Nebraska Data Exchange Network (NDEN).
  2. The Hotline Staff will notify the SAA or the designated CFS Administrator by e-mail and/or phone of the Intake Report and will not assign it to the local default. Any phone calls will be documented in the Intake.
- D. Assignment of Intake:**
1. The SAA(s) or designee(s) will determine the Service Area responsible to conduct the Initial Assessment. The designated Service Area will follow local protocols for assignment of the Initial Assessment.
- E. Conducting the Assessment:**
1. All policies related to conducting the Initial Assessment must be followed, including written notification to the employee/family member concerning the Case Status Determination following the conclusion of the assessment.
  2. The Initial Assessment information (Safety & Risk/Prevention Assessment) will be entered into N-FOCUS at the time of the completion of the assessment or case closure (whichever is sooner).
- F. Case Status Determination:**
1. The CFS Specialist will enter the Case Status Determination in N-FOCUS in the Allegation window. The Case Status Determination notification must be sent to the employee by return-receipt and not hand delivered.

# Adult Protective Services

## **G. Accessing the Record:**

1. Access to case specific information by DHI-IS staff who do not have a need to know the information based on a job function, may result in disciplinary action.
  - a. N-FOCUS has an audit trail that identifies the name and computer location of any employee accessing case specific information.

## **H. Non-Offending Employee Involved in a Report of Adult or Child Abuse or Neglect or Relative of an Employee:**

1. When the CFS Specialist becomes aware of an Accepted Intake involving an employee who is the non-offending parent/caretaker or the employee is a relative of an individual with an accepted report of adult or child abuse or neglect, they will notify the CFS Supervisor and CFS Administrator. The CFS Administrator or designee will contact the SAA and the Field Operations Administrator to discuss how the Initial Assessment will be handled.

# Adult Protective Services

## Chapter 5.A Investigation Findings

- A. At the conclusion of investigation, the CFS Specialist will determine a finding regarding the allegations based on information gathered and analyzed. The CFS Specialist will enter the case finding into N-FOCUS within 7 business days of the finding determination approved by the CFS Supervisor.
- B. Multiple allegations
  - 1. The CFS Specialist will investigate each allegation separately and determine a finding for each allegation.
- C. Multiple perpetrators
  - 1. When there are multiple perpetrators, the CFS Specialist will investigate each allegation and perpetrator separately and make a finding for each perpetrator.
- D. After completion of the Investigation, the CFS Specialist will:
  - 1. Determine a case finding using the definitions provided in Chapter 5.B.
  - 2. Conduct a mandatory consultation with the CFS Supervisor to obtain approval of the recommended case finding.
    - a. The CFS Specialist and Supervisor will determine if:
      - i. There is credible evidence based on observations, witness statements and other information;
      - ii. Vulnerable adult abuse, neglect, or exploitation has occurred per statutory definition; and
      - iii. Whether ongoing service coordination will be offered.
  - 3. At the conclusion of the investigation, enter the case finding and consultation point documentation on N-FOCUS in the Case Finding Field within 7 business days of consultation.
  - 4. Enter the date of the finding into N-FOCUS and enter whether services were not needed, accepted, or refused.
  - 5. Send notification to the perpetrator and the alleged victim.
- E. Notification of Findings
  - 1. Person's Name Placed on Central Registry:
    - a. The CFS Specialist will inform, in writing, any person whose name will be entered on the Central Register with a finding of "Court Substantiated" or "Agency Substantiated". When the case status determination is made that places the individual on the Central Registry a letter of notification will be sent to the identified perpetrator.
      - i. The notice letter will be sent by certified mail with return receipt requested, or if the actual address is uncertain, by first class mail to the last known address of the subject of the report.
      - ii. The notification letter generated by N-FOCUS includes the nature of the report, the classification of the report, and the subject's right to request that DHHS amend or expunge identifying information from the report, or to remove the substantiated report from the Central Register.
      - iii. The notification letter will be sent within 3 business days of the finding.
    - b. Proof of notification to the alleged perpetrator will be maintained in the case file or scanned into N-FOCUS. Proof of notification will include a copy of the notice letter, and the certified mail green return card or copy of electronic

# Adult Protective Services

receipt.

2. Person's Name Not Placed on Central Registry:
  - a. Individuals whose names will not be placed on the Central Registry will be notified in writing. Written notification generated by N-FOCUS will be sent by first class mail.
3. Adult who is the subject of the report:
  - a. The CFS Specialist will notify the alleged victim of the findings of the investigation. Written notification generated by N-FOCUS will be sent by first class mail. This notification will be sent within 10 working days of the completion of the investigation.
    - i. Note: If the alleged victim is not a vulnerable adult, no letter needs to be sent.
4. Alleged Perpetrator is Surrogate Decision Maker:
  1. If the CFS Specialist discovers through investigation that the alleged perpetrator is a surrogate decision maker (i.e. Power Of Attorney, Payee, etc.) for the vulnerable adult and the allegations of abuse, neglect, or exploitation have been substantiated, the CFS Specialist will review the allegations and the findings with the vulnerable adult to determine the options and to assist the vulnerable adult to develop an intervention plan.
  2. If the alleged perpetrator is the guardian or conservator of the alleged victim and the allegations are substantiated, the CFS Specialist will consult with DHHS Legal on the most appropriate way to notify the probate court.
    - i. If there is a Guardian ad Litem (GAL) assigned through the guardianship case, the CFS Specialist will provide written notification of the result of the investigation to the assigned GAL.

# Adult Protective Services

## Chapter 5.B Central Registry Findings:

### A. Central Registry Findings

#### 1. Court-Substantiated

- a. When a court of competent jurisdiction has validated finding of abuse, neglect, or exploitation of a vulnerable adult or has entered a judgment of guilty against the subject of the report of the abuse, neglect, or exploitation. An allegation with this finding will list the perpetrator on the Central Registry.

#### 2. Agency Substantiated

- a. When the CFS Specialist determines through the investigation and the preponderance of evidence supports the allegation of abuse, neglect, or exploitation and the victim is a vulnerable adult and court intervention doesn't occur. An allegation with this finding will list the perpetrator on the Central Registry.
- b. There are two necessary components to indicate that the case status determination should be Agency Substantiated:
  - i. The allegation must meet the definition of abuse, neglect, or exploitation as defined in statute. For purposes of the Adult Protective Services Act, unless the context otherwise requires, the definitions found in sections 28-351 to 28-371 shall be used.
  - ii. There must be credible evidence that meets the standard of preponderance to support the determination.
    - 1) Credible evidence can include witness statements documented in the narrative or police reports of interviews with the vulnerable adult, family members, school or medical personnel or others who have observed the family. It also includes physical evidence, written medical reports, and photographs of injuries, diagrams or other supporting information. (The CFS Specialist may not use the Law enforcement report as the only information when completing an investigation.)
    - 2) Preponderance means more likely than not that abuse of a vulnerable adult occurred. The weight of the evidence must be 51% or more. If all three of the criteria are met, and no court action occurs, the correct case status determination is Agency Substantiated.
- c. Not all situations will be clearly defined, so staff must use their training, experience and professional judgment in consultation with supervisory staff to decide if the facts of a particular situation fall within the definitions.

### B. Changing Case Status Determination: If the Case Status Determination was originally determined:

- a. Agency Substantiated – The CFS Supervisor can update the Case Status determination to reflect the correct status of Court Substantiated. Notice of the change will be sent to the alleged perpetrator through certified mail with the return receipt filed in the case record.
- b. Unfounded – NO ONE can change this status. A new intake with allegations must be created and investigated.

# Adult Protective Services

## Chapter 5.C Non-Central Registry Findings

- A. Unfounded - CFS Specialist determines through the investigation that there is insufficient evidence that abuse, neglect, or exploitation occurred. An allegation with this finding will not list any persons on the Central Registry.
- B. Not a Vulnerable Adult – The alleged victim does not meet the definition of a vulnerable adult during the investigation. This finding does not make a determination regarding the allegation. An allegation with this finding will not list any persons on the Registry.
- C. Unable to Locate - when DHHS has made a good faith attempt to locate the subject(s) of the report but has been unable to locate them, this case status determination must be used.
  - a. The CFS Specialist will document efforts to locate the alleged victim(s) identified in the report of abuse or neglect. A good faith effort has been made when all available methods to locate the individuals have been utilized. These efforts include, but are not limited to:
    - i. Searching for information on N-FOCUS, JUSTICE, Department of Motor Vehicles, and Child Support Enforcement data systems; and
    - ii. Contacting local law enforcement, local utility companies, and the Post Office.
  - b. The CFS Specialist will consult with the CFS Supervisor before determining no other efforts are needed. The CFS Specialist will document all efforts to locate the alleged victim and the consultation in the N-FOCUS narrative.

# Adult Protective Services

## Chapter 5.D Self-Neglect Findings

- A. Self-neglect means that as a result of an adult's inability, due to physical and/or mental impairments or diminished capacity, the vulnerable adult is unable to perform essential self-care tasks or obtain essential services to such an extent that there is actual physical injury or imminent danger of physical injury or death.
- B. Self-Neglect Findings
  - a. Confirmed- when the alleged victim meets the criteria of a vulnerable adult and the inability to obtain essential services has reached the point that the vulnerable adult is subject to physical injury or imminent danger of physical injury or death. An allegation with this finding will not list any persons on the Central Registry.
    - i. In order to confirm the presence of Self-Neglect, the CFS Specialist will identify and document the following factors:
      - 1) The alleged victim is a vulnerable adult;
      - 2) The vulnerable adult, due to physical and/or mental impairments or diminished capacity, is unable to perform essential self-care tasks or obtaining goods and services necessary to maintain physical health, mental health; and;
      - 3) There is physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death.
      - 4) A description of the type of essential services being neglected. For example, hygiene, safe shelter, food, medication, and/or wandering.
  - b. Not Confirmed-when the alleged victim meets the criteria of a vulnerable adult, but the vulnerable adult is able to make decisions and to obtain essential services. An allegation with this finding will not list any persons on the Central Registry.
  - c. Not a Vulnerable Adult – when the alleged victim does not meet the criteria needed to be considered a vulnerable adult at the time of contact. This finding does not make a determination regarding the allegation. An allegation with this finding will not list any persons on the Central Registry.
- C. Notification: There is no notice of finding required.

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## Chapter 6.A APS Central Registry and Expungement

- A. The Department has established and maintains an APS Central Registry, in which each substantiated report regarding a person who has allegedly abused, neglected, or exploited a vulnerable adult is recorded. The Central Registry contains information regarding the vulnerable adult, the person who allegedly abused, neglected, or exploited a vulnerable adult that has been Substantiated and other data gathered for statistical purposes.

### 1. Release of Central Registry (Registry) Information

- a. A person whose name has been entered on the Central Registry may request that the entry be amended or expunged if they believe the entry is inaccurate or is being maintained in a way that is inconsistent with the Adult Protective Services Act. The Department may amend, expunge, or remove from the Central Registry any record upon good cause shown and upon notice to the subject of the report, at any time.
- b. Requests for expungement from the APS Central Registry will be processed through the Protection and Safety Unit in Central Office. The Protection and Safety Unit will review the expungement request and may request the case file or other information from the Local Office worker or their supervisor. The Local Office staff will review the file and any related computer information and forward all the information in regard to the expungement request to the Protection and Safety Unit within 2 working days of the request.
- c. Staff in the Central Office will review the case record, information on N-FOCUS, and any information provided by the individual who is requesting his/her name be removed from the Central Register.

### 2. Requests for Registry Information

- a. Upon request, a vulnerable adult who is the subject of a report, or if the vulnerable adult is legally incapacitated, the guardian or guardian ad litem of the vulnerable adult, or the person who allegedly abused, neglected, or exploited the vulnerable adult is entitled to receive a copy of all information contained in the Registry pertaining to such report. The Department must not release data that would be harmful or detrimental to the vulnerable adult or that would identify or locate a person who, in good faith, made a report or cooperated in an investigation unless ordered to do so by a court of competent jurisdiction.

### 3. Requests for APS Central Registry Information

- a. The Registry is used as part of the information gathered for individuals, facilities or programs with employees or volunteers who work with vulnerable adults or children. The Registry is also used by agencies or programs to gather information for persons wishing to adopt a child.
- b. Request for information from the APS Central Registry are completed by Central Office on a form approved by the Department. Information is released from the APS Central Registry only when a valid signed authorization to release information (notarized) is obtained from the individual whose name is being checked.

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- c. Information released to a third party is limited to:
  - 1) Record Found
    - a) Classification
    - b) Date of the incident, or
  - 2) No Record Found
- 4. Requests for Amendment, Removal, or Expungement of Registry Information
  - a. At any time subsequent to the completion of the Department's investigation, a vulnerable adult, his or her legal guardian, or a person who is mentioned in a report as having allegedly abused, neglected, or exploited a vulnerable adult believes the information in the report is inaccurate or being maintained in a manner inconsistent with the APS Act; he or she may request the Department to amend or expunge identifying information from the report or remove the record of such report from the Registry. Requests must be written and submitted to the Department on a form approved by the Department.
- 5. Expungement Review
  - a. The Central Office reviewer must find documentation of credible evidence that the abuse or neglect occurred, and the named perpetrator was the individual responsible. The Department may amend or expunge an entry on the Adult Protective Services Central Registry at any time for good cause.
  - b. The reviewer will also consider any information provided as to whether "Good Cause" exists to grant the expungement request.
  - c. If the expungement request is denied, the individual has the right to request an administrative hearing to have the information reviewed by an administrative hearing officer.
  - d. Exhibits are prepared for the hearing using case narratives, photos of injuries, law enforcement reports, medical records and other information in the case file.
  - e. These exhibits are provided to the hearing officer, to the individual requesting expungement, and to any attorney representing him or her.
  - f. The CFS Specialist and others involved in the case may also be called to testify at the administrative hearing, with cross examination from the other parties. The hearing officer must be provided with credible evidence to show that it is more likely than not (preponderance of evidence) that abuse or neglect occurred, and the individual whose name is on the Registry is the responsible party.
  - g. The hearing officer receives exhibits, reviews evidence and hears testimony before making a recommendation to the Director of the Division of Children and Families.
  - h. The Director makes the final decision about whether or not the individual's name will be removed from the Registry.
  - i. If the Director denies the expungement request, the individual has the right to appeal the decision to District Court.
- 6. Expungement reasons:
  - a. No case file information can be located;
  - b. Documentation is not adequate to support the classification;
  - c. The entry was made when a different definition of abuse or neglect was in use; or

# Adult Protective Services

- d. There is not sufficient evidence to take the request to an administrative appeal hearing.
  - e. Expungement for reasons b, c, and d will be made after review of the adequacy of the documentation including documentation related to:
    - i. The interview and/or observation of the alleged victim;
    - ii. The interview of the alleged perpetrator;
    - iii. Information from witnesses and collateral contacts; and
    - iv. Supporting evidence regarding injuries, such as descriptions, police photos and reports, medical reports, etc.
7. Expungement "Good Cause" Reasons
- a. There are a number of reasons an entry on Central Registry may be expunged for good cause. Some examples of good cause are:
    - i. Circumstances have changed and indicate that the issue that resulted in the Central Registry entry has been resolved. Relevant factors may include:
      - 1) Seriousness of the incident;
      - 2) Length of time since report;
      - 3) Subject's willingness to accept responsibility for the incident;
      - 4) Subject's follow through with recommended services;
      - 5) Evidence of changes made by the subject;
      - 6) Extenuating circumstances that may have contributed to the incident;
      - 7) Recommendation from the Specialist and Supervisor; and
      - 8) Whether or not the individual is viewed as a continuing danger to others.
8. Service Area Expungement Input
- a. Service Area staff will be asked for input related to an expungement when a preliminary decision by the Central Office Reviewer is made to recommend that a record be expunged. Information that includes the request for expungement and supporting information will be provided to the identified Service Area contact. The Service Area Contact person will track and monitor the request for input. The Service Area will have 3 business days to provide input that supports or disagrees with the recommendation to expunge.
  - b. Exception to Service Area Input
    - i. Expungement requests that involve findings on the archived 'C1' system will not go through the process of obtaining Service Area input.
9. Internal Expungement Requests
- a. When a CFS Specialist and/or Resource Development staff recommends that an individual be expunged from the Central Register, CFS Staff will follow the protocol developed within each Service Area to submit an approved request to Central Office.
10. Administrative Hearing Process
- a. If a request for expungement is denied or the Department does not act within 30 days, an administrative hearing may be requested. An individual requesting an administrative hearing to appeal a decision by the Department must send a request for a hearing in writing to the Department's Hearing Office within 90 days of the date the letter denying the request was mailed. If the request for hearing is

# Adult Protective Services

not received within 90 days the right to have an administrative hearing is forfeited.

## 11. CFS responsibilities

- a. The CFS may be asked to testify at the administrative hearing. In preparation for the hearing, the CFS Specialist will review the case narratives, the investigation summary and state statutes of the APS act. The hearing may be held over the phone or in person. As part of the preparation, the CFS Specialist will update their resume to show their experience, years of service, and continuing training. This information will be able to show the administrative hearing officer the expertise of the CFS Specialist.

## 12. Provision of Exhibits

- a. Exhibits for an administrative hearing shall be provided to the hearing officer in accordance with the hearing officer's order.

## 13. District Court

- a. If the expungement request is denied at hearing, the request may be appealed to District Court.

# Adult Protective Services

## Chapter 7.A Service Coordination

### A. Voluntary or Involuntary Protective Services

1. Voluntary protective services include services provided to a victim with their consent.
  - a. The following individuals may consent to services:
    - i. Victim who has capacity to consent; or,
    - ii. Guardian of a victim who lacks capacity to consent if the guardian is not named as an alleged perpetrator in an open investigation.
2. Involuntary protective services include those services authorized by the court for a victim who lacks the capacity to consent to services and has no caregiver or guardian available or willing to consent to services.
3. Upon completion of an investigation or self-neglect assessment that resulted in substantiation the Department will determine if APS Service Coordination is required to prevent, discontinue, or correct abuse, neglect, or exploitation, including self-neglect.
  - a. The CFS Specialist will determine what action is necessary to protect the vulnerable adult and promote self-care and independent living. This may be determined by evaluating the following:
    - i. Specific problems relating to care/protection of the vulnerable adult;
    - ii. Positive and negative factors in the environment;
    - iii. Strengths and weaknesses of the vulnerable adult;
    - iv. Vulnerable adult's and/or others' capacity and motivation to deal with these problems;
    - v. Possible approaches to solving these problems;
    - vi. Specific goals for improved care/protection of the vulnerable adult; and
    - vii. Decisions about which services will be provided, how and by whom, including referral to other community services and mobilization of the vulnerable adult's resources.

### B. There are five alternatives available to the CFS Specialist and the vulnerable adult following the investigation finding:

1. No Intervention
  - a. CFS Specialist determines no further protective intervention is needed. The APS Program Case is closed following notification to the vulnerable adult. If the allegations in the intake were unfounded, but, the CFS Specialist identifies other types of allegations identified during the investigation, the CFS Specialist will enter the allegations into the intake and a finding is entered for the allegation.
  - b. If the investigation is unfounded (there is no abuse, neglect, or exploitation to prevent or remedy) ongoing service coordination is not offered. The CFS Specialist may make community referrals if needs are identified.
2. Community referrals
  - a. CFS Specialist determines there is a need for further service that can be provided through a community agency or other Department service program. The vulnerable adult is willing to voluntarily engage in the service. The APS program case is closed following engagement of

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vulnerable adult in the service. When community referrals occur during the investigation phase, then, the worker documents these efforts in the investigation narratives and summarizes the service referrals in the Investigation Summary.

## 3. Voluntary Adult Protective Services—Service Coordination

- a. The CFS Specialist may offer ongoing service coordination when the allegations are substantiated. During the investigation, the CFS Specialist will question the alleged victim to determine their perception of the problem, identified needs and possible solutions. The problem may be resolved during the investigation phase.
- b. Towards the end of the investigation, the CFS Specialist reviews the victim's ongoing needs with the alleged victim.
- c. During consultation with the CFS Supervisor to determine the findings of the investigation, the topic of whether to offer ongoing service coordination is decided.
- d. When entering the findings, the CFS Specialist will also enter whether services were not needed, accepted, or refused in the allegation detail window.
- e. When the CFS Specialist determines that ongoing service coordination is to be offered to the vulnerable adult, then, the CFS Specialist will obtain written consent from the vulnerable adult.
- f. When services are accepted, the required timeframe to create a plan is 15 days and is calculated based on the "Services Accepted date" and the "Program Case Service Coordination narrative date". The CFS Specialist will create a program case narrative and document - "Service Coordination plan completed, see file or document imaging."
- g. The goals are to be related to prevent or remedy substantiated abuse, neglect, and exploitation using the least restrictive method available.

## 4. Refusal of Services

- a. When the vulnerable adult is unwilling to voluntarily engage in recommended services and possesses the capacity to consent to or refuse services, the CFS Specialist will review the concerns with the alleged vulnerable adult/victim and discuss available resources to develop a plan.
- b. When the CFS Specialist determines that a vulnerable adult who has capacity to consent to or refuse services is in need of services but refuses to accept services, the CFS Specialist will document the identified need for services in N-FOCUS; document the vulnerable adults refusal to accept services; and document evidence supporting the vulnerable adults decision making capacity to consent or refuse services. The program case is then closed.
- c. Clients have the right to make decisions and to accept/refuse treatment options/services which others may believe to be in their best interests if they have the decision making capacity to do so.

## 5. Involuntary Adult Protective Services

- a. When the CFS Specialist determines that immediate or ongoing protective services are required to resolve or control the mistreatment, and the vulnerable adult is unwilling to voluntarily engage in services and

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exhibits signs of impaired decision making to consent or refuse services, involuntary services shall be sought.

- i. In these instances, the CFS Specialist may determine to formally request the county attorney file a petition for court authorization to intervene;
  - 1) The CFS Specialist should provide the following information to the County Attorney when requesting the filing of an application for involuntary adult protective services:
    - a. The subject's name and address;
    - b. The name and address of the subject's spouse, legal counsel, guardian or conservator, and next of kin, if known;
    - c. The name and address of anyone providing care or treatment to the subject, if known;
    - d. The name and address of any other person who may have knowledge of the imminent danger or reasons why involuntary adult protective services are needed;
    - e. An affidavit describing the imminent danger of life threatening injury leading to compelling reasons why involuntary adult protective services are needed and no other alternatives are available to protect the vulnerable adult; and
    - f. Information detailing possible temporary placements or protective services which would remove the vulnerable adult from imminent danger.
  - ii. The CFS Specialist may also determine if an emergency guardianship or conservatorship is necessary.
- b. When court authority is granted, the case is opened for ongoing services, further assessment and case planning.

## C. Service Coordination Plans

1. The CFS Specialist and the vulnerable adult will develop a service plan when the vulnerable adult or guardian has accepted ongoing services. The service plan will address in the least restrictive/least intrusive manner the issues that brought the vulnerable adult to the attention of APS. With consent of the vulnerable adult or guardian, family and caregivers may be involved in developing the service plan. Interventions need to be specific and tailored to the special needs of clients.
2. Timeframe: The CFS Specialist must complete the service plan within 15 days of the date that the adult agrees to accept services. The information in the service plan will vary according to the case situation and will be based on the investigative findings, the assessment, and the adult's preferences. The Service Plan will be documented on N-FOCUS.

## D. Timeframe for Entry of Contacts

1. The CFS Specialist is responsible for documenting all contacts made during the service coordination phase into N-FOCUS. To maximize both the accuracy of documentation as well as efficiency of service delivery, the CFS Specialist, documents all contacts and attempted contacts within 3 business days.

## E. Length of Service Coordination

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1. Ongoing service coordination may be provided for a limited period of time. At any time, the vulnerable adult or guardian may choose end the service plan.
2. Ongoing Adult Protective Services case management can last up to 180 days, however, a one-time 180 day extension may be granted by the CFS Supervisor. Adult Protective Services cases should be continued and the service plan updated to address current needs when the adult continues to be abused, neglected or exploited and unmet needs are identified in the reassessment and documented in N-FOCUS.

## F. Service plan development

1. When developing a service plan, the following guidelines will be utilized:
  - a. The plan will be developed utilizing the strengths and needs of the vulnerable adult;
  - b. Review the possible community resources and services available with the vulnerable adult;
  - c. Present choices and provide education about those choices;
  - d. Create the service plan based on the decisions of the vulnerable adult and the guardian;
  - e. Identify and arrange services that are necessary and appropriate under the circumstances to protect an abused vulnerable adult, ensure that the least restrictive alternative is provided, prevent further abuse, and promote self-care and independent living; and
  - f. Describe the method to evaluate progress to determine when the case should be closed.

## G. Components of the Service Plan

1. All APS Service Plans must include the components described below. The CFS Specialist will develop service plans in a culturally competent manner. The CFS Specialist will adapt the planning process to meet the client's needs within his or her cultural context, accept differences, and use positive cultural strengths in the service planning process.
  - a. Needs: Needs are areas of the client's life that are not being met in a way that assures the safety and well-being of the adult. Needs are identified by assessing the vulnerable adult's issues and risk factors that were identified during the investigation.
  - b. Goal(s): The CFS Specialist will develop goals related to the identified needs of the vulnerable adult and their willingness to accept services.
  - c. Activities/Services/Strategies: The CFS Specialist will identify strategies that do the following:
    - i. Build upon the client's functional strengths;
    - ii. Focus on addressing the identified goals and needs;
    - iii. Include at least one strength-based strategy identified for each goal;
    - iv. Are individualized to the client;
    - v. Are based on the client's values, beliefs, culture, preferences, and talents. Identify who, what, when, where, and how they will be achieved;

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- vi. Utilize informal supports and resources whenever possible. If informal resources are not available, formal resources may be utilized;
  - vii. Are clear, practical, logical, and realistic.
2. When the goals have been met, the CFS Specialist will prepare the vulnerable adult for case closure and the end of Adult Protective Services Involvement.

## H. Monthly Contacts

1. The CFS Specialist will make a face-to-face or telephone contact with the vulnerable adult at least monthly and more frequently as needed to monitor progress and assure protection of the adult. The CFS Specialist should verify by observation or personal interview that the adult is receiving the planned services. If the monthly contact with the adult does not occur, the reason(s) should be documented in the case narrative.
2. Service coordination contact narratives shall be clear, concise, and relevant. Anyone who reads the case shall be able to understand clearly the following:
  - a. The actions taken by the CFS Specialist or others on the client's behalf and the reasons for taking them;
  - b. The actions the CFS Specialist considered, but did not take, and the reasons for not taking them;
  - c. The results of actions taken by the CFS Specialist or others;
  - d. The client's situation at the time of contact; and
  - e. Any remaining problems, and if they can be/will be resolved.
3. Documenting Monthly Status Contacts: The CFS Specialist shall document monthly status contacts each calendar month that the case is open. The attempted contacts are also documented.

I. Additional Allegations Received During the Service Coordination Phase: If new allegations are reported to the CFS Specialist or discovered during the service delivery stage, the CFS Specialist shall report the new allegation to the Hotline, then conduct an investigation per policy as described in Chapter 4. If the case progresses to service delivery, then it shall be merged with the existing case.

## J. Case Closure Summary/Evaluation

1. The summary will address the effectiveness of the service plan in eliminating or mitigating the abuse, neglect or exploitation or risks of abuse, neglect or exploitation. The summary should indicate needs, goals, objectives, actions taken, and which objectives have been met. Unmet needs should be identified and reasons such needs remain unmet should be addressed. A brief summary of the effectiveness of the service plan should be documented in the Summary in N-FOCUS.
2. Closing a case is a matter of judgment. When closing a case, the CFS Specialist makes all reasonable efforts to resolve problems that led to the state of abuse, neglect, or exploitation and stabilize the client's condition before closure.

## K. Reasons for Case Closure

The CFS Specialist closes a case in the service delivery stage when one or more of the following occur:

1. The client dies;

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2. The client moves out of Nebraska;
  3. The client moves from the Services Area and is no longer in need of protective services;
  4. The CFS Specialist is unable to locate the client;
  5. Identified problems are resolved and the client is no longer abused, neglected, or exploited;
  6. The client who is able to consent and for whom a service plan was developed withdraws from protective services;
- L. Client Withdraws from Services: A vulnerable adult with decision making capacity or the guardian may withdraw from Adult Protective Services at any time. The CFS Specialist will attempt follow up contacts to determine the reason for withdrawing from services and will document the reasons. If there is reason to believe the vulnerable adult is unable to make decisions, the CFS Specialist will consult with the supervisor to determine what further action is needed (if any).
- M. Closure: When a decision is made to close an ongoing service coordination case, the CFS Specialist shall:
1. Document the appropriate service delivery closure reason in N-FOCUS;
  2. Send a written notice of action to the adult and/or his/her legally appointed guardian and/or conservator and other service providers who may be participating in the service plan;
    - a. Document in the case narrative the reasons for not notifying, if notification is not appropriate;
  3. Close the APS program case in N-FOCUS.
- N. Case Transfer: When the CFS Specialist decides to transfer an open case to another CFS Specialist because the vulnerable adult has moved and there is a continued need for APS service coordination, the transfer shall be completed in a timely manner to provide for continuity.
1. The CFS Specialist enters narrative into N-FOCUS to provide the new CFS Specialist a summary of the case. Information may include:
    - a. Current members of family;
    - b. Guardian/Conservator/Payee/Power of Attorney status;
    - c. Date of case opening and previous case opening, if any;
    - d. Problems, nature of referral, reason for case opening;
    - e. Other significant problems identified by the CFS Specialist;
    - f. Services used and offered to the vulnerable adult;
    - g. Conclusions of assessments during period case was open;
    - h. Current situation and evaluation of change in the case including, but not limited to, family's strength and weaknesses, vulnerable adult's strength and weaknesses, and how the vulnerable adult's situation is different from that at case opening;
    - i. Service providers and other persons still involved with the vulnerable adult and who will remain involved with the vulnerable adult;
    - j. Special characteristics of the family (for example, language, literacy, etc.);
    - k. Recommendations regarding future service coordination, such as appropriateness of other services, court involvement, etc; and
    - l. Date of transfer, reason for transfer, and CFS Specialist's signature.

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2. Once the case file is ready for transfer, the CFS Specialist notifies his/her CFS Specialist, who is responsible for ensuring the case file is reviewed and sent to the appropriate local office.

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Chapter 7.B Allegation Specific Interventions—RESCINDED 07/2015

Rescinded

Rescinded

Rescinded

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## Chapter 7.E Guardianship/conservatorship and Mental Health Board

### A. Guardianship/Conservatorship

1. A guardian or conservator is a person or entity appointed by a court of competent jurisdiction to have full or limited authority over an incapacitated person or their assets, depending on the incapacitated person's specific mental or physical limitations. The purpose of the appointment and the role of the guardian/conservator are to protect and promote the well-being of the incapacitated person.
2. The appointment of a guardian and/or conservator should occur only after all other lesser restrictive alternatives have been explored.  
These include the following in order of least restrictive:
  - a. Informal community intervention, including family, friends, banking assistance in paying bills, and other volunteers.
  - b. Social services involvement through case management, Home Community Based Services (HCBS), home health care, and other community based services.
  - c. Social Security payee without a guardian or conservator.
  - d. Durable Power of Attorney (only a possibility if the individual person is not legally impaired and has the capacity to know what he or she is signing).
  - e. Durable Power of Attorney for Health Care Decisions (only a possibility if the person is not legally impaired and has the capacity to know what he or she is signing).
  - f. Voluntary conservatorship (must have capacity).
  - g. Full conservatorship with court approved conservatorship plan limiting certain authority.
  - h. Full guardianship.
3. CFS Specialist Responsibilities:
  - a. If the CFS Specialist finds, through investigation or during service coordination, indications that a vulnerable adult exhibits impaired decision making capacity and all other lesser restrictive options have been tried to correct the abuse, neglect, or exploitation or to prevent future abuse, neglect, or exploitation, the CFS Specialist may consider the option of pursuing a guardian.
  - b. A best practice guideline is to make efforts to collaborate with the vulnerable adult to determine who should be the guardian or conservator when the vulnerable adult is able.
  - c. Criteria for determining the appropriateness of a person to serve as guardian/conservator includes:
    - 1) a relationship with the adult alleged to need a guardian/conservator;
    - 2) geographic accessibility to the alleged incapacitated adult;
    - 3) the absence of a conflict of interest; and
    - 4) emotional stability.
4. Procedures: When it is determined that a guardianship or conservatorship is necessary, the CFS Specialist shall complete the following:
  - a. Obtain a competency evaluation by a medical or mental health professional; as needed;
  - b. Document the needs of the alleged victim and the options for a guardian and all other interventions pursued;
  - c. Determine whether an emergency exists;
    - i. Nebraska Revised Statute 28-387 states that a county court may issue an ex parte order authorizing the provision of short-term involuntary adult protective services or temporary placement for a vulnerable adult for up to

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forty-eight hours excluding non-judicial days, pending the hearing for a need for continuing services, after finding on the record that the person is a vulnerable adult, and an emergency exists, and there are compelling reasons for ordering protective services or temporary placement.

- d. Select the least restrictive intervention and Consult with CFS Supervisor about the recommendation. If the plan is approved, continue with the following steps;
  - i. Identify potential guardian/conservator/payee.
    - 1) Although APS does not recommend a person to be the guardian, APS may play a role identifying person(s) who is eligible, able, and willing to be the guardian to the petitioner.
    - 2) Institutions or persons ineligible to become a guardian
      1. any agency providing residential care in an institution or community-based program, or
      2. any owner, part owner, manager, administrator, employee, or spouse of an owner, part owner, manager, administrator, or employee of any nursing home, room and board home, assisted-living facility, or institution engaged in the care, treatment, or housing of any person physically or mentally handicapped, infirm, or aged to be appointed guardian of any such person residing, being under care, receiving treatment, or being housed in any such home, facility, or institution within the State of Nebraska.
  - ii. If otherwise not ineligible, the CFS Specialist will consider the potential guardians as the persons who have priority for appointment as guardian are listed in the following order:
    - 1) A person nominated by the incapacitated person in a power of attorney or durable power of attorney;
    - 2) A person acting under a power of attorney or durable power of attorney; or
    - 3) A person nominated by an attorney in fact who is given power to nominate in a power of attorney or a durable power of attorney executed by the incapacitated person
    - 4) The spouse of the incapacitated person
    - 5) An adult child of an incapacitated person
    - 6) A parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent
    - 7) Any relative of the incapacitated person with whom he or she has resided for more than six months prior to filing of the petition
    - 8) A person nominated by the person who is caring for him or her or paying benefits to him or her
  - iii. The CFS Specialist will contact the above-mentioned persons to discuss the needs of the vulnerable adult, the rights, and duties of a guardianship, the required training to be a guardian and the potential for accepting the guardianship role. Explaining the process and procedures of petitioning the court for guardianship or conservatorship in generic terms is acceptable, providing specific advice on how to proceed in a pending legal matter is not.
  - iv. If no one is willing or able, the CFS Specialist will next make inquiries about potential guardians from guardianship services or attorneys.

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- v. The CFS Specialist will document all efforts to find a guardian in N-FOCUS.
- e. Once CFS Specialist has identified someone that may be a potential guardian, the CFS Specialist will initiate background checks. A signed Release/Exchange of Information form is required by the potential guardian allowing the exchange of information between the CFS Specialist and the court regarding the APS/CPS Central Registry/Register.
  - i. The four reports required by the court to complete a background check include a credit check, a NE State Patrol criminal history check, a sex offender registry check, and a check of the Adult and Child Abuse and Neglect Registry/Register.
  - ii. In order for the Probate Court to appoint a person as a guardian/conservator, the statute requires the potential guardian/conservator to submit the four reports to the Court at least 10 days prior to the hearing, unless waived or in a temporary/emergency guardianship/conservatorship.
  - iii. DHHS is not responsible for payment for a credit check report, because the potential guardian may obtain a free credit check report. DHHS will not mandate what a credit rating needs to be in order to qualify to be a guardian.
  - iv. The CFS Specialist will have the identified attorney get releases from the potential guardian(s) and complete the background checks. The cost of the background checks would need to be incorporated into the fee.
- f. APS will not identify any person to be a guardian if there are reasons that the person would not be appropriate such as the following:
  - i. presence of the person on the Adult Protective Service Registry,
  - ii. presence of the person on the Child Protective Service Register;
  - iii. person owes money to the proposed ward or vice versa;
  - iv. Bankruptcy;
  - v. Revocation of a professional or occupational license;
  - vi. criminal history of domestic violence, assault, been convicted of a felony;
  - vii. The potential provider must not engage in or have an ongoing history of criminal activity that may be harmful or may endanger individuals for whom they provide services; and
  - viii. Specific Criminal History
- g. The CFS Specialist will not provide any financial assistance to a potential guardian when conviction has occurred in the following areas:
  - i. Child pornography;
  - ii. Child or adult abuse;
  - iii. Driving under the influence: a DUI conviction within the past eight years;
  - iv. Domestic assault;
  - v. Shoplifting after age 19 and within the last three years;
  - vi. Felony fraud within the last 10 years;
  - vii. Misdemeanor fraud within the last five years;
  - viii. Termination of provider status for cause from any Department program within the last 10 years;

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- ix. Possession of any controlled substance within the last five years;
  - x. Possession of a controlled substance with intent to deliver within the last 10 years;
  - xi. Felony or misdemeanor assault without a weapon in the last 10 years;
  - xii. Felony or misdemeanor assault with a weapon in the last 15 years;
  - xiii. Prostitution or solicitation or prostitution within the last five years;
  - xiv. Felony or misdemeanor robbery or burglary within the last 10 years;
  - xv. Rape or sexual assault; or
  - xvi. Homicide.
- h. The CFS Specialist will discuss any entries on the APS Registry or CPS Register with the CFS Supervisor to decide if the facts of the situation should prohibit the individual from being a Guardian. This discussion will explore how significant the event was, in relationship to the individual's role as a Guardian. If the name appears on the APS/CPS Registry/Register and is connected to an ongoing investigation and the proposed guardian is listed as an alleged perpetrator, the CFS Specialist will not provide the person's name to the attorney and will not provide any financial assistance.

If Law Enforcement checks reveal a criminal history, the CFS Specialist will discuss the criminal history and the individual's proposed role as a guardian with the CFS Supervisor. If the CFS Supervisor agrees, the CFS Specialist will request approval from the Protection and Safety Administrator.

- i. When the initial review of information indicates that the person may be an acceptable potential guardian, the CFS Specialist will gather financial information from the alleged victim to determine if financial assistance is required. The maximum financial support to be provided by DHHS in connection with the hiring of an attorney should always be clearly documented. DHHS is not a party in the case. DHHS may provide financial assistance on behalf of the vulnerable adult or the proposed guardian to hire an attorney.
- j. DHHS has no authority to prohibit someone from applying to be a guardian. If the CFS Specialist identified a reason for the interested person not to become a guardian, the CFS Specialist will not provide financial assistance to the person to obtain an attorney. If there is a signed authorization to release information from the potential guardian, the CFS Specialist will share the information with the court.
- k. If the CFS Specialist has identified reasons for the interested person to not become the guardian, the CFS Specialist will inform the interested person that he or she apply to become a guardian of the APS client and provide names of attorneys who may file the petition; clarifying that the court will determine who to appoint as guardian.
- l. It is acceptable to provide a list of attorneys who are qualified to perform the work, but the CFS Specialist must make it clear that DHHS does not make specific recommendations and that the potential guardian is free to hire whomever he or she wants as long as the attorney does not have any conflict with representing the proposed guardian.

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- m. Once the potential guardian has hired an attorney, the CFS Specialist may continue to assist in arranging for the guardianship/conservatorship, as needed.
- n. The CFS Specialist will provide information to the attorney to complete the petition to the attorney. The authority to release information is found in Neb. Rev. Stat. § 28-376 to § 28-380. The information in the Central Register is protected, however, the statutes can be read to imply that the Department has the authority to release sufficient information to accomplish the goal of providing for and protecting vulnerable/abused adults.

Attorneys who file guardianships in these cases can request that a visitor/physician be appointed to make necessary medical determinations and provide information necessary to complete a guardianship.

- 1) Information Provided to an Attorney: Information provided to the attorney filing a petition for guardianship/conservatorship may include, but is not limited to:
  - a) The subject's name and address;
  - b) Names and addresses of relatives of the subject, if known;
  - c) Names and addresses of any possible candidates for guardianship/conservatorship;
  - d) Any medical/psychological information showing mental or functional impairment; and
  - e) Evidence to support the need for substitute decision maker.

- o. The CFS Specialist may not sign as the petitioner in a guardianship case unless the attorney filing the petition is a county attorney doing so in his/her official role as county attorney or the attorney is a special representative of the Nebraska State Attorney General. If direction is needed in this area, the CFS Specialist must contact the Department's Legal Division.

## B. Mental Health Commitment:

- 1. The Nebraska Mental Health Commitment Act allows persons who are mentally ill and dangerous either to others or themselves to be subject to involuntary custody and treatment as determined by mental health board proceedings when voluntary treatment is not obtained.
- 2. CFS Responsibilities - Request Assistance from Law Enforcement: When the CFS Specialist is involved in a situation where a person they have come into contact with during the course of an investigation may suffer from a mental illness and is presenting a risk of harm to them or others, the CFS Specialist will immediately contact Law Enforcement to assist with the situation. Law enforcement has the authority to place a person into emergency protective custody (EPC).
- 3. Request a Mental Health Board Hearing: In the event that law enforcement declines to place the person into protective custody and the CFS Specialist has assessed the person to be a danger to themselves or others, the CFS Specialist may contact the County Attorney to request a mental health commitment hearing under the Nebraska Mental Health Commitment Act Neb. Rev. Stat. §§71-901-71-962 if the following conditions are met:

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- a. The person presenting the risk of harm is; the vulnerable adult, whom is the subject of the investigation; or is a person posing a risk of harm to the vulnerable adult
  - b. All other lesser restrictive options have been exhausted to reduce or prevent continued abuse, neglect, or exploitation,
  - c. Law Enforcement has not deemed EPC appropriate,
  - d. The CFS Specialist still believes that the person is mentally ill and poses a threat of harm to themselves or others.
4. Information Provided to the County Attorney: The CFS Specialist should provide the following information to the County Attorney when requesting a petition to be filed for a mental health commitment hearing:
- a. The subject's name and address, if known
  - b. The name and address of the subject's spouse, legal counsel, guardian or conservator, and next-of-kin, if known;
  - c. The name and address of anyone providing psychiatric or other care or treatment to the subject, if known;
  - d. The name and address of any other person who may have knowledge of the subject's mental illness or substance dependence who may be called as a witness at a mental health board hearing with respect to the subject, if known;
  - e. An affidavit describing specific behavior, acts, attempts, or threats giving reason to believe that the subject is mentally ill and dangerous;
  - f. The name and address of any other person who may have knowledge of the subject's mental illness or substance dependence and who may be called as a witness at a mental health board hearing with respect to the subject, if known.
5. Continue Adult Protective Services Responsibilities: The CFS Specialist must continue to monitor the vulnerable adult's situation until it has been resolved through the mental health commitment process or other actions to determine if there is risk for continued abuse, neglect, or exploitation and provide Adult Protective Services as eligible.
6. Citation - Mental Health Board Commitment.  
According to Neb. Rev. Stat. §71-921:  
Any person who believes that another person is mentally ill and dangerous may communicate such belief to the county attorney. The filing of a certificate by a law enforcement officer under Neb. Rev. Stat. §71-919 shall be sufficient to communicate such belief. If the county attorney concurs that such person is mentally ill and dangerous and that neither voluntary hospitalization nor other treatment alternatives less restrictive of the subject's liberty than inpatient or outpatient treatment ordered by a mental health board is available or would suffice to prevent the harm described in Neb. Rev. Stat. §71-908, he or she shall file a petition as provided in this section.

The petition shall be filed with the clerk of the district court in any county within:

- a. The judicial district in which the subject is located;
- b. the judicial district in which the alleged behavior of the subject occurred which constitutes the basis for the petition; or
- c. another judicial district in the State of Nebraska if authorized, upon good cause shown, by a district judge of the judicial district in which the subject is located. In

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such event, all proceedings before the mental health board shall be conducted by the mental health board serving such other county, and all costs relating to such proceedings shall be paid by the county of residence of the subject. In the order transferring such cause to another county, the judge shall include such directions as are reasonably necessary to protect the rights of the subject.

## 7. Eligibility for a Mental Health Board Commitment

According to Neb. Rev. Stat. §71-908 a mentally ill and dangerous person means a person who is mentally ill or substance dependent and because of such mental illness or substance dependence presents:

- a. A substantial risk of serious harm to another person or persons within the near future as manifested by evidence of recent violent acts or threats of violence or by placing others in reasonable fear of such harm; or
- b. A substantial risk of serious harm to himself or herself within the near future as manifested by evidence of recent attempts at, or threats of, suicide or serious bodily harm or evidence of inability to provide for his or her basic human needs, including food, clothing, shelter, essential medical care, or personal safety.

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## Chapter 8.A Documentation

- A. Documentation must be complete on all APS cases.
1. The CFS Specialist will document the APS investigation, assessments, service provisions, and narratives into N-FOCUS-APS program case.
  2. Organization Related Investigation: The CFS Specialist will document into N-FOCUS the ORG investigation, assessments, service provisions, and narratives. If one or more of the victims requires service coordination, then an APS program case will be opened.
- B. Record Keeping  
Records are maintained in order to:
1. Support decision-making;
  2. Maintain an ongoing assessment of the adult victim's needs from the community's and the Department of Health and Human Services' perspective;
  3. Determine trends;
  4. Identify service needs and make decisions regarding staff allocation to meet those service needs;
  5. Enhance quality; and
  6. Comply with the law.
- C. The electronic case file is located on N-FOCUS. Documentation is entered into N-FOCUS at intake and throughout the case. The CFS Specialist will use Document Imaging to add into N-FOCUS, documents provided by third parties.
- D. 1<sup>st</sup> Face-to-Face Contact Exceptions  
The CFS Supervisor may enter contact exceptions when a worker has not met the 1<sup>st</sup> Face-to-face timeframe for specific reasons and are documented in the intake detail window.  
Contact Exceptions – Supervisor
1. Unable to Locate
  2. Unable to Identify
  3. Refused to meet
  4. Death of the Victim
- E. Investigation Exceptions  
The Administrator may enter exceptions for investigation timeframes for specific reasons and these are documented in the intake detail window.  
Contact Exceptions – Administrator
1. Law enforcement hold: Law enforcement has notified APS to discontinue investigating until further notice.
  2. Administrative Intake: No contact needed; as in the case of a conviction of abuse of a vulnerable adult and APS wasn't involved. The finding will be entered. If this narrative is used, the CFS Specialist will open a Program Case and tie it to the intake. The worker will gather the court documents and law enforcement reports for the file.
- F. Document Imaging
1. The CFS Specialist will scan and upload paper documents, i.e. Court Orders, Therapy Reports, Law Enforcement reports, by utilizing the scan function on the office copy machine. The Category 'Restricted' is the equivalent to the Appendix in a current paper Case file.
  2. ORG Related Investigations: When the Licensing Unit submits their investigation report to Central Office; support staff shall forward the licensing report to the CFS

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Specialist and add the report using the document imaging function to the Organization in N-FOCUS as Correspondence.

3. Documents that are scanned may be shredded unless the original copy is needed. Examples of original documents to be kept in the file are the original letter from a physician, death certificate, Authorization to Release Information, photographs, Power of Attorney or will. Photographs may also be uploaded to N-FOCUS.

E. All documents not uploaded into N-FOCUS via Document Imaging shall be retained in the physical case file. The physical case file shall be organized in the following manner:

1. Tab - Intake Form
  - a. Current APS Intake Form
2. Tab - Case Status Determination
  - a. Current Case Status Determination Form
3. Tab - Assessment Form
  - a. Current APS Assessment Form
  - b. Other Assessments Completed
4. Tab - Financial Records
  - a. Bank Statements
  - b. Verification of Income/Resources
  - c. Release of Information/Copy of Subpoena
5. Tab - Medical Records
  - a. Mental Health Records
  - b. Physical Health Records
  - c. Release of Information/Copy of Subpoena
6. Tab - Narratives
  - a. Chronological documentation of all client and collateral contacts to include the service plan
7. Tab - Services
  - a. Service authorizations
  - b. APS Funds request form
  - c. Billings
8. Tab - Correspondence
  - a. Letters received
  - b. Letters sent
9. Tab - Legal Documents
  - a. Court Orders
  - b. Guardian/Conservator Petitions, Letters, Acceptance Forms
  - c. Journal Entries
  - d. Subpoenas
  - e. Report to the County Attorney
  - f. Non-Court Documents (POA, etc.)
10. Tab - Miscellaneous

## APPENDIX (separate file)

1. Legal contacts
2. Verbal and written correspondence with HHS Legal Division, County Attorney, Attorney General's office, private attorney involved with petitions for guardianships, etc.
3. Law Enforcement Reports

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## Chapter 9.A Mandatory Consultation Points

- A. Mandatory consultation points are designed to provide formal opportunities for supervisors to coach, guide, support, and review case information during critical decision points throughout the life of a case.
- B. Mandatory consultation with the Supervisor is required in the following circumstances:
- a. When not able to meet with the alleged victim(s) within the required time frame.
    - i. These situations include, but are not limited to:
      1. When the CFS Specialist has determined that they have made a 'good faith effort' to locate a vulnerable adult for investigation and the response time cannot be met.
      2. Law Enforcement has requested the delay, but the CFS Specialist is concerned about the safety of the vulnerable adult.
      3. Death of the Victim prior to contact
  - b. When requesting approval to forgo the alleged perpetrator interview;
  - c. When determining if reasonable efforts have been made to locate the alleged perpetrator;
  - d. When it is determined that the vulnerable adult is in a dangerous situation, has no other substitute decision maker, seems to have impaired decision making and law enforcement is not willing to take action;
  - e. When the vulnerable adult has a guardian who is the alleged perpetrator and the vulnerable adult is in danger;  
When requesting an abbreviated investigation;
  - f. When determining whether to open a case for service coordination;
  - g. When the CFS Specialist is requesting a Department/Administrative subpoena;
  - h. When the CFS Specialist receives a subpoena;
  - i. When requesting assistance from the DHHS Legal;
  - j. When considering the decision to initiate court action;
  - k. When there is a critical incident or if the CFS Specialist is unsure if an incident would be considered a critical incident;
  - l. When making a finding at the end of the investigation. This includes discussion with the Supervisor before putting a minor's name on the Central Registry;
  - m. When requesting approval of service plan;
  - n. When requesting case transfer;
  - o. When requesting an extension for services purchased under the Social Service Block Grant APS funds without regard to income;
  - p. When requesting approval to forgo monthly contact with the vulnerable adult during service coordination;
  - q. Every 60 days of service coordination to determine if the case should be closed;
  - r. When a vulnerable adult exhibits impaired decision making capacity and there are identified safety concerns, but, the client withdraws from service coordination.
  - s. When considering closing the ongoing service coordination case.
- C. Consultation with the CFS Administrator: Further consultation is required with the CFS Administrator in the following circumstances:
- a. When requesting a variance to an existing policy;
  - b. When there is a conflict between Supervisors in different service areas concerning transfer of a case from one service area to another;
  - c. The supervisor cannot resolve issues or conflicts about a safety plan.

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- D. Consultation Point Documentation: The CFS Specialist or CFS Supervisor must document the supervisor consultation in the Consultation Point Investigation narrative section. The narrative must include:
- a. The date of the consultation;
  - b. The persons from whom you sought consultation,
  - c. The reason for consultation
  - d. The subject matter of the decision; and
  - e. The information on which the decision was based.
  - f. Final decisions.

The CFS Specialist must leave this information in “draft” status. The supervisor must review the entry and must finalize the entry. If the supervisor disagrees with the content, he/she must have further discussion with the CFS Specialist before finalizing the entry. The CFS Supervisor may also enter the consultation narrative rather than the CFS Specialist.

- E. Consulting with Legal Services: The CFS Specialist should consult with DHHS Legal on any matter that a legal opinion is needed or any other subject matter where appropriate. The CFS Specialist must inform the CFS Supervisor of any correspondence with DHHS Legal.