

CHAPTER 2

REPORTS OF SUSPECTED ADULT ABUSE, NEGLECT, EXPLOITATION, ABANDONMENT, INTIMIDATION OR SELF-NEGLECT OF VULNERABLE ADULTS

Section 1. Reporting

(a) Any person or agency who knows or has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, exploited, abandoned, intimidated or is committing self-neglect, shall report the information immediately to a law enforcement agency or the Department. Anyone, who in good faith makes a report pursuant to this section, is immune from civil liability for making the report pursuant to Wyo. Stat. § 35-20-103. Law enforcement agencies include, but are not limited to, the following:

- (i) Municipal police;
- (ii) County sheriff's Department;
- (iii) Highway patrol;
- (iv) Medicaid Fraud Control Unit of the Attorney General's Office; and/or
- (v) Department of Criminal Investigation.

(b) The report may be made orally or in writing. A faxed copy may require a phone contact to clarify information provided or is not legible. The report shall provide to the law enforcement agency or the Department the following information, to the extent available:

- (i) The name, age and address of the vulnerable adult;
- (ii) The name and address of any person responsible for the vulnerable adult's care;
- (iii) The nature and extent of the vulnerable adult's condition;
- (iv) The basis of the reporter's knowledge;
- (v) The adequacy of the facility environment;
- (vi) Any evidence of previous injuries;

(vii) Any collaborative information; and

(viii) Any other relevant information.

(c) The name and identifying information of the person who reported the suspected abuse or neglect shall be kept confidential, except as required by law. Anonymous reports may be accepted. If documents are shared outside of the Department, including to law enforcement, confidentiality of the reporter must be honored.

Section 2. Intake

(a) All reports of suspected abuse, neglect, exploitation, abandonment, intimidation or self-neglect shall be entered into the Department's data system.

(b) All reports shall be screened to determine whether the allegation meets the statutory definitions of vulnerable adult abuse, neglect, exploitation, abandonment, intimidation or self-neglect. The alleged victim's defined or assumed capacity to consent does not determine if a case should or should not be opened.

(c) The intake process shall include gathering sufficient information to enable the caseworker to:

(i) Identify and locate the vulnerable adult and determine if the adult lives with a caregiver, family member, or individual in a domestic or facility setting or is a vulnerable adult living alone;

(ii) Assess the severity of the situation and consider the urgency of the response; and

(iii) Determine if the report requires contact with an outside agency, and if so, which outside agency should be contacted.

(d) Evidence of a person's advanced age, physical limitations, and/or mental incapacity may be provided by any or all of the following:

(i) Intake caseworker's assessment from information provided by reporter or collateral contacts;

(ii) Information from pre-existing documents such as medical, court, and adult protective services records;

(iii) Information received from a person having credible information or

knowledge of the condition of the vulnerable adult; or

(iv) Physician's, psychologists, mental health professionals, or medical professional's evaluation.

(e) The caseworker shall check records to obtain pertinent information, including past Department involvement with either facility or caregiver, as appropriate.

Section 3. Accepted and Rejected Reports

(a) Reports not rejected shall be accepted for prevention, assessment or investigation.

(b) The Department may make collateral contacts for the purpose of assessing the safety of the vulnerable adult and clarifying or establishing the credibility of the report. When determining if collateral contacts should be made, the caseworker shall weigh:

(i) The allegations contained in the report;

(ii) The severity of the incident; and

(iii) The likelihood that the collateral contact will have relevant information about the allegations or the incident.

(c) The Department shall notify the local law enforcement agency when a report of abuse, neglect, exploitation, abandonment, intimidation or self-neglect of a vulnerable adult is received.

(d) In-person contact shall be immediately attempted with the alleged victim when the report alleges any of the following:

(i) A major injury;

(ii) A vulnerable adult is suffering from an acute, untreated medical condition;

(iii) A vulnerable adult is in danger of sustaining imminent harm; or

(iv) A vulnerable adult is alleged to be a victim of abandonment.

(e) The caseworker shall make in-person contact with the vulnerable adult within three (3) calendar days of the receipt of an accepted report. If a caregiver, family or

individual refuses to allow contact with the vulnerable adult or is not cooperative, the Department may request further assistance from a law enforcement agency with to gain access. In addition, the Department may also request assistance for filing an injunction to gain access from a District/County Attorney's office or the Attorney General.

(f) The caseworker and/or a law enforcement officer may make in-person contact with the caregiver, family, or individual, and the alleged perpetrator. If law enforcement takes the lead on the in-person contact then the three (3) day in-person contact is not required for the caseworker.

(g) In-person contact is not required when the caseworker has made a good faith attempt to contact the vulnerable adult and the vulnerable adult cannot be located.

(h) The Department shall reject the following reports:

(i) The report is not about a vulnerable adult;

(ii) Reports in which the allegations fall outside the definition of abuse, neglect, exploitation, abandonment, intimidation or self-neglect of a vulnerable adult, unless opening as a prevention which does not require a specific allegation;

(iii) Reports in which the reporter cannot provide any credible information or reason to suspect that abuse, neglect, exploitation, abandonment, intimidation or self-neglect has occurred or is occurring to a vulnerable adult, unless assigned to the prevention track;

(iv) Reports in which insufficient information is given to identify or locate the vulnerable adult;

(v) Reports of a malicious nature as established by specific credible evidence; and

(vi) Reports in which the Department has previously received a report on the same incident and documented verification that services are being provided to the vulnerable adult.

(i) Reports shall be rejected at the supervisory level and documented in the Department's data system.

Section 4. Prevention Track

(a) The supervisor shall assign cases to the Prevention Track within twenty-four

(24) hours of the report where there are no allegations of abuse or neglect, and to prevent problems from escalating to a level where assessment or investigation services are needed.

(b) The caseworker shall attempt an in-person contact within three (3) calendar days of the report.

(c) When appropriate, prevention services may be offered to the vulnerable adult.

Section 5. Assessment Track

(a) The supervisor shall assign cases to the Assessment Track within twenty-four (24) hours of the intake of a report of abuse, neglect, exploitation, intimidation, abandonment or self-neglect which does not meet the criteria for the Investigation Track.

(b) Reports in the Assessment Track can be reassigned to the Investigation Track as new or additional information is obtained and reviewed.

Section 6. Investigation Track

(a) The supervisor shall assign cases to the Investigation Track within twenty-four (24) hours of a report of abuse, neglect, exploitation, intimidation, self-neglect or abandonment. A report will be assigned to the Investigation Track if it includes any of the following criteria;

(i) Death;

(ii) Brain damage, bone fracture, extensive burns or other serious bodily injury;

(iii) Sexual assault;

(iv) Exploitation, to include financial or sexual;

(v) Evidence of severe neglect; or

(vi) Any other activity which may constitute a crime or which places the vulnerable adult in imminent danger of death or serious bodily harm.

(b) Reports where criminal charges may be pursued shall be assigned to the Investigation Track and shall be coordinated with the law enforcement agency.

(c) The Department shall immediately contact the appropriate law enforcement

agency and the district/county attorney for Investigation Track cases.

(d) Any investigations may be teamed with a law enforcement agency.

(i) If financial exploitation is reported to the Department and the Department requests a hold on an alleged victim's transaction, the Department shall notify the banking institution.

(ii) If financial exploitation is reported to law enforcement, the caseworker shall keep the file open until a final report is received from law enforcement, and if no prosecution, substantiation of the allegation may be possible.

(e) The Department shall attempt in-person contact immediately with the alleged victim when the report meets the immediate response criteria in Section (d) of these Rules.

(f) Unless (e) applies, the caseworker shall make in-person contact with the vulnerable adult within three (3) calendar days of the receipt of the report. The caseworker and/or a law enforcement officer may make in-person contact with the caregiver, family, or individual, and the alleged perpetrator. If law enforcement takes the lead on the in-person contact then the three (3) day in-person contact would not be required for the caseworker. In-person contact is not required when the caseworker has made a good faith attempt to contact the vulnerable adult and the vulnerable adult cannot be located.

(g) When conducting initial in-person interviews:

(i) The alleged perpetrator shall not be present during the initial interview of the alleged victim; and

(ii) During the initial in-person interview with the vulnerable adult's caregiver, which may include a legal guardian, the caseworker shall inform the person being interviewed orally and in writing that:

(A) A report has been received and it is the Department's duty to investigate;

(B) The investigation may involve a law enforcement agency or the court if needed to protect the vulnerable adult from further abuse, neglect, exploitation, neglect, intimidation, and or abandonment; and

(C) The name of the reporter shall not be disclosed unless required by the court.

(h) During the initial interview of the alleged perpetrator, the caseworker shall inform the alleged perpetrator, orally and in writing that:

(i) A report has been received against him or her, and the Department has the duty to investigate; and

(ii) The investigation may involve a law enforcement agency or the court if needed to protect the vulnerable adult from any further abuse, neglect, exploitation, intimidation or abandonment.

(i) The Department shall provide the law enforcement agency with all case records in the investigation, when requested.

(j) The caseworker may coordinate needed services and assist the law enforcement officer when requested (e.g., interviewing other significant individuals).

(k) If the caseworker receives the law enforcement agency's investigative reports, the caseworker may use the law enforcement agency's investigative reports to substantiate the abuse, neglect, exploitation, abandonment, and intimidation of a vulnerable adult for the purposes of placing the name of the alleged perpetrator on the Central Registry. This is only acceptable from law enforcement and not for an investigative report completed by another agency or facility.

(l) Photographs:

(i) The caseworker shall take or obtain photographs of a vulnerable adult when the vulnerable adult has observable marks, injuries or an appearance believed to be caused by abuse or neglect.

(ii) If voluntary consent is not given by the vulnerable adult or guardian and photographs need to be obtained, the Department shall request assistance for obtaining such evidence from a law enforcement agency or the district/county attorney.

(m) The investigation process may be adjusted with the District Manager's written approval, to include timelines, when the investigation is conducted by a law enforcement agency or at the request of the law enforcement agency.

(n) If an emergency exists and the vulnerable adult lacks the capacity to consent to protective services, the caseworker shall contact the Office of the Attorney General or the district/county attorney to petition the court for an order pursuant to Wyo. Stat. §35-20-107 for emergency protective services.

(o) The caseworker shall develop an action plan of intervention and referral services for the vulnerable adult which contain necessary actions to provide for the safety and wellbeing of the vulnerable adult.

(p) At the end of the investigation, the caseworker shall refer the case for necessary services from the Department to outside agencies in the service area, which include, but are not limited to:

- (i) Public Health Nursing;
- (ii) The Department of Health, Aging Division;
- (iii) Department of Health, Medicaid;
- (iv) The Department of Health, Division of Developmental Disabilities;
- (v) The Department of Health, Division of Mental Health;
- (vi) Domestic Violence/Victim Assistance programs;
- (vii) Wyoming Guardianship Corporation; and/or
- (viii) Community Mental Health and Substance Abuse Centers.

(q) Each case under investigation by the Department or a law enforcement agency must be determined to be substantiated or unsubstantiated.

(i) The Department shall substantiate all reports where a court has accepted a criminal plea of guilty or nolo contendere, or a civil or criminal court has made a finding that the alleged perpetrator committed certain acts that constitute abuse, neglect, exploitation, intimidation or abandonment under these Rules.

(ii) Each substantiated report of abuse, neglect, exploitation, intimidation or abandonment of a vulnerable adult pursuant to the Adult Protective Services Act shall be entered and maintained within the Central Registry of vulnerable adult protection cases.

(r) Notice of findings:

(i) The Department shall provide professional reporters, a written summary of the records concerning the subject of the report, upon written application to the state agency,

(ii) The Department shall inform the vulnerable adult, caregiver, family, individual which may include the legal guardian, and the alleged perpetrator(s) in writing of the conclusion of the Department's investigation.

(iii) In substantiated cases, the Department shall inform the alleged perpetrator in writing that:

(A) His or her name has been entered on the Central Registry;

(B) He or she may respond in writing to the findings of the investigation and such statement shall be included with the Central Registry report; and

(C) He or She may request an administrative hearing pursuant to the Department's Contested Case Hearing Procedures.

(iv) In substantiated cases which involve licensing and funding by a governmental agency, the Department shall send notice of the substantiation to the appropriate agencies pursuant to Chapter 2, Section 6 of these Rules.

(s) In all substantiated or unsubstantiated cases, the findings shall be documented in the Department's data system.

(t) The caseworker shall provide the district/county attorney with a written report of substantiated abuse, neglect, exploitation, abandonment, or intimidation of a vulnerable adult within seven (7) days of such determination unless emergency intervention dictates immediate notification.

(u) When the Department receives a report that a person has been convicted of, or has pled guilty or no contest to, a crime, which includes the abuse, neglect, exploitation, intimidation or abandonment of any vulnerable adult, that conviction shall be maintained on the Central Registry.

(v) Reports in the Investigation Track can be reassigned to the Assessment Track as new or additional information is obtained and reviewed.

Section 7. Assessments or Investigations Concerning Facilities

(a) When the Department receives a report of the abuse, neglect, intimidation or exploitation of a vulnerable adult in a facility, the person receiving the report shall notify the following agencies, as appropriate:

(i) Medicaid Fraud Control Unit of the Attorney General's Office for all reports of abuse, neglect, exploitation, intimidation, and financial fraud in facilities that are Medicaid providers or where the alleged victim is a Medicaid recipient;

(ii) Department of Health, Office of Health Care Licensing and Survey or Aging Division, for all allegations of abuse, neglect and/or misappropriation of residents' property, and all licensing violations in licensed, certified and or non-certified facilities in their jurisdiction (including the Wyoming State Hospital);

(iii) Department of Health, Developmental Disabilities Division, for reports involving a facility licensed through that Division;

(iv) Department of Health, Mental Health Division for any residential program under the jurisdiction of the Division and the Wyoming State Hospital; (Wyoming Pioneer Home, Wyoming State Training School, Wyoming Retirement Center and the Veteran's Home)

(v) Long-Term Care Ombudsman for complaints or reports from residents in facilities;

(vi) State Board of Nursing for any report that involves a registered nurse, licensed practical nurse or certified nurse; and/or

(vii) Other licensing boards (e.g., Occupational Therapy or Professional Teacher Standards Board).

Section 8. Service Provision

(a) Protective services may be provided or purchased by the Department to assist vulnerable adults to prevent or terminate abuse, neglect, self-neglect, exploitation, intimidation or abandonment in open cases until no longer needed.

(b) During the initial in-person interview with the vulnerable adult and/or caregiver, family, or individual, the caseworker shall inform them that:

(i) The Department received a report and has a duty to assess the report;

(ii) The Department shall assess the safety of the vulnerable adult; and

(iii) The Department shall refer the report for investigation if needed to protect the vulnerable adult from abuse, neglect, exploitation, intimidation, self-neglect or abandonment.

(c) Costs incurred to furnish protective services may be paid by the Department unless the vulnerable adult is eligible for protective services from another governmental agency or any other source, such as, but not limited to:

- (i) Public Health;
- (ii) Department of Health, Aging Division;
- (iii) Department of Health, Medicaid;
- (iv) Department of Health, Division of Mental Health;
- (v) Department of Health, Division of Developmental Disabilities; and/or
- (vi) A court appoints a guardian or conservator and orders that the costs be paid from the vulnerable adult's estate.

(d) The Department shall assist the vulnerable adult and his/her support system in identifying, locating and accessing services.

(e) Case assessment includes a process of evaluating the vulnerable adult's needs and available services. The caseworker shall refer to those services available from agencies other than the Department which may include, but are not limited to:

- (i) Public Health Nurse;
- (ii) Department of Health, Aging Division;
- (iii) Department of Health, Medicaid;
- (iv) Department of Health, Division of Mental Health;
- (v) Department of Health, Division of Substance Abuse;
- (vi) Department of Health, Developmental Disabilities Division;
- (vii) Domestic Violence/Victim Assistance programs;
- (viii) Wyoming Guardianship Corporation; and/or
- (ix) Community Mental Health and Substance Abuse Centers.

(f) Based on information obtained at intake, the caseworker may seek assistance in the initial assessment by outside persons or agencies such as, but not limited to:

- (i) Public health nurse;
- (ii) Mental health professional;
- (iii) Members of the Adult Protective Services Team, as needed; and/or
- (iv) Law enforcement officers.

(g) A written action plan shall be completed by the Department on all cases that remain open for services. The action plan shall include services that are to be provided by the Department and community service agencies to provide for the safety and wellbeing of the vulnerable adult, and any relevant actions to be taken by the vulnerable adult and caregiver, family or individual.

(h) Court-ordered injunction(s). When a vulnerable adult needs protective services and the caregiver, family, or individual refuses to allow the provision of those services, the Department, through the Office of the Attorney General or the district/county attorney, may petition the court for an order pursuant to Wyo. Stat. § 35-20-106 enjoining the caregiver from interfering with the provision of protective/emergency services. If access to the vulnerable adult is denied to law enforcement or the Department seeking to investigate a report of abuse, neglect, exploitation, abandonment, intimidation or self-neglect of a vulnerable adult, the investigator, through the Office of the Attorney General or the district/county attorney, may seek an injunction pursuant to Wyo. Stat. § 35-20-110 to prevent interference with the investigation.

(i) Court-ordered emergency protective services. If an emergency exists and the Department has reasonable cause to believe that a vulnerable adult is at risk for abuse, neglect, self-neglect, exploitation, intimidation or abandonment and lacks the capacity to consent to protective services, the caseworker shall contact the Office of the Attorney General or the district/county attorney to petition the court pursuant to Wyo. Stat. § 35-20-107 for an order for emergency protective services. Emergency protective services may include the vulnerable adult being placed in a hospital or other suitable facility. The court's initial order for emergency protective services shall remain in effect for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. The order may be extended for up to an additional thirty (30) day period if the court finds an extension is necessary to remove the emergency.

(j) If a court places the vulnerable adult in a hospital or other suitable facility

pursuant to a petition for emergency protective services from the Office of the Attorney General or district/county attorney, the Department shall immediately notify the person responsible for the care and custody of the vulnerable adult, if known the court's initial order for emergency protective services shall remain in effect for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. Notification shall not be required if the alleged perpetrator is the person responsible for the care and custody of the vulnerable adult unless the court orders the notification.

Section 9. Consent to Service

(a) Vulnerable adults are presumed to possess the ability to consent to or refuse protective services. A vulnerable adult shall not be required to accept protective/emergency services without his/her consent.

(b) If the caseworker believes that the vulnerable adult's ability to understand and appreciate the nature and consequences of their decisions is impaired, the caseworker shall immediately take steps to arrange for a professional mental capacity evaluation if the caseworker reasonably believes that the vulnerable adult's ability to understand and appreciate the nature and consequences of their decisions is impaired. Until the vulnerable adult's capacity to consent is determined, the caseworker shall provide only those services agreed to by the vulnerable adult.

(c) If the vulnerable adult has a guardian or has appointed an agent under a durable power of attorney, the guardian or agent may act on behalf of the vulnerable adult.

(d) The caseworker shall explain to the vulnerable adult the protective services which can be provided and he/she has the right to accept or reject services. If appropriate, the vulnerable adult shall be referred for services according to the least restrictive services within the continuum of care in each respective community.

(e) When a caregiver, family member, or individual is unwilling to accept services for a vulnerable adult, the Department may seek court intervention. The Attorney General or the district/county attorney may petition the court for an order pursuant to Wyo. Stat. §35-20-106 enjoining the caregiver, family member, or individual from interfering with the provision of protective services.

Section 10. Case Closure

(a) A case shall be closed when:

(i) Investigation, prevention, or assessment is complete;

(ii) Protective services, as indicated by the Department, have been concluded; and/or

(iii) Necessary referrals to other agencies have been made.

(b) Case closure shall be documented in the Department's data system with information on the disposition of the case, such as:

(i) Referral to an outside agency;

(ii) Any court action, such as guardianship;

(iii) Case determination; and/or

(iv) If prosecution is pending.

(c) In all cases, the caseworker may conduct a follow-up visit(s) after the case is closed to validate the vulnerable adult's continued safety and wellbeing and to confirm that necessary services are being provided.

Section 11. Administrative Hearings

(a) Following a determination of substantiation, an alleged perpetrator of abuse, neglect, exploitation, intimidation or abandonment who is aggrieved by said determination may request an administrative hearing.

(b) Requests for an administrative hearing shall be submitted in writing within twenty (20) days of the date of the notice of the determination. In those cases where criminal charges arising out of facts of the investigation may be pending, the request for review shall be made within twenty (20) days from the court's final disposition, dismissal of the charges, or prosecutorial determination to not pursue charges. If criminal charges are filed after the request for hearing has been made but before the administrative hearing is held, the hearing request will be dismissed and a subsequent request may be submitted pursuant to the terms of this subsection.

(c) An opportunity to discuss the Department's issues and resolve the dispute shall be offered.

(d) If the dispute is resolved to the satisfaction of both parties, the person who requested the administrative hearing may sign a statement withdrawing the hearing request or do so orally. If the dispute is not resolved, the matter shall proceed to a hearing.

(i) If the agency receives a request to withdraw orally, the agency shall provide, within ten (10) days, the parties with written notice of the withdrawal request. The written notice shall advise the party that in order to reinstate the hearing request and avoid dismissal the party must respond in writing within ten (10) days of the written notice of withdrawal and provide good cause. If the request for reinstatement is accepted the State agency must provide a fair hearing within a reasonable amount of time.

(e) Notwithstanding any other provision in this section, an alleged perpetrator is not entitled to an administrative hearing if the perpetrator has been convicted, adjudicated or there is a finding by a civil, juvenile or criminal court, or a consent decree whether by a plea of guilty, finding of guilt or a nolo contendere plea that the alleged perpetrator committed certain acts that the Adult Protective Services Act defines as abuse, neglect, exploitation, intimidation or abandonment.

Section 12. Confidentiality

(a) All records concerning reports and investigations of vulnerable adult abuse, neglect, exploitation, intimidation, abandonment or self-neglect are confidential, and not subject to disclosure under the Public Records Act, including:

(i) A report of abuse, neglect, exploitation, intimidation abandonment or self-neglect under this act;

(ii) The identity of the person making the report; and

(iii) Except as provided by these Rules, all files, reports, records, communications, and working papers used or developed in an investigation made under this act or in providing services as a result of an investigation are confidential.

(b) Upon written application, the Department may give access to records otherwise confidential under this section to any of the following persons or agencies for purposes directly related with the administration of the Adult Protective Services Act:

(i) A local adult protective agency or agencies;

(ii) A law enforcement agency, guardian ad litem, conservator, guardian, adult protection team or attorney representing the vulnerable adult who is the subject of the report;

(iii) A physician, or surgeon who is treating a vulnerable adult; or

(iv) Court personnel who are investigating reported incidents of adult abuse, neglect, exploitation, intimidation, or abandonment.

(c) The Department may exchange with other state agencies or governmental entities records that are necessary for the Department, state agencies or entities to properly execute respective duties and responsibilities to provide services to vulnerable adults.

(d) A physician or person in charge of an institution, school, facility or agency making a report under Wyo. Stat. § 35-20-111 shall receive, upon written application to the state agency, a written summary of the records concerning the outcome of the investigation.

(e) Any person, agency or institution given access to records concerning the subject of the report shall not divulge or make public any records except as required for court proceedings.

(f) Confidential records may be disclosed only for a purpose consistent with the Adult Protective Services Act and as provided by these Rules and applicable federal and state law.

(g) The Department shall maintain confidentiality with the vulnerable adult and caregiver unless it becomes necessary to share information with individuals or agencies involved in the delivery of adult protective services to the vulnerable adult or in the prosecution of the perpetrator(s) of abuse, neglect, exploitation, intimidation or abandonment of a vulnerable adult. Such individuals and agencies include, but are not limited to:

- (i) The Office of the Attorney General (Medicaid Fraud Control Unit);
- (ii) District/County attorneys and law enforcement officers;
- (iii) Appropriate community services providers;
- (iv) Adult protective services team members; and/or
- (v) Adult Protective Services in other states.