

**DEPARTMENT OF FAMILY SERVICES
ADULT PROTECTIVE SERVICES**

CHAPTER 1

**GENERAL PROVISIONS, CRIMINAL PENALTIES, ADULT PROTECTION
TEAMS**

Section 1. Authority. These Rules of the Department of Family Services are promulgated pursuant to Wyo. Stat. § 35-20-104(a)(ii).

Section 2. Purpose. These Rules are adopted to implement the Department's responsibilities under the Adult Protective Services Act (Wyo. Stats. §§ 35-20-102 through 35-20-116) relating to adult protective services in Wyoming, to assist in the administration of the Department's programs, to assure the safety and well-being of vulnerable adults and to articulate penalties for abuse, neglect, intimidation, abandonment, self-neglect and exploitation of a vulnerable adult pursuant to Wyo. Stat. § 6-2-507.

Section 3. Severability. If any provision of these Rules or the application thereof to any person, program, service or circumstance is held invalid, the invalidity shall not affect other provisions or applications of these Rules. To the extent that these Rules can be given effect without the invalid provision, the provisions of these Rules are severable.

Section 4. Definitions.

(a) "Abandonment" means leaving a vulnerable adult without financial support or the means or ability to obtain food, clothing, shelter or health care.

(b) "Abuse" means the intentional or reckless infliction, by the vulnerable adult's caregiver, a person of trust or authority, professional, family member or another individual of:

(i) Injury;

(ii) Unreasonable confinement which threatens the welfare and well being of a vulnerable adult; or

(iii) Cruel punishment with resulting physical or emotional harm or pain to a vulnerable adult; or

(iv) Photographing vulnerable adults for immoral or illegal purposes without the vulnerable adult's written consent; or

(v) Sexual abuse; or

(vi) Intimidation; or

(vii) Exploitation.

(c) “Action Plan” means the written plan developed by the caseworker in cooperation with the vulnerable adult, caregiver and others as needed, to determine what outcome is desired, what actions and services are indicated and who is responsible for taking the action and/or arranging/providing the service.

(d) “Administrator” means the director of the Wyoming Department of Family Services or designee.

(e) “Adult Protective Services Act” means the Act relating to adult protective services in Wyoming, to assist in the administration of the Department’s programs, and to assure the safety and well being of vulnerable adults, pursuant to Wyo. Stats. §§ 35-20-102 through 35-20-116.

(f) “Adult Protection Team” means the formal organization of professionals or individuals with appropriate expertise assembled to assist and coordinate adult protection activities with the Department and other agencies or organizations that serve vulnerable adults.

(g) “Advanced Age” means a person who is sixty (60) years of age or older.

(h) “Agency” means any division, institution or program within a Department of the state and all institutions, boards and programs administering, planning and providing for services under the supervision of a director, and counties, municipal corporations, school districts, community college districts, joint powers boards or special districts specifically involved in providing government facilities or functions, and all private or non-profit organization involved in providing human services, or the regulation of human services, to vulnerable adults.

(i) “Capacity to consent” means the ability to understand and appreciate the nature and consequences of making decisions concerning one’s person, including, provisions for health or mental health care, food, shelter, clothing, safety or financial affairs. This determination may be based on assessment or investigative findings, observation or medical or mental health evaluations.

(j) “Caregiver” means any person or in-home service provider (the Department of Family Services shall not serve as a caregiver) responsible for the care of a vulnerable adult because of:

- (i) A family relationship; or
- (ii) Voluntary assumption of responsibility for care; or
- (iii) Court ordered responsibility or placement; or
- (iv) Rendering services in an adult workshop or adult residential

program; or

(v) Rendering services in an institution or in a community -based program; or

(vi) Acceptance of a legal obligation or responsibility to the vulnerable adult through a power of attorney, advanced health care directive or other legal designation.

(k) “Caseworker” means an employee of the Department who provides adult protection services; family social services and/or counseling services to clients; gathers information; composes social histories as part of an information base for treatment or social services programs; conducts investigations as a basis for case decisions; conducts assessments relative to risk and needs factors; prepares case plans; monitors client progress; documents all client contact and writes summary reports; provides counseling or makes referrals as appropriate; and prepares documentation for court proceedings.

(l) “Central Registry” means an electronic registry maintained pursuant to Wyo. Stats. §§ 35- 20-115 through 35-20-116.

(m) “Collateral contact” means obtaining information concerning the living situation of the vulnerable adult from an individual who has knowledge of the circumstances but was not directly involved in referring the vulnerable adult for adult protective services.

(n) “Conservator” means a person appointed by a court of proper jurisdiction to have the custody and control of the property of a vulnerable adult.

(o) “Court” means the district court in the district (or county) where the vulnerable adult resides or is found.

(p) “Department” means the Wyoming Department of Family Services or its designee.

(q) “District office” means one of the geographic divisions within the Department of Family Services through which Department programs and services are administered.

(r) “Emergency services” means those services that may be provided to assist vulnerable adults to prevent or terminate abuse, neglect, exploitation, intimidation or abandonment until the emergency has been resolved.

(s) “Exploitation” means the reckless or intentional act taken by any person, or any use of the power of attorney, conservatorship or guardianship of a vulnerable adult. In the absence of legal authority to:

(i) Obtain control through deception, harassment, intimidation or undue influence over the vulnerable adult’s money, assets or property with the intention of permanently or temporarily depriving the vulnerable adult of the ownership, use, benefit

or possession of his money, assets or property in the absence of legal authority:

(ii) Employ the services of a third party for the profit or advantage of the person or another person to the detriment of a vulnerable adult;

(iii) Force, coerce or entice a vulnerable adult to perform services for the profit of another against the will of the vulnerable adult.

(iv) Intentionally misuse the principal's property and, in so doing, adversely affect the principal's ability to receive health care or pay bills for basic needs or obligations; or

(v) Abuse the fiduciary duty under a power of attorney, conservatorship or guardianship.

(t) "Facility" means any board and care home such as, but not limited to, adult workshops, adult day care, adult residential programs, nursing homes, adult group homes, adult foster homes, assisted living homes, and institutions.

(u) "Guardian" means the person appointed by a court of proper jurisdiction to have guardianship of the person of the vulnerable adult. Guardianships may be limited to specific needs of the vulnerable adult. *See also Title 3 of the Wyoming Statutes, Guardianship and Ward.*

(v) "Injunction" means an order granted by a court of proper jurisdiction whereby one person or agency is required to do or refrain from doing a specified act.

(w) "Injury" means any harm, including disfigurement, impairment of any bodily organ, skin bruising, laceration, bleeding, burn, fracture or dislocation of any bone, subdural hematoma, malnutrition, dehydration or pressure sores.

(x) "Intimidation" means the communication by word or act to a vulnerable adult that he, his family, friends or pets will be deprived of food, shelter, clothing, supervision, prescribed medication, physical or mental health care and other medical care necessary to maintain a vulnerable adult's health, financial support or will suffer physical violence.

(y) "Local office" means the nearest office of the Department where the vulnerable adult resides, through which Department programs and services are administered.

(z) "Major injury" means any consequence of an act or failure to act which impairs the vulnerable adult's physical or mental health.

(aa) "Mental disability" means a condition causing mental dysfunction resulting in an inability to manage resources, carry out the activities of daily living or protect oneself from neglect, abuse, exploitation or hazardous situations without assistance from others. Whether or not a mental dysfunction of such degree exists is subject to an evaluation by a licensed psychologist, psychiatrist or other qualified licensed mental health professional or

licensed physician, if disputed.

(bb) “Neglect” means the deprivation of, or failure to provide, the minimum food, shelter, clothing, supervision, physical and mental health care, other care and prescribed medication as necessary to maintain a vulnerable adult’s life or health, or which may result in a life-threatening situation. The withholding of health care from a vulnerable adult is not neglect if:

(i) Treatment is given in good faith by spiritual means alone, through prayer, by a duly accredited practitioner in accordance with the tenets and practices of a recognized church or religious denomination;

(ii) The withholding of health care is in accordance with a declaration executed pursuant to Wyo. Stats. §§ 35-22-401 through 35-22-416; or

(iii) Care is provided by a hospice licensed in accordance with and pursuant to Wyo. Stats. §§ 35-2-901 through 35-2-910.

(cc) “Physical disability” means any condition which would limit a person in their ability to independently manage resources, carry out activities of daily living, or carry out independent activities of daily living.

(dd) “Professional reporter” means a physician or person in charge of an institution, school, facility or agency making a report under Wyo. Stat. § 35-20-111.

(ee) “Preponderance of the Evidence” means the available facts when viewed in light of surrounding circumstances would cause a reasonable person to believe a vulnerable adult was or is being abused, neglected, intimidated, exploited or abandoned.

(ff) “Protective services” means those emergency services that are provided in a coordinated effort facilitated by the Department within communities to assist vulnerable adults to prevent or terminate abuse, neglect, exploitation, intimidation or abandonment until the vulnerable adult no longer needs those services. These may include social casework, case management, emergency, short term in-home services such as, homemaker, personal care or chore services, day care, social services, psychiatric or health evaluations and other emergency services consistent with the Adult Protective Services Act, Wyo. Stats. §§ 35-20-102 through 35-20-116.

(gg) “Self-neglect” means when a vulnerable adult is unable, due to physical or mental disability, or refuses to perform essential self-care tasks, including providing essential food, clothing, shelter, or medical care, obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety, or managing financial affairs.

(hh) “Sexual abuse” means a sexual contact including, but not limited to, unwanted touching, all types of sexual assault or battery as defined in Wyo. Stats. §§ 6-2-302 through 6-2-304, sexual exploitation and sexual photographing. Sexual abuse is included in the definition of abuse under Section 4(b).

(ii) “Substantiated report” means any report of abandonment abuse, exploitation, intimidation, or neglect pursuant to Wyo. Stats. §§ 35-20-101 through 35-20-116 that is determined upon investigation to establish that a preponderance of the evidence of the alleged abandonment abuse, neglect, exploitation or abandonment exists.

(jj) “Unsubstantiated report” means any report that is unfounded or not supported by a preponderance of the evidence.

(kk) “Vulnerable adult” means any person eighteen (18) years of age or older who is unable to manage and take care of himself or his money, assets or property without assistance as a result of advanced age or physical or mental disability.

Section 5. Confidentiality. Except for appropriate application for access to the Central Registry pursuant to Wyo. Stat. § 35-20-116, records of the Department pertaining to a vulnerable adult receiving protective services under the Adult Protective Services Act are not open to public inspection. Information contained in those records shall not be disclosed to the public in any manner that will identify any individual except as authorized by law. The records may be made available for inspection only upon application to the court pursuant to Wyo. Stat. § 35-20-112 or unless otherwise authorized by law. Procedures for exchanging information are included in Chapter 2, Section 12, of these Rules.

Section 6. Criminal Penalties. Wyo. Stat. § 6-2-507 makes certain acts of abuse, neglect, abandonment, intimidation, or exploitation of a vulnerable adult a criminal offense; and penalties are defined. Wyo. Stat. § 6-2-507 also provides for various criminal penalties which includes registration of the offender’s name on the central registry.

Section 7. Adult Protective Services Community Teams.

(a) The Department’s local office manager shall develop, facilitate and participate in the Adult Protection Teams within communities or local jurisdictions.

(b) Members of the Adult Protection Team shall include a Department representative and may also include, but are not limited to:

- (i) Law enforcement representative;
- (ii) County attorney;
- (iii) Public health nurse;
- (iv) Mental health professional;
- (v) Senior citizen center staff;
- (vi) Developmental disabilities specialist;
- (vii) Domestic violence counselor;

- (viii) Victims' assistance advocate;
- (ix) Medical professional;
- (x) Department of Health, Office of Health Facilities representative;
- (xi) Community Animal Control Officer;
- (xii) Department of Family Services protective services supervisor;
- (xiii) Ambulance Service personnel;
- (xiv) Long Term Care Ombudsman;
- (xv) Housing personnel, community members;
- (xvi) Meals on Wheels staff; or
- (xvii) Faith-based representation.

(c) The Department's local office manager is the chairperson of the Adult Protection Team. If the Department's local office manager elects not to chair the Adult Protection Team, the team may elect its own chairperson. The team may be chaired by someone other than Department but a representative of the Department must be present at the meetings.

(d) Each Adult Protection Team may develop operating policies. Any such operating policy shall include procedures for the selection of officers, scheduling of meetings, selection of cases for review and public education projects.

(e) The Adult Protection Team shall support adult protection activities which includes, support and/or participation in local health fairs, Elder Abuse Awareness Day, and state and other community events in conjunction with the Department's local office and other community partners to assure the safety and well being of vulnerable adults.

(f) Adult Protection Team activities may include, but are not limited to:

- (i) Staffing cases to advise and support the Department in determining necessary actions and services;
- (ii) Community education and awareness which shall be recorded with the Department;
- (iii) Facilitating the provision of needed services;
- (iv) Review of fatality cases that may have been related to abuse, neglect, exploitation, abandonment or self-neglect;

- (v) Referral to a law enforcement agency; and/or
- (vi) Referral to support services and partnering agencies.

(g) Records of the Adult Protection Team shall be confidential pursuant to Wyo. Stats. §§ 35-20-108 and 35-20-112. In order to facilitate services to a vulnerable adult, the Department is authorized to divulge case particulars to Adult Protection Team members who sign a confidentiality agreement to protect the confidentiality of individual cases discussed at Adult Protection Team meetings.

(h) The Department may form a State Level Adult Protection Team. Team membership may consist of representatives from other state agencies who have the appropriate expertise within the adult protection arena. Activities of a State Level Adult Protection Team may include those activities of an Adult Protection Team listed in Section 7(f) above. In addition, members shall form a statewide Fatality Review Team.