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# PENNSYLVANIA DEPARTMENT OF AGING

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## **PENNSYLVANIA DEPARTMENT OF AGING**

The Pennsylvania Department of Aging (PDA) is formally charged by the Older Americans Act (42 U.S.C.A. § 3025(a)) and the Pennsylvania General Assembly (71 P.S. § 581-1) with being an advocate for the interests of older Pennsylvanians at all levels of government. PDA was created in 1978 by our state legislature to represent Pennsylvania's rapidly growing older population. The Commonwealth currently has about 2.8 million persons age 60 and over.

Although one of the smallest Departments of the Governor's Executive Cabinet Agencies in staff, PDA is one of the largest in budget, and in terms of impact on the lives of Pennsylvanians. PDA oversees many services and benefits to older people, many provided through statewide Area Agencies on Aging (AAAs). PDA helps older Pennsylvanians meet their changing needs and serves as the focal point of state planning for long-term care for the frail and chronically ill.

- **Executive Offices**

### **THE SECRETARY OF AGING**

Richard Browdie, the Secretary of Aging (Const. Art. 4 § 8), is responsible for advocating on behalf of, and in concert with, Pennsylvania's older population. It is the responsibility of the Secretary to oversee the administration of PDA, to decide Aging policies and to ensure that the needs of older adults are represented in state government, whether at cabinet-level meetings with Governor Tom Ridge, in public hearings or in meetings with the General Assembly. The Secretary directs the day-to-day management of PDA (see: [http://www.state.pa.us/PA\\_Exec/Aging/sit\\_intr.html](http://www.state.pa.us/PA_Exec/Aging/sit_intr.html)).

### **DEPUTY SECRETARY**

The Deputy Secretary of Aging reports directly to the Secretary and is involved with the work of the Pennsylvania Council on Aging to insure the coordination and integration of its activities and concerns with PDA and the AAAs. In addition, the Deputy Secretary is responsible for overseeing all public information activities, personnel matters, the coordination of consumer education forums and all endeavors related to the Long-Term Care Ombudsman Program. These responsibilities are carried out through staff in the Bureau of Administrative Services, Division of Health and Consumer Education, Press Office and via the Office of State Long-term Care Ombudsman.

### **OFFICE OF CHIEF COUNSEL**

The Chief Counsel, Jeffrey J. Wood, Esquire, is a member of the "Governor's Law Firm", viz: the Governor's Office of General Counsel (71 P.S. § 732-301); (see: [http://www.state.pa.us/PA\\_Exec/ogc/ogc\\_chiefs1.html](http://www.state.pa.us/PA_Exec/ogc/ogc_chiefs1.html)). The PDA Office of Chief Counsel (71

P.S. § 732-402) is responsible for providing advice to the Secretary and Deputy Secretary, and to all PDA Offices, Bureaus and Councils on legal matters. The Office partners with the AAA Solicitors throughout the Commonwealth on all issues affecting older adults. The Chief Counsel assigns and supervises the Aging legal work, advises Governor Ridge and Secretary Browdie on matters affecting older Pennsylvanians, often is consulted by AAAs, and consequently represents the Aging Services Network (PDA/AAAs) in administrative forums, county and state appellate and federal tribunals involving elder law issues (71 P.S. § 581-3(a)(6)). The PDA Attorneys vigorously advocate for the rights, privileges and entitlements of Pennsylvania's older adults, including matters of contracts, regulations, legislation, constitutional challenges, health care matters, and particularly with the Pharmaceutical Assistance Contract for the Elderly (PACE/PACENET) Program, Ombudsman Program (42 U.S.C.A. § 3058g(g)) and Adult Protective Service interventions.

### **OFFICE OF LEGISLATIVE LIAISON**

The Office of Legislative Liaison is responsible for the establishment and ongoing maintenance of relationships with members of the Pennsylvania General Assembly and the Governor's Office staff in the Washington Capitol office. Through this Office, PDA articulates its legislative needs and its position on legislative proposals, as well as monitors the proposed law directions of the General Assembly and the Congress. The Legislative Liaison works with PDA staff in evaluating the effects or possible impacts of proposed older adult legislation.

### **OFFICE OF PROGRAM MANAGEMENT**

The Office of Program Management is responsible for a spectrum of aging program development and maintenance, as well as contracting with the Aging Services Network. Special emphasis and coordination is provided on the issues of long-term care and services for all segments of the aging population, particularly Adult Protective Services (35 P.S. § 10225.101, 6 Pa. Code Chapter 15). The work of the Office is carried out through two Bureaus: Contract and Management; and, Home and Community Based Services.

The Bureau of Contract and Management focuses on the contracting management and reporting processes connecting the PDA to the Aging Services Network. In addition, this Bureau also handles the Adult Daily Service Centers Program (62 P.S. §§ 1511.1-1511.22; 6 Pa. Code Chapter 11), and the overall data analysis, and statistical evaluation of PDA program information functions. The Bureau of Home and Community Based Services coordinates all service programs to older Pennsylvanians with the Aging Services Network and handles the Domiciliary Care Services for Adults Program (71 P.S. § 581-3(a)(16); 6 Pa. Code Chapter 21). Functional areas include managed care, community services, operating policy and regulation and field consultation, technical assistance and monitoring activities.

The Division of Planning and Research performs research and development assignments from the Aging Secretary, as well as ongoing activities such as the development of the State Plan on Aging, the three year plans of AAAs, review of federal and state resource allocation formulae,

demographic studies and reports, monitoring of current issues having an impact on the Aging Services Network and other systems benefiting the elderly.

### **OFFICE OF STATE LONG-TERM CARE OMBUDSMAN**

The Office of the State Long-Term Care Ombudsman is mandated by federal and state legislation (42 U.S.C.A. § 3058g and 71 P.S. § 581-3(a)(24.2)). It is responsible for designing, implementing, and managing a statewide reporting and investigative system for (non-abuse/personal injury) complaints made by or on behalf of older consumers of long-term care services. The Office establishes policies and procedures for the implementation of the Ombudsman Program statewide and ensures compliance with federal and state requirements. Office responsibilities also include analyzing and monitoring federal and state legislation that impacts on consumers of long-term care services. The Office of the State Long-Term Care Ombudsman coordinates the efforts and functions of all AAAs to ensure advocacy of an effective consumer complaint process at the local level.

### **OFFICE OF POLICY**

The Office of Policy is responsible for providing information to the Aging Secretary, and PDA Executive Offices, on matters related to interdepartmental and intergovernmental relationships. The Office ensures that directives set forth in various PDA issuances are consistent with broader policy objectives and compatible with inter-related Commonwealth procedures and memoranda. The Office also monitors national policy trends related to the Aging Services Network to identify possible impact on the Commonwealth and PDA, and consequently prepares position statements on a wide variety of plans, regulations and legislative actions effecting elder issues.

### **PRESS OFFICE**

The Press Office is responsible for PDA public relations and its relationship with the media. This Office prepares news releases, publications and brochures, coordinates public meetings and media appearances by the Aging Secretary and other PDA staff members.

- **Councils**

### **THE PENNSYLVANIA COUNCIL ON AGING**

The Pennsylvania Council on Aging has a legal identity which is separate and apart from PDA (71 P.S. § 581-4), but the functioning of one would not be complete without the other. The Council is composed of twenty-one voting persons, the majority of whom must be at least 60 years of age. The members of the Council are nominated by the Governor, subject to the consent of a majority of members elected to the Senate and represent, to the extent possible, the different geographic sections of our Commonwealth. Members serve without compensation, but are reimbursed for expenses incurred in the performance of their duties. The Pennsylvania Council

on Aging is legally mandated with responsibilities to maintain an open forum for consideration and communication of older adult issues with Governor Ridge.

### **INTRAGOVERNMENTAL COUNCIL ON LONG-TERM CARE**

The Intragovernmental Council on Long-Term Care (62 P.S. § 212) is made up of the Secretaries of Aging, Health, and Public Welfare, four members of the General Assembly, representatives of the involved service sectors and consumers appointed by the Governor. The Council, chaired by Secretary Browdie, examines long-term care issues in the Commonwealth, including the responsibilities and programs of the various agencies of state government. The mission of the Council is to study the long-term care system in Pennsylvania from a funding, operational and consumer perspective and make recommendations to Governor Ridge on ways to streamline administration of the system, and develop a full spectrum of options for consumers and their families. The Council also works to assure that access to the system for consumers is as efficient as possible, and that coordination of payment systems is as unobtrusive as possible, given the requirement to manage scarce public resources.

- **Bureaus**

### **PHARMACEUTICAL ASSISTANCE**

The Bureau of Pharmaceutical Assistance has responsibility for the operations of the Pennsylvania Pharmaceutical Assistance Contract for the Elderly (PACE) and PACE Needs Enhancement Tier (PACENET) Programs (71 P.S. § 581-3(a)(5.1); 72 P.S. § 3761-501 and § 3761-519; 6 Pa. Code Chapter 22). Although routine daily operations involving information system functions are contracted to a claims processing firm, the Bureau has numerous related responsibilities beyond overseeing this Contract. The Bureau manages activities related to Program development: pharmaceutical manufacturers' rebate program; prospective, retrospective and surveillance drug utilization review; third party liability recoupments; pharmacy and pharmacists; coordinating and directing comprehensive longitudinal research, semiannual actuarial analyses; and, related duties necessary for the evaluation and formulation of Program policy.

The Bureau also provides support to the Pharmaceutical Assistance Review Board (72 P.S. § 3761-520). This Board meets semi-annually to review program and financial reports and to make recommendations concerning Program policies and procedures.

The Bureau also serves as the administrative/fiscal agent for several other Commonwealth sponsored prescription drug reimbursement programs - the General Assistance Program (62 P.S. § 402) and the Special Pharmaceutical Benefits Program (62 P.S. § 7601) in the Pennsylvania Department of Public Welfare, and the End Stage Renal Dialysis Program (35 P.S. § 6208) in the Pennsylvania Department of Health.



To accomplish its duties, the Bureau is organized into four Divisions:

A. Cardholder Applications and Enrollments

The Cardholder Applications and Enrollments Division oversees all application for Program enrollment and manages the applicant/enrollee (claimant) appeal process. This Division also coordinates the yearly comparison of enrollee file with the Pennsylvania Department of Revenue's Income Tax File to verify income reported on state income tax returns with the information enrollees have reported on their application (72 P.S. § 3761-517). Another significant activity of this Division is the identification and recoupment of monies from insurers who have enrolled cardholders in a prescription benefit plan (72 P.S. § 3761-506; see 71 P.S. § 732-204(c)).

B. Compliance

The Compliance Division monitors provider (pharmacy) enrollment activities and drug utilization patterns, coordinates the provider audit activity, and investigates instances of suspected fraud and billing abuse (72 P.S. § 3761-515 and § 3761-521).

C. Operations

The Operations Division oversees the administrative activities of the Program Contractor and ensures that program standards are being met or exceeded.

D. Research

The Research Division prepares the Bureau's Annual Report and other routine and ad hoc reports, coordinates and supports a wide range of external research activities involving actuarial analyses and directs activities related to the pharmaceutical manufacturers' rebate and drug utilization review activities (72 P.S. § 3761-703 and 72 P.S. § 3761-505).

### **ADMINISTRATIVE SERVICES**

The Bureau of Administrative Services is responsible for developing internal administrative policy and for providing and supervising supportive services. These administrative services include: personnel management, fiscal management, office services and information systems. The Bureau is organized into three Divisions:

#### **Division of Personnel**

The Division of Personnel is responsible for PDA personnel management which includes recruitment, job placement, job classification, employee benefits, labor relations, training and personnel/payroll transactions. The Division is also responsible for monitoring the merit functions of the AAAs and providing technical assistance in personnel management, processing civil service transactions, reviewing and approving compensation plans and affirmative action

plans, and conducting personnel reviews. This Division is the principal liaison with the Civil Service Commission and the Governor's Personnel Office.

#### Division of Fiscal Management and Support Services

The Division of Fiscal Management and Support Services is responsible for fiscal operations within PDA. This Division manages the budgeting process and coordinates audit activities, maintains internal fiscal control, and reviews the financial activities of the Department and the AAAs. This Division reviews all Program Revision Requests (PRRs) and all federal grant applications prior to their submission to the Aging Secretary for approval. This Division supervises the contract Request for Proposal (RFP) process and reviews, processes, tracks and distributes funds for all PDA contracts and grants. This Division is also responsible for securing office space, telecommunications, equipment maintenance, inventory, automotive, mail, record storage and disposal, procurement, supplies, forms control, and printing and duplication.

#### Division of Management Information Systems

This Division coordinates all automated information activities within PDA and has primary responsibility for providing data processing and computing services, specifically: computer systems analysis and design, programming, and computer operations. The Division is responsible for designing and maintaining automated systems to process the programmatic and fiscal reporting information from the AAAs. This information is used in areas such as program monitoring, Federal reporting, and payment processing.

### **CONTRACTS AND MANAGEMENT**

This Bureau is responsible for maximizing the effectiveness and efficiency of the services provided through the Aging Services Network to older Pennsylvanians by managing and monitoring the contracting process. This Bureau serves as an important communications link with the Aging Services Network by providing information and direction to field operations on all issues dealing with the contracting process at the state and local level, including the review and analyses of program data used in the evaluation of program effectiveness. The Bureau carries out its functions through four Divisions:

#### Division of Criminal History Background Check

This Division (1.717.783.6207) provides information and direction to the public involving the Adult Protective Services mandated 'abuse reporting' and the criminal history background check requirement. This unit is responsible for some components of mandatory abuse reporting and processing of FBI background checks (see Older Adults Protective Services Act).

### Division of Adult Daily Service Centers

The Division of Adult Daily Service Centers has the responsibility for Adult Day Care. Specific functions of the Division include developing and managing the licensure process, forms and applications, inspection schedules and internal policies and procedures. Additional responsibilities include quality assurance.

### Division of Contract Management and Appeals

The Division of Contract Management and Appeals is responsible for developing and implementing fiscal oversight mechanisms in the Aging Services Network. Functions include developing and managing contracting, reporting and accounting systems and the provision of technical assistance. This Division also handles all appeals including those from: consumers who have either been denied services, had their services reduced or terminated; service providers who have had contracts terminated, reduced or denied; or alleged perpetrators of abuse, neglect, exploitation or abandonment of an older adult (see 6 Pa. Code Chapter 3; 1 Pa. Code Chapter 35).

### Division of Analysis and Program Reporting and Research

The work of this Division involves the review and analysis of program data as reported by the Aging Services Network. The data analysis and resulting statistical reports are used to measure program effectiveness and serve in part as the basis for adjusting, deleting or adding programs. The Division recommends materials for use in monitoring program performance in conducting special program studies.

## **HOME AND COMMUNITY BASED SERVICES**

The Bureau of Home and Community Based Services provides direction to the Aging Services Network in the areas of managed care, community based services, program policy consultation and technical assistance, and monitoring of performance. All program maintenance and development activities provide guidance and direction in terms of current programs and new program initiatives. All program directives and regulation proposals are promulgated from this Bureau. This Bureau also provides on-site guidance and direction of a clinical and programmatic nature to the Aging Services Network. The work of the Bureau is performed through four Divisions:

### The Division of Managed Care

The Division of Managed Care plans and administers the OPTIONS Program which includes assessment and care management for in-home services, the Medicaid waiver for community services, as well as preadmission assessment done to establish eligibility for Medicaid, Domiciliary Care, and Nursing Home reform assessments. This Division also carries the responsibility for directing the administrative and clinical aspects of Adult Protective Services and the Family Caregiver Support Program.

### Division of Community Services

The Division of Community Services focuses on such community based programs as transportation, nutrition, senior activity centers, employment, volunteers, in-home services, crime prevention, and a host of other programs for service to, and benefit of, older Pennsylvanians. This Division promotes programmatic consistency and efficiency with the management of the Aging Services Network.

### Division of Program and Regulatory Coordination

The Division of Program and Regulatory Coordination is responsible for coordinating the development and issuance of all PDA regulations, Aging Program Directives (APDs), Aging Technical Assistance Bulletins (ATABS) and Aging Information Memoranda (AIMs). In this capacity it ensures that directions set forth in various PDA issuances are consistent and compatible with inter-related procedures and memoranda.

### Division of Quality Assurance and Consultation

The Division of Quality Assurance and Consultation is responsible for performing on-site visits at AAAs for the purposes of monitoring, reviewing case records and other materials, and assessing the overall quality of program performance. The Consultants provide technical assistance with Division emphasis on the clinical aspects of OPTIONS and Adult Protective Services. This Division works directly with AAA staff to enhance technical programming performance.

### **Division of Health and Consumer Education**

This Division, under direct supervision of the Deputy Secretary, is responsible for all health and consumer education programs initiated by PDA. Currently, such includes, *inter alia*, the Health Insurance Information Counseling Program (APPRISE: 1.800.783.7067) and PrimeTime Health Program. It monitors and coordinates the statewide AAA training calendar which involves all training sponsored for the Aging Services Network, PDA, or the Pennsylvania Association of Area Agencies on Aging (PAAAA). In addition, this Division is responsible for the Commonwealth's Nurse Aide Testing Contract (see 55 Pa. Code Chapter 1181), which requires ongoing coordination with other Executive Departments and the long-term care industry.

- **Area Agencies on Aging**

- A. Structure

AAAs are entities created and authorized by PDA's state enabling statute (71 P.S. § 581-6) and the federal Older Americans Act (42 U.S.C.A. § 3025(a)(2)(A)). In particular, PDA is

required to “designate a public or private non-profit agency as an AAA to serve as a focal point in the community for the coordination of services for older people and for the issues and concerns of aging” (71 P.S. § 581-2; see 6 Pa. Code Chapter 30). There are 52 AAAs in the Commonwealth of Pennsylvania serving our 67 Counties.

AAAs, by definition, include both “public (county; see 16 P.S. § 202) or non profit private agencies in a planning and service area. . .” (71 P.S. § 581-6). AAAs operating as a non-profit corporation are not, however, necessarily a charitable organization unless registered as such with the Pennsylvania Department of State (see 10 P.S. § 162.5).

## B. Function

An agency relationship exists between PDA and our AAAs. The AAAs contract with PDA to develop and administer the delivery of benefits and service activities under service area plans. PDA must approve the area plan for each AAA. AAAs are required to comply with all State statutes, regulations, and policies governing the PDA programs. For example, AAAs are required to comply with the Older Adults Protective Services Act (35 P.S. § 10225.101 *et seq.*), its accompanying Regulations (6 Pa. Code Chapter 15), and PDA policy directives when administering the Adult Protective Services Program within their designated planning and service area.

The primary AAA purpose is, *viz*: to serve as a community planning agency to improve services to the aging; to act as an advocate for the aging; to provide or purchase services which help the elderly remain in the community and avoid unnecessary institutionalization; and, to assist the aging to remain active as citizens of their community. Each AAA has the responsibility to manage its services for the elderly within its geographic service area of responsibility (71 P.S. § 581-7). In carrying out their responsibilities, AAAs work with community agencies, service providers and organizations to empower the individual, the family and the community.

## C. AAA Services

1. Each AAA uses funds, *inter alia*, made available through PDA to provide directly, or to subcontract with local organizations, for a wide array of services for older Pennsylvanians.
2. Some of the services offered include:
  - **Transportation**

Gratuitous mass transit is provided in urban areas to persons age 65 and over, and reduced-fare transportation services for persons age 65 and over is provided in both rural and urban areas. AAAs provide transportation assistance to and from senior

community centers, medical facilities, human service agencies and stores for shopping (71 P.S. § 581-3(a)(20) and 72 P.S. § 3761-901).

- **APPRISE**

The APPRISE Program provides telephone assistance (1.800.783.7067) to older adults in understanding Medicare and Medicaid eligibility benefits (71 P.S. § 581-3(a)(7)).

- **Attendant Care**

This Program provides 15 or more hours of service a week for frail or ill elderly who require “hands on” personal care and help with daily living activities at home (71 P.S. § 581-3(a)(17.1)(i) and (21)).

- **Senior Community Activity Centers**

AAA-supported senior centers are community opportunities where older people can get together for social activities, recreation, education, creative arts, physical health programs and nutritious meals, as well as for a wide variety of other Aging Services Network Programs. (71 P.S. § 581-1(3) and (4) and § 581-3(a)(12)).

- **Congregate Meals**

Nutritious meals are served in a group setting at least once a day, five days a week or more depending on the facility - usually senior community centers, churches, older adult daily living centers, and other community sites (71 P.S. § 581-3(a)(17.1)(v)).

- **Employment Assistance**

AAAs administer the Senior Community Service Employment Programs, which provide low-income older persons with part-time employment in public and non-profit agencies. In addition, many AAAs provide job brokerage services for older workers, matching job seekers with available jobs in businesses, private industries, and public agencies (71 P.S. § 581-3(a)(11)).

- **In-Home Services**

Several Programs covering a wide range of needs are available such as: Homemaker Assistance for daily household activities, and Personal Care help for those who can't manage alone; Home Delivered Meals prepared at a central location and carried to a person's home; and Home Chore Services that help people with heavy cleaning or make minor repairs to their homes (71 P.S. § 581-3(a)(17.1)(i)).

- **Information/Referral**

Each AAA has trained staff available to answer questions and make referrals to other agencies in the community that provide the specific services needed by the individual (71 P.S. § 581-3(a)(6)).

- **Legal Assistance**

Counseling on benefits and rights, wills, taxes and other legal matters may be provided at an AAA by an attorney or non-lawyer to older persons with economic or social needs (71 P.S. § 581-3(a)(7) and 42 U.S.C.A. § 3058g(a)(3)(F)). The PDA Office of Chief Counsel works with Legal Service Corporations, County Bar Associations and educational Law Clinics to coordinate 'pro bono' legal representation for older Pennsylvanians.

- **PrimeTime Health**

A Program designed to encourage disease prevention and provide health information and programs for the elderly, including prescription education, nutrition, exercise, dancing, coping with change, just to name a few. This popular health/fitness Program is offered at senior community centers, senior housing facilities, retiree clubs, church groups, community health events, as well as to the homebound (71 P.S. § 581-3(a)(14) and 42 U.S.C.A. § 3030m).

- **Placement**

AAAs can locate, assess and place older adults in appropriate care facilities such as Domiciliary Care, Personal Care Homes, Adult Day Care or in other residential long-term care entities.

- **Ombudsman**

The AAAs are agents of the State Long-Term Care Ombudsman and provide intervention and resolutions in disputes involving consumers of long-term care services.

- **Protective Services**

The AAAs are agents of PDA and administer the provisions of the Older Adults Protective Services Act (35 P.S. § 10225.101 et seq.). The AAAs are involved in the day-to-day operation of elder abuse identification and intervention. Anyone may report elder abuse by telephoning: 1.800.490.8505.

- **Volunteer Services**

Many AAAs have recruited persons of various ages and skills who provide services as volunteers. Volunteer opportunities in the AAA typically include such activities as helping in senior community centers, escorting frail individuals to medical appointments, delivering meals to homebound individuals, serving as friendly visitors and companions, and much, much more (71 P.S. § 581-3(a)(6)).

- **Statutory/Regulatory Programs**

### **OMBUDSMAN**

#### **I. Background**

- A. The term “ombudsman” is a Swedish term of long and honorable tradition. It means protector or defender of citizens’ rights. An ombudsman, historically, is given the responsibility of investigating complaints brought by private citizens against government officials or agencies.
- B. The Ombudsman Program is mandated by the federal Older Americans Act (42 U.S.C.A. § 3058g, see 71 P.S. § 581-3(a)(3)).
- C. Originally the role of the Ombudsman was limited to receive, investigate, and resolve complaints made by or on behalf of older residents in long-term care facilities, such as nursing homes and personal care homes (42 U.S.C.A. § 3058g(a)(3)). The role of the Ombudsman in Pennsylvania is expanded significantly as Ombudsman clientele includes all consumers age 60 and over of long-term care services (71 P.S. § 581-2), including those receiving long-term care services in their homes (71 P.S. § 581-3(a)(24.2)).

#### **II. Responsibilities**

##### **A. State Long-Term Care Ombudsman**

- 1. The Office of the State Long-Term Care Ombudsman coordinates the efforts and functions of all AAAs to insure an effective complaint process or dispute resolution procedure (42 U.S.C.A. § 3058g(a)(4)(A)). Specifically, the State Ombudsman is responsible:
  - a. To design, implement, and manage a statewide uniform reporting and investigative system for complaints made by or on behalf of older consumers of long-term care services.



- b. To maintain a regular presence in long-term care facilities.
- c. To provide public education on long-term care issues.
- d. To establish policies and procedures for implementation of the Ombudsman Program and to ensure compliance with all federal and state requirements.
- e. To analyze and monitor federal and state legislation that impacts on consumers of long-term care services.
- f. To train and approve representatives to provide Ombudsman services locally.
- g. To provide technical assistance and information to AAA Ombudsman and consumers of long-term care services (42 U.S.C.A. § 3058g(a)(3)).

**B. Local Ombudsman**

- 1. AAAs are designated by PDA to be the local providers of Ombudsman services (42 U.S.C.A. § 3058g(a)(4)). Each AAA may choose to provide Ombudsman services either directly by using its own staff or by purchasing the services through a subcontractor. Regardless of the method chosen, the local AAA Ombudsman is responsible for:
  - a. Providing services to protect the health, safety, welfare and rights of long-term care residents and consumers.
  - b. Ensuring that residents and consumers in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance.
  - c. Receiving, identifying, investigating, and resolving complaints made by or on behalf of residents or consumers that relate to action, inaction, or decisions that may adversely affect the health, safety, welfare or rights of the residents.
  - d. Representing the interests of residents and consumers before government agencies and seeking administrative, legal, and other remedies to protect the health, safety, welfare and rights of the residents or consumers.
  - e. Reviewing and commenting on any existing or proposed laws, regulations, and other government policies and action, that pertain to the rights and well-being of residents or consumers.

f. Supporting of the development of resident and family councils.

(42 U.S.C.A. § 3058g(a)(5)).

### III. Reporting

- A. Any resident or consumer who has a problem or complaint regarding long-term care services can file a complaint with the local Long-Term Care Ombudsman or the Office of the State Long-Term Care Ombudsman.
- B. A complaint can be filed by an older person or on behalf of an older person receiving long-term care services in either an institutional or non-institutional setting, including the home.
- C. Complaints can be made to an Ombudsman by telephone, office visit, or in writing. The nature of complaints may vary from the quality of nursing home care and residents' rights in personal care homes, to financial and administrative procedures related to community-based services.
- D. The Ombudsman may proceed as the complainant if the Ombudsman finds that an older person is in jeopardy or is likely to benefit from intervention based on the information presented.

### IV. Investigations

- A. Investigations can be conducted only by duly authorized Ombudsman who have been trained and approved by PDA (42 U.S.C.A. § 3058(h)(5)(A), (B)).
- B. All complaints received by the Ombudsman are investigated to determine its nature and validity.
- C. Ombudsman may enter a facility as necessary to advocate on behalf of a resident in need of assistance (42 U.S.C.A. § 3058g(b)(1)(A)).
- D. Access to residents for the Long-Term Care Ombudsman is provided for in federal law and in regulations issued by the long-term care licensing and certifying agencies (42 U.S.C.A. § 3058g(b)(1)).
- E. If a complaint is not within the Ombudsman's authority to investigate, such as a complaint of abuse or neglect, then it is referred to the Adult Protective Services within an AAA, or, if appropriate, to the respective facility licensing agency such as the Pennsylvania Department of Public Welfare and/or Pennsylvania Department of Health.

## V. Confidentiality

- A. Confidentiality of information acquired by the Ombudsman is ensured by law to protect the well-being and dignity of older adults (42 U.S.C.A. § 3058g(d)(2)(B)). Assuring confidentiality also guards against the ‘chilling effect’ disclosure of such information would have upon potential complainants. Persons may be unwilling to report older adults at risk if their identity may be disclosed. Older adults may be unwilling to accept services if they thought their identity could be released.
- B. The identity of the older person and the complainant will not be disclosed without written consent by the complainant, the older person or his or her legal representative, or by Order of Court (42 U.S.C.A. § 3058g(d)(2)(B)).

## VI. Resolution

- A. A primary role of the Ombudsman is to serve as a mediator who seeks to negotiate complaints to resolution. Ombudsman do not have direct authority to require action by a facility or other provider of long-term care services.
- B. Complaints are considered to be resolved when they have been corrected or circumstances have been altered to the satisfaction of the complainant. Not all complaints are resolved to the satisfaction of the complainant (see 42 U.S.C.A. § 3058g(a)(3)(E)).
- C. The Ombudsman endeavors with all parties in seeking resolutions. These parties may include facility administrators and staff, consumers of long-term care services or recipients, family members, and state licensing and/or regulatory agencies.

## VII. Appeals

- 1. 6 Pa. Code Chapter 3.
- 2. 1 Pa. Code Chapter 35.

## **OPTIONS**

### I. Definitions

- OPTIONS is a PDA program that assesses the long-term care needs of older adults and tailors a service response to meet those needs. It is administered statewide by the AAAs.

- OPTIONS is a program operated by the Aging Services Network for persons who need long-term care because they are functionally disabled. The program provides a continuum of assessment, care management and services which may make it possible for a functionally disabled person to be maintained in the community as an alternative to institutional placement. The OPTIONS program is operated by PDA pursuant to its enabling authority (71 P.S. §§ 581-3(a)(17.1) & (17.2)).

## II. Services

The OPTIONS program includes the assessment of need for, and provision of services and care management to, if appropriate, via:

- assessment of need for and provision of services and care management to persons age 60 and over with complex, ill-defined problems, problems remaining at home or requiring personal advocacy.
- assessment of need for and provision of services and care management to persons age 60 and over requesting the following AAA services: day care, counseling, personal assistance services, home health, personal care, protective services, home-delivered meals, transportation services, respite care, home support services and any other AAA community or in-home service.
- assessment of need for and provision of services and care management to persons over the age of 18 considering nursing facility care.
- mandatory assessment for persons applying for medical assistance (Medicaid) for nursing facility care or for placement in a domiciliary or personal care home who are eligible for the State Supplement to SSI; an assessment is also available for any individual who is thinking about nursing facility care.
- the nursing facility assessment also includes screening for mental illness, mental retardation and other related conditions, and the assessment of need for specialized services.
- consumers found appropriate and eligible for nursing facility placement can be served at home with the same AAA services as listed above and, if needed, more intensive community and in-home services (re: PDA 60+ Waiver); this depends on availability of needed services to ensure adequate care and safety; development and implementation of a care plan which meets required standards for quality and safety, and often on availability of informal supports.

III. Appeal Process

A. 6 Pa. Code Chapter 3

B. 1 Pa. Code Chapter 35

**ADULT DAILY SERVICE CENTERS**  
[6 Pa. Code Chapter 11]

I. Definition

A. Older Adult Daily Living Center

A premises operated for profit or not-for-profit in which older adult daily living services are provided for four or more clients who are not relative of the operator for part of a day (62 P.S. § 1511.2; 6 Pa. Code § 11.3).

A premises defined by the Older Adults Protective Services Act as a “facility” (35 P.S. § 10225.103).

PDA is charged with establishing minimum standards and monitoring quality assurance for Adult Daily Service Centers (62 P.S. § 1511.10; 6 Pa. Code §§ 11.11 - 11.198).

Staff are required, inter alia, to be free from certain law convictions as condition of employment (6 Pa. Code § 11.18 and § 11.31(a); see 35 P.S. § 10225.503).

B. Older Adult Daily Living Services

Services provided or arranged to assist in meeting the needs, including personal care, social, nutritional, health and educational needs, of clients. These are provided, as appropriate for each client, through a planned program of social, educational, recreational, therapeutic, rehabilitative, habilitative and developmental activities. The term does not include services provided for persons whose needs are such that they can only be met in a long-term care facility on an inpatient basis receiving professionally supervised nursing care and related medical and other health services (62 P.S. § 1511.2; 6 Pa. Code § 11.3 and 6 Pa. Code § 11.123).

C. Consumer of Daily Living Services

A resident of our Commonwealth with functional impairment who meets the following criteria:

1. The person is categorically eligible because the person is one of the following:
  - a. Sixty years of age or older.
  - b. Eighteen years of age or older and has post-stroke dementia, or Parkinsonism or a dementia-related disease such as Alzheimer's or other organic brain syndrome.
2. The person receives services in an older adult daily living center (older adult daily service center).
3. The person requires assistance to meet personal needs and perform basic daily activities, as determined by an intake screening assessment process (6 Pa. Code § 11.3).

D. Appeals

Persons aggrieved as a result of license or service denial, revocation or suspension may avail themselves of remedies in accord with:

- a. 62 P.S. § 1511.15
- b. 6 Pa. Code § 11.291
- c. 6 Pa. Code Chapter 3
- d. 1 Pa. Code Chapter 35

**FAMILY CAREGIVER SUPPORT**  
[6 Pa. Code Chapter 20]

I. Purpose

The intent of the program is to ease the strain of caregiving and to assist relatives who bear the primary responsibility for the at-home care of functionally dependent older adults and other adults who are victims of chronic dementia by providing resources for services such as assistance, respite care and other supportive services to the caregiver (62 P.S. § 3062).

II. Administration

- A. PDA administers the Program at the State level (62 P.S. § 3061; 71 P.S. § 581-3(a)(17.2); and 6 Pa. Code Chapter 20).

- B. At the local level, the AAA administers the program in its designated planning and service area (62 P.S. § 3064(b); 6 Pa. Code § 20.12).

### III. Eligibility

- A. Must be a primary unpaid caregiver who lives with and provides continuous care to a functionally dependent older adult or other adult suffering from a chronic dementia, such as Alzheimer's disease (6 Pa. Code § 20.21(a)).
  - 1. Functionally dependent older adult is defined as a person 60 years of age or older residing within this Commonwealth who, because of his or her inability to perform tasks required for daily living, need continuous care or supervision (62 P.S. § 3064; 6 Pa. Code § 20.2).
  - 2. Primary caregiver is defined as the one identified relative who as assumed the primary responsibility for the provision of care needed to maintain the physical or mental health of a functionally dependent older adult or other adult suffering from chronic dementia, who lives in the same residence with such individual on a continuous basis and does not receive financial compensation for the care provided (62 P.S. § 3063; 6 Pa. Code § 20.2).
- B. Caregiver family must complete a comprehensive assessment of the caregiver, the care receiver and the caregiving environment (6 Pa. Code § 20.21(b)(3)).
- C. Household income of the caregiver family may not exceed 380% of the poverty level (6 Pa. Code § 20.21(b)(5)). Household income is defined as the income of all members of the household, with the exception of a minor or dependent student (6 Pa. Code § 20.2; see 6 Pa. Code § 20.23).

### IV. Services

- A. Assistance to the caregiver to assure that supports to the functionally dependent older adult or adult suffering from chronic dementia are adequate and appropriate (62 P.S. § 3062(11); 6 Pa. Code §§ 20.31, 20.32).
- B. Intermittent, planned or emergency relief to the caregiver (62 P.S. § 3062(2); 6 Pa. Code §§ 20.31, 20.32).
- C. Restoration or maintenance of the caregiver's well-being (62 P.S. § 3062(3); 6 Pa. Code §§ 20.31, 20.32).
- D. Preservation of the caregiver's informal supports as family and friends (62 P.S. § 3062(4); 6 Pa. Code §§ 20.31, 20.32).

E. Supportive social services to the caregiver (62 P.S. § 3062(5))

1. Supportive social services include:

- a. Benefits counseling and caregiver counseling, education and training (62 P.S. § 3064(c)(1); 6 Pa. Code §§ 20.33 and 2034).
- b. Reimbursement for night or respite care services, transportation to respite care service locations, and consumable supplies, such as incontinence pads (62 P.S. § 3064(c)(2); 6 Pa. Code § 20.42).
- c. Reimbursement for home modifications or assistive devices needed to carry out tasks for daily living (62 P.S. § 3062; 6 Pa. Code § 20.43).

F. Affordable services through a cost-sharing mechanism developed by PDA for those families with household incomes that do not exceed 380% of the poverty level (62 P.S. § 3062(6); 6 Pa. Code §§ 20.31, 20.32).

V. Reimbursements

- A. Primary caregivers are reimbursed for approved services only (62 P.S. § 3065). Reimbursement is made on the basis of need, income, actual expenditures and the availability of funds (6 Pa. Code § 20.41 (c)).
- B. A primary caregiver may be reimbursed up to \$200 per month for ongoing expenses of respite care services, other related services and consumable supplied needed to provide the necessary care (62 P.S. § 3065(b)(1); 6 Pa. Code § 20.41(c)(1)).
- C. A primary caregiver may be reimbursed up to \$2,000 for the entire duration of the case for home modifications and assistive devices (62 P.S. § 3065(b)(2); 6 Pa. Code § 20.42(c)).

VI. Appeals

Primary caregivers have the right to appeal an adverse decision by an AAA regarding eligibility or the level of cost sharing determined by the agency. Hearings and appeals are conducted in accordance with 6 Pa. Code Chapter 3 and 1 Pa. Code Chapter 35.



**DOMICILIARY CARE**  
[6 Pa. Code Chapter 21]

I. Definition

- A. A protected living arrangement in the community which provides a safe, supportive, homelike residential setting for three or less adults who are unrelated to the domiciliary care provider, who cannot live independently in the community, and who are placed by an AAA (71 P.S. § 581-2).
- B. Domiciliary care (dom care) homes provide an alternative to institutionalization and help adults remain in the community or return to the community (6 Pa. Code § 21.5(3)).

II. Administration

- A. PDA is responsible for:
  - 1. Supervising and administering dom care service on the state level (71 P.S. § 581-3(a)(16));
    - a. A dom care is defined by the Older Adults Protective Services Act as a “facility” (35 P.S. § 10225.103).
    - b. Staff are required, inter alia, to be free from certain law convictions as condition of employment (6 Pa. Code § 21.26 and § 21.72(3); see 35 P.S. § 10225.503).
  - 2. Providing technical assistance to area agencies on aging, and community organizations and other persons regarding dom care services;
  - 3. Issuing program directives, forms and assessment instruments regarding dom care service;
  - 4. Monitoring and evaluating AAAs with regard to provision of dom care service;
  - 5. Conducting hearings and appeals regarding dom care service;
  - 6. Determining monthly dollar amount which clients will pay dom care providers; and
  - 7. Acting as standard-setting authority for dom care services (6 Pa. Code § 21.41).

B. AAAs are responsible for:

1. The overall local administration and operation of dom care service in the designated planning and service area (6 Pa. Code § 21.51). The AAA
  - a. Certifies the home as a dom care home.
  - b. Determines client eligibility and places clients in dom care homes.
  - c. Develops and implements a plan of care for each dom care client.
  - d. Trains prospective dom care providers.
  - e. Maintains a registry of certified dom care homes.
  - f. Assures provision of services by dom care providers in accordance with regulations (6 Pa. Code §§ 21.71-21.82 (see 6 Pa. Code § 21.52)).
2. Establishing a dom care review team to handle appeals from providers, prospective providers, applicants and clients (6 Pa. Code § 21.57).

III. Eligibility

A. Applicant must meet the following criteria (6 Pa. Code § 21.21(a)):

1. Resident of Commonwealth.
2. Be 18 years or older.
3. Not require skilled or intermediate nursing care, or general or special hospital care on a 24-hour residential basis.
4. Unable to live independently.

B. Applicant must also meet one or more of the following criteria (6 Pa. Code § 21.21(b)):

1. Have demonstrated difficulties in accomplishing activities of daily living.
2. Have demonstrated difficulties in social or personal adjustment.
3. Have demonstrated difficulties resulting from disabilities if the applicant is independently mobile or semimobile.

- C. Applicants who are recipients of Supplemental Security Income (SSI) have priority over private pay applicants (6 Pa. Code § 21.55(c), see 55 Pa. Code § 297.4(c)(2)(ii) ).

IV. Services Provided

- A. Room and board
- B. Housekeeping and laundry
- C. Assistance with activities of daily living
- D. Overseeing the taking of medication
- E. Provision of social and recreational opportunities
- F. Assistance with transportation

V. Appeals

- A. The AAA is required to utilize a dom care review team to handle appeals (6 Pa. Code § 21.101(b)).
- B. 6 Pa. Code Chapter 3
- C. 1 Pa. Code Chapter 35

**PACE/PACENET**  
[6 Pa. Code Chapter 22]

- 1. Eligibility (72 P.S. § 3761-502; 72 P.S. § 3761-519(b); 6 Pa. Code §§ 22.21-23)

PACE - Pharmaceutical Assistance Contract for the Elderly; and, PACENET - Pharmaceutical Assistance Contract for the Elderly Needs Enhancement Tier

PACE REQUIREMENTS

- are 65 years of age or older. An applicant may submit a completed application 30 days prior to the date of the applicant's 65th birthday.

PACENET REQUIREMENTS

- are 65 years of age or older. An applicant may submit a completed application 30 days prior to the date of the applicant's 65th birthday.

- have lived in Pennsylvania for at least 90 consecutive days prior to the date of your application. Must have or intend to have a fixed place of residence with the intent of residing in the Commonwealth for the indefinite future.

- are not eligible for pharmaceutical benefits under Medical Assistance or qualified for full coverage of pharmaceutical benefits under another plan of insurance or assistance.

- total previous year income for a single person was \$14,000 or less.

- total previous year income for a married couple\* was \$17,200 or less.

- have lived in Pennsylvania for at least 90 consecutive days prior to the date of your application. Must have or intend to have a fixed place of residence with the intent of residing in the Commonwealth for the indefinite future.

- are not eligible for pharmaceutical benefits under Medical Assistance or qualified for full coverage of pharmaceutical benefits under another plan of insurance or assistance.

- total previous year income for a single person was between \$14,000 and \$16,000.

- total previous year income for a married couple\* was between \$17,200 and \$19,200.

\*Note that married applicants are subject to the income provisions for single individuals if each spouse maintains a separate residence and neither spouse has access to, or receives support from, the other's income (6 Pa. Code § 22.24(a)(1)).

- once application is approved and eligibility card received, responsible for a \$6.00 copayment for each prescription dispensed by a PACE participating pharmacy.

- once application is approved and eligibility card received for the PACENET Program, must satisfy a \$500 yearly deductible, then responsible for a \$8.00 copayment for generic prescription drugs and a \$15.00 copayment for brand name prescription drugs dispensed by a PACE participating pharmacy.

## 2. Application Process

### How

Applications are submitted to PDA on a form which is available from participating pharmacies, AAAs, and at various state offices. A resident of this Commonwealth who

meets the conditions of eligibility and whose application is approved by PACE becomes a "Claimant" (6 Pa. Code § 22.2).

### **Documentation**

Documentation of residence, age, income and identification of other third party payors is required (6 Pa. Code § 22.33).

### **By Whom**

Application for individuals adjudicated incapacitated is made by the court-appointed guardian. Application for a person incapable of filing an application on his or her own behalf can be made by a close relative by blood or marriage, a representative payee designated by the Social Security Administration or a representative of a private or public social service agency (6 Pa. Code § 22.34).

### **3. Income Inclusion**

Income considered for Program eligibility includes income from whatever source derived, except as specifically excluded by Program regulations. Note that salaries, wages, bonuses, commissions, alimony, support, cash public assistance, gross social security (i.e., including the Medicare premium,) life insurance benefits, gross pension benefits, veterans' disability payments, gross annuities, interest, dividends, gifts of cash or property in excess of \$300 except between household members, etc., are included as income (72 P.S. § 3761-502; 6 Pa. Code § 22.24(b)).

### **4. Income Exclusion**

Specifically excluded from income are:

- a. Surplus food or other noncash relief, including food stamps, supplied by a government agency;
- b. Property tax rebate payments and rent rebates;
- c. Medicare benefits (but not Medicare premiums);
- d. The first \$5,000 of total death benefit payments;
- e. The difference between the purchase and sale price of a home, if the proceeds are used to purchase a different residence within two years of the sale of the former residence;

(The Program has extended this provision to capital gains from the sale of a home which are used exclusively for nursing home care.)

- f. Non-duplicative damages in civil suits (or settlement), including black lung and Section 306(c) Workers Compensation benefits;
- g. Low Income Home Energy Assistance Program (LIHEAP) benefits; and,
- h. The portion of client payments received by Domiciliary Care providers which do not exceed the actual expense of providing domiciliary care services (6 Pa. Code § 22.24(c)).

#### 5. Verification

PDA is statutorily required to annually verify the income of eligible claimants. This is accomplished by matching the income reported on the claimants' PACE Application with the income reported on their Pennsylvania income tax return (72 P.S. § 3761-517(a); 6 Pa. Code §§ 22.24(e); 22.33(1)(c)(4); 22.36(1)). Claimants found to be over income are required to repay the Department for prescription benefits inappropriately paid on their behalf by PDA (6 Pa. Code § 22.51(3)). Pennsylvania income tax returns are not available to PDA until after benefits have begun, so retroactive repayment may be sought. This emphasizes the importance of strict accuracy in completing the PACE/PACENET application.

#### 6. Redetermination and Changed Circumstances

Claimants must complete and submit an annual redetermination form (6 Pa. Code §§ 22.41 and 22.42). Claimants must also notify PDA upon becoming eligible for another plan of assistance or insurance, return the card upon establishment of residence outside Pennsylvania, or upon becoming otherwise eligible for full prescription payments, and repay the Commonwealth, upon request, for inappropriately paid benefits, if caused by an act or omission on the part of the claimant (72 P.S. § 3761-506; 6 Pa. Code § 22.51(1) and (3)).

#### 7. Use of the PACE/PACENET Card

The claimant takes the prescription to an enrolled Pennsylvania pharmacy (Provider) and presents the card. The claimant pays a co-pay on any amount not covered by other insurance. The Program pays the balance to the dispenser. Providers are required to dispense generic drugs to the claimant (72 P.S. § 3761-510(a)) unless the prescription falls within the limited exceptions (72 P.S. § 3761-510(a)(1-4), (d)). When a claimant's prescription permits the substitution of a generic drug and the claimant requests a brand name drug, the claimant is required to pay the generic differential (72 P.S. § 3761-510(b)).

## 8. Prohibited Acts

Anyone who makes a false statement or representation of a material fact on a PACE/PACENET application, attempts to secure an unauthorized benefit, converts a benefit to a use other than intended, seeks benefits beyond what is reasonably needed, or aids or abets another in same, etc., shall be charged with a criminal offense under the Crimes Code (see 71 P.S. § 732-205(a)(6)) and, if found guilty, is subject to repay three times the value of any material gain resulting therefrom (6 Pa. Code §§ 22.71 and 22.72; see 72 P.S. § 3761-515 and § 3761-521 relative to Provider).

## 9. Appeal Process

### Informal Review

- Appeals must be filed within 30 days of the date of the notice of adverse action (6 Pa. Code § 22.93(a)). Filing of an appeal within the 30 days allowed will prevent termination of benefits until the end of the appeal process (6 Pa. Code § 22.93(b)).
- Within 15 days of receipt of the appeal, an informal decision letter is sent by PDA to the claimant (6 Pa. Code § 22.94(a)(2)).

### Formal Review - Hearing

- If an appellant wishes to seek a formal administrative hearing in order to contest the informal letter ruling, he must so notify PDA within 15 days of the date of the letter ruling (6 Pa. Code § 22.95(b)).
- Hearings are held before a hearing officer pursuant to 1 Pa. Code Chapter 35, as modified by 6 Pa. Code § 22.95(c)(2).
- The hearing officer submits a recommended decision to the Secretary of Aging (6 Pa. Code § 22.95(g)).
- The final decision or order is issued by the Secretary of Aging (6 Pa. Code § 22.95(h)).

## **ADULT PROTECTIVE SERVICES**

[6 Pa. Code Chapter 15]

### 1. Background

The Older Adults Protective Services Act (35 P.S. § 10225.101 *et seq.*) assists older Pennsylvanians who lack the capacity to protect themselves and who are at imminent risk of abandonment, abuse, exploitation or neglect. The Act (Protective Services) is victim oriented to assure services

necessary to protect the health, safety and welfare of older adults. Protective Services are implemented and delivered via the AAAs (35 P.S. § 10225.301). Protective Services are those activities, resources and supports provided to older adults under this Act to detect, prevent, reduce or eliminate abuse, neglect, exploitation and abandonment.

## 2. Definitions (35 P.S. § 10225.103)

### a. Abandonment

- The desertion of an older adult by a caretaker.

### b. Abuse

The occurrence of one or more of the following acts:

- The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.
- The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.
- Sexual harassment, rape or abuse, as defined in the Protection From Abuse Act.

### c. Employee

- An individual who is employed by a facility. The term includes contract employees who have direct contact with residents or unsupervised access to their personal living quarters. The term includes any person who is employed or who enters into a contractual relationship to provide care to a care-dependent individual for monetary consideration in the individual's place of residence.

### d. Exploitation

- An act or course of conduct by a caretaker or other person against an older adult or an older adult's resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.



e. Facility

- Any of the following: 1. domiciliary care home (see 71 P.S. § 581-2 and § 581-3(a)(16); 6 Pa. Code Chapter 21); 2. home health care agency (see 35 P.S. § 448.802a; 28 Pa. Code Chapter 601); 3. long-term nursing facility (see 35 P.S. § 448.802a; 28 Pa. Code Chapter 201); 4. older adult daily living center (see 62 P.S. § 1511.1 and 71 P.S. § 581-3(a)(17.1)(iv); 6 Pa. Code Chapter 11); 5. personal care home (see 62 P.S. § 211; 55 Pa. Code Chapter 2620); or, 6. home health care organization or agency that provides care to a care-dependent individual in the individual's place of residence.

f. Neglect

- The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. No older adult who does not consent to the provision of protective services shall be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

g. Older Adult

- A person within the jurisdiction of the Commonwealth who is 60 years of age or older.

h. Recipient

- An individual who receives care, services or treatment in or from a facility.

i. Serious Bodily Injury

- Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

j. Serious Physical Injury

- An injury that:
  - (1) causes a person severe pain; or

- (2) significantly impairs a person's physical functioning, either temporarily or permanently.

k. Sexual Abuse

- Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

3. Scope and Purpose of the Act (35 P.S. § 10225.102)

- a. Provides access to services necessary to protect the health, safety and welfare of older adults (age 60 and over) who lack the ability to protect themselves and are at imminent risk of abuse, neglect, exploitation or abandonment. PDA, via the AAAs, assists older Pennsylvanians who are unable to perform or obtain services that are necessary to maintain physical or mental health, for whom there is no responsible caretaker and who is at imminent risk of danger to their person or property.
- b. Safeguards older people's rights while providing the protective services needed through a system of screening and referral by identifying matters of emergency, priority, nonpriority, another AAA service or planning area, or no need for protective services (35 P.S. § 10225.303(a)).
- c. Provides for identification, detection, intervention, reduction, correction or elimination of abuse ("abuse" is generally used in reference to abandonment, abuse, exploitation and/or neglect).
- d. PDA, and the AAAs, provide toll-free telephone access to enable abuse reporting. Reports may be made 24 hours a day, 365 days a year, by telephoning the local AAA or by telephoning 1.800.490.8505 (35 P.S. § 10225.302(b)).

4. Reporting Abuse (35 P.S. § 10225.302 and § 10225.701)

a. Voluntary Reports

- (1) Any person who has reasonable cause to believe that an older adult is being abandoned, abused, exploited or neglected may file a report with an AAA (35 P.S. § 10225.302(a)).
- (2) A person who reports abuse, abandonment, exploitation and/or neglect may choose to remain anonymous and still be assured

that his or her report will be investigated (35 P.S. § 10225.302; and, 35 P.S. § 10225.306(b)(4)). A person who chooses to file a report is given civil protection from retaliation (35 P.S. § 10225.302(c)) and enjoys immunity from civil and criminal liability unless they act in bad faith or with malicious purpose (35 P.S. § 10225.302(d)). Consequently, any person who has personal knowledge that abandonment, abuse, exploitation or neglect has been, or is being, perpetrated upon an older adult may voluntarily report such to the AAA.

(3) PDA is promulgating Regulatory directives on voluntary report statutory compliance (35 P.S. § 10225.310).

#### b. Mandatory Reports

† (1) Notwithstanding, the voluntary reporting directive of Protective Services, the Act mandates that any employee or administrator of a facility who has reasonable cause to suspect that an individual (recipient) receiving care, services or treatment from a facility is a victim of abuse, shall immediately make a report of such abuse to the AAA (35 P.S. § 10225.701(a)(1)). Further, any employee or an administrator who has reasonable cause to suspect that such individual is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the AAA and PDA, immediately contact law enforcement officials to make a report (35 P.S. § 10225.701(b)(1)). Consequently, any employee or an administrator who has knowledge that abuse has been, or is being, perpetrated upon a recipient is mandated to report, depending upon the severity of the abuse, to the AAA, law enforcement and PDA.

#### (a) Oral Report

##### i. Mandatory reports to AAA

An employee or an administrator who has reasonable cause to suspect that a recipient is a victim of abuse shall immediately make an oral report to the AAA. An employee shall notify the administrator immediately following the report to the AAA. And, within 48 hours of making the oral report, the employee or administrator shall make a written report to the AAA.

ii. Mandatory reports to law enforcement

An employee or an administrator who has reasonable cause to suspect that a recipient is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the AAA and PDA (1.717.783.6207), immediately contact law enforcement to make an oral report. An employee shall notify the administrator immediately following the report to law enforcement officials. And, within 48 hours of making the oral report, the employee and the administrator shall make a written report to law enforcement.

(b) Written Report

The written report to the AAA in matters of abuse, and to law enforcement in matters of sexual abuse, serious physical injury, serious bodily injury or suspicious death, shall include: name, age and address of the recipient; name and address of the recipient's guardian or next of kin; name and address of the facility; nature of the alleged offense; and, any other specific comments or observations that are directly related to the alleged incident and the individual involved (35 P.S. § 10225.701(c)).

(2) A person who files a report is given protection from retaliation and has immunity from civil or criminal liability unless they act in bad faith or with malicious purpose (35 P.S. § 10225.707)).

(3) PDA is, as well as the respective Pennsylvania Departments of Health and Public Welfare, promulgating Regulatory directives on mandatory report statutory compliance (35 P.S. § 10225.708).

c. Mandatory Reports (Others)

(1) In addition to the Protective Services law voluntary and mandatory elder abuse reporting declarations, our Crimes Code (18 Pa. C.S.A. § 101) mandates reporting criminal acts or abuse for certain Commonwealth Agencies and for certain medical personnel, when such Agencies and personnel are engaged in the performance of their duties. That is, to wit:

(a) The Crimes Code requires any member or agent of the Commonwealth Agencies of PDA, Department of Health or Department of Public Welfare, when in the course of conducting the performance of regulatory or investigative duties, and having reasonable cause to believe that an individual receiving care, services or treatment has suffered bodily injury or been unlawfully restrained, shall immediately report such criminal act to the local law enforcement agency or to the Office of Attorney General (18 Pa. C.S.A. § 2713(c)). That is, where personnel or agents of PDA, Department of Health or Department of Public Welfare have cause to believe that the criminal act of omission defined as “neglect of care-dependent person” has been, or is being, perpetrated, it is mandatory that such be reported to law enforcement or to the Pennsylvania Attorney General. Consequently, any employee or agent of PDA, Health or Public Welfare must report suspected neglect of care-dependent persons.

(b) Further, the Crimes Code directs that a physician, intern or resident, or any person conducting, managing or in charge of any hospital or pharmacy, or in charge of any ward or part of a hospital, to whom shall come or be brought any person suffering from any wound or other injury inflicted, by his own act or by the act of another, by means of a weapon or has injuries inflicted in violation of any penal law of this Commonwealth (18 Pa. C.S.A. § 5106(a)), shall report such criminal act injuries to the local law enforcement agency or to the State Police. Such is mandatory reporting for medical personnel when injuries sustained are the result of suspected criminal activity (cf 18 Pa. C.S.A. § 2713).

#### 5. Investigation of Reports (35 P.S. § 10225.303)

a. Every report that an AAA receives must be investigated to determine if the older person named in the report (victim) is in need of protective services (substantiated report) or is not in need of protective services (unsubstantiated report) (35 P.S. § 10225.303(d) & (c), respectively).

b. The Act guarantees access of AAAs to victims (35 P. S. § 10225.304(e)) and to victims’ records (35 P.S. § 10225.304(d)). If anyone interferes with access to the victim or to pertinent records, the

AAA can request a court order requiring access (35 P.S. § 10225.304(f) and (h)).

- c. If the investigation substantiates the need for protective services, a written client 'needs assessment' must be prepared and services must be offered. The older person has the right to refuse services (35 P.S. § 10225.304(b)).
- d. In an emergency, the AAA can request a court order to provide protective services without the consent of an older person. For a situation to be deemed an emergency, there must be clear and convincing evidence that the older adult is at imminent risk of death or serious bodily harm if protective services are not provided (35 P.S. § 10225.307).

6. Rights of Alleged Victims (35 P.S. §10225.308(a))

- a. Protective Services afford certain protection to victims of abuse (35 P.S. § 10225.308). Victims can refuse to accept services offered by an AAA (35 P.S. § 10225.304(b)).
- b. A victim has the right to be told that someone has reported that he or she might be the victim of abuse, and need protective services to ensure safety and security.
- c. Victims may appeal to PDA any denial of services by an AAA (35 P. S. § 10225.308(a)(3)).

7. Rights of Alleged Perpetrators (35 P.S. § 10225.308(b))

- a. If an AAA investigation reveals that the allegations about the alleged abuser are true, and consequently the report is substantiated, the alleged perpetrator or alleged abuser is entitled to be notified and given a summary of the allegations substantiated concerning him or her (35 P.S. § 10225.308(b)(1); see., *R. v. Com., Dept. of Public Welfare*, 636 A. 3d 142 (Pa. 1994, citing, *Paul v. Davis*, 424 U.S. 693, 96 S. Ct. 1155 (1976)).

(1) An alleged abuser has the right to challenge the findings of an AAA's investigation by filing an appeal with PDA (35 P.S. § 10225.308(b)(3)).

(2) 6 Pa. Code Chapter 3 (informal appeal).

(3) 1 Pa. Code Chapter 35 (formal appeal).

## 8. Employment Background Checks

### a. Facility Applicant/Employee

- (1) Effective the 1st of July 1998, a facility employment applicant, and a facility employee since July 1, 1997, must be free from certain convictions (35 P.S. § 10225.502 and § 10225.503). Thus, on and after July 1, 1998, facility employment applicants and facility employees employed on and after July 1, 1997 must satisfy conditions of the Act for employment.
- (2) The criminal background check necessitates all facility applicants to submit with their employment application a criminal history report from the Pennsylvania State Police (35 P.S. § 10225.502(a)(1); see 18 Pa. C.S.A. § 9109). If the applicant is not a resident of Pennsylvania, and has not been a resident of Pennsylvania for the two years immediately preceding employment application, then in addition to the report from the PA State Police, a report of Federal criminal history record information must be obtained from the Federal Bureau of Investigation (35 P.S. § 10225.502(a)(2); see 28 U.S.C.A. § 534(a)(1)). A facility employee who has continuously been employed at the same facility before and since July 1, 1997 shall not be required to obtain the criminal background check as a condition of continued employment in that facility where employed (35 P.S. § 10225.508(1)).
- (3) PDA is, in consultation with the Pennsylvania Department of Health and Public Welfare, promulgating Regulatory directives on criminal history statutory compliance (35 P.S. § 10225.504).

### b. Convictions

- (1) If certain convictions of statutory infractions are evidenced in the report(s), then employment in a facility is forbidden (35 P.S. § 10225.503(a)(1)&(2)). That is, where applicant or employee has a record of certain law convictions, then such individual is prohibited from employment, and shall not be employed, in a facility (cf 18 Pa.. C.S.A. § 6105, 23 Pa. C.S.A. § 6344, 23 Pa.. C.S.A. § 6355 and 42 Pa. C.S.A. § 6308). The law convictions prohibiting employment involve the Pennsylvania Controlled Substance, Drug, Device and

Cosmetic Act (35 P.S. § 780-101) and the Pennsylvania Crimes Code (18 Pa. C.S.A. § 101).

- (2) Employment is prohibited where the criminal history reveals a felony conviction of The Controlled Substance, Drug, Device and Cosmetic Act. Likewise, employment is denied where the criminal history lists a conviction of the Crimes Code (penal code) involving, viz: criminal homicide (§ 2501); aggravated assault (§ 2702); kidnapping (§ 2901); unlawful restraint (§ 2902); rape (§ 3121); statutory sexual assault (§ 3122.1); involuntary deviate sexual intercourse (§ 3123); sexual assault (§ 3124.1); aggravated indecent assault (§ 3125); indecent assault (§ 3126); indecent exposure (§ 3127); arson and related offenses (§ 3301); burglary (§ 3502); robbery (§ 3701); a felony or two or more misdemeanors under: theft by unlawful taking or disposition (§ 3921), theft by deception (§ 3922), theft by extortion (§ 3923), theft of property lost, mislaid, or delivered by mistake (§ 3924), receiving stolen property (§ 3925), theft of services (§ 3926), theft by failure to make required disposition of funds received (§ 3927), unauthorized use of automobiles and other vehicles (§ 3928), retail theft (§ 3929), library theft (§ 3929.1), theft of trade secrets (§ 3930), theft of unpublished dramas and musical compositions (§ 3931), or, theft of leased property (§ 3932); forgery (§ 4101); securing execution of documents by deception (§ 4114); incest (§ 4302); concealing death of child (§ 4303); endangering welfare of children (§ 4304); dealing in infant children (§ 4305); intimidation of witnesses or victims (§ 4952); retaliation against witness or victim (§ 4953); a felony promoting prostitution (§ 5902(b)); dissemination of obscene and other sexual materials to minors (§ 5903(c)); admitting minor to show of obscene and other sexual materials (§ 5903(d)); corruption of minors (§ 6301); or, sexual abuse of children (§ 6312).

c. Criminal History Record Information (CHRI)

- (1) Facilities or applicant/employee will need the required PA State Police “Request for Criminal Record Check” form to complete the criminal history record information (CHRI):

- forms are available from the PA State Police



- forms may be copied by facilities for use by the applicants; however, the form must be centered on the paper or the address will not line up with the window envelope used by the State Police;
- forms are filled out by the applicants; assistance may be provided by facility personnel and facilities are encouraged to mail the completed application (rather than the applicant or employee mailing same) and the correct fee payment to the PA State Police.

(2) Applicant/Employee may need the required Federal Bureau of Investigation (FBI) finger print card:

- The completed card must be mailed to PDA, whereupon it is submitted to the PA State Police.
- It is then forwarded to the FBI and the FBI returns the completed report to PDA.
- It is not the FBI procedure to mail the completed form to the original applicant and the FBI will not accept completed finger print cards directly from the applicant/employee.
- PDA will forward to the facility a response that will indicate if the applicant/employee has or does not have a history of a prohibitive conviction under the Act.

(3) The PA State Police background check costs \$10.00 and the FBI check costs \$24.00.

(4) Inquiries on criminal history procedures, state and/or federal, may be directed to PDA at: 1.717.783.6207.

d. Provisional Employment (35 P.S. § 10225.506)

Facilities may employ applicants on a provisional basis for a single period not to exceed 30 days who have been a resident of Pennsylvania for two years immediately preceding the date of the application for employment; and, for applicants who have not been a resident of Pennsylvania for two years immediately preceding the date of the application for employment, a period of 90 days, if all of the following conditions are met:

- (1) The applicant has applied for the information required under the Act and the applicant provides a copy of the appropriate completed request forms to the administrator.

- (2) The facility has no knowledge of information pertaining to the applicant which would disqualify applicant from employment pursuant to the Act, subject to 18 Pa. C.S. § 4911 (relating to tampering with public records or information).
- (3) The applicant swears or affirms in writing that applicant is not disqualified from employment under the Act.

9. Enforcement (35 P.S. § 10225.505 and § 10225.706)

a. There are administrative and criminal penalties for intentional or willful failure to comply with the provisions of the Act. Any administrative enforcement of the reporting or criminal history provisions shall be conducted by the Commonwealth agency or agencies which license or have oversight authority for the facility (35 P.S. § 10225.505(a)(3) and § 10225.706(a)(3)). Any criminal enforcement of the reporting or criminal history provisions shall be prosecuted by the County District Attorney or Commonwealth Attorney General (35 P.S. § 10225.505(b) and § 10225.706(b); see 71 P.S. § 732-205(a)(6); see also 71 P.S. § 732-205(b)).

- (1) Administrative penalties may include a civil penalty of \$2,500.
- (2) Intentional or willful failure to comply or obstruction of compliance with the Act could result in criminal conviction as a misdemeanor of the third degree and a fine of \$2,500 and imprisonment for one year.
- (3) There are also penalties for failure to report a case of suspected abuse under the Act. Summary offense for the first violation, and a misdemeanor of the third degree for the second or subsequent violation.

10. Immunity

No person nor entity shall be held liable for any action directly related to good faith compliance with the Act (35 P.S. § 10225.302(d), § 10225.305, § 10225.503(c) and § 10225.707).

PDA is looking to the future, planning how to best meet the needs of Pennsylvania's older citizens and their communities. As we head into the 21st century, PDA is focused on its mission to enhance the lives of communities, families and older Pennsylvanians ...we need you to carry on this mission.

(JJW--05/99)



**Neglect of Care-Dependent Persons**  
**{Acts 28-1995, 26-1997 and 70-1998}**  
**(18 Pa. C.S.A. § 2713)**

- A. Who is protected by the law? - Care-Dependent Persons. Adults, (18 years of age and over) who, due to physical or cognitive disability or impairment require assistance to meet needs for food, shelter, clothing, personal care or health care.
- B. Who is subject to prosecution under the law - Caretakers.
1. Any subject who is an owner or operator or manager or employee of a:
    - a. nursing home;
    - b. personal care home;
    - c. domiciliary care home;
    - d. community residential facility;
    - e. intermediate care facility for the mentally retarded;
    - f. adult daily living center;
    - g. home health agency; or
    - h. home health service provider, whether licensed or unlicensed; or
  2. Any person who provides care to a care-dependent person in the settings described above; or
  3. Any person who has an obligation to care for a care-dependent person for monetary consideration in the settings described above or in the care-dependent person's home.
- C. Who is a caretaker? A natural person, a corporation, a partnership or an unincorporated association or other business entity.
- D. What does this law prohibit?
1. The intentional or knowing or reckless:
    - a. causing
    - b. of bodily injury or serious bodily injury
    - c. by failing to provide:
      - i. treatment;
      - ii. care;
      - iii. goods; or

- iv. services, necessary to preserve the health, safety or welfare of a care dependent person for whom he is responsible to provide care.

2. The intentional or knowing use of:

- a. physical restraint;
- b. chemical restraint; or
- c. medication, on a care dependent person,; or
- d. isolating a care-dependent person contrary to law or regulation with resulting bodily injury or serious bodily injury.

E. Is there mandatory reporting? Yes. When the Department of Aging, or Health, or Public Welfare are conducting regulatory or investigative responsibilities, and have reasonable cause to conclude that a care-dependent person has suffered bodily injury or been restrained in violation of this law, a report shall be made to local law enforcement or to the Office of Attorney General. The district attorneys of the several counties and the Attorney General shall have authority to investigate and institute criminal proceedings pursuant to this crime of omission.

Tom Ridge  
Governor

Richard Browdie  
Secretary

**Jeffrey J. Wood, Esquire**  
Chief Counsel  
PA Department of Aging  
Governor's Office of  
General Counsel

# **ELDER ABUSE:**

## **Identification and Intervention**

### **ADULT PROTECTIVE SERVICES** **[6 Pa. Code Chapter 15]**

#### **1. Background**

The Older Adults Protective Services Act (35 P.S. § 10225.101 *et seq.*) assists older Pennsylvanians who lack the capacity to protect themselves and who are at imminent risk of abandonment, abuse, exploitation or neglect. The Act (Protective Services) is victim oriented to assure services necessary to protect the health, safety and welfare of older adults. Protective Services are implemented and delivered via the AAAs (35 P.S. § 10225.301). Protective Services are those activities, resources and supports provided to older adults under this Act to detect, prevent, reduce or eliminate abuse, neglect, exploitation and abandonment.

#### **2. Definitions (35 P.S. § 10225.103)**

##### **a. Abandonment**

- The desertion of an older adult by a caretaker.

##### **b. Abuse**

The occurrence of one or more of the following acts:

- The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.
- The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.
- Sexual harassment, rape or abuse, as defined in the Protection From Abuse Act.





c. Employee

- An individual who is employed by a facility. The term includes contract employees who have direct contact with residents or unsupervised access to their personal living quarters. The term includes any person who is employed or who enters into a contractual relationship to provide care to a care-dependent individual for monetary consideration in the individual's place of residence.

d. Exploitation

- An act or course of conduct by a caretaker or other person against an older adult or an older adult's resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.

e. Facility

- Any of the following: 1. domiciliary care home (see 71 P.S. § 581-2 and § 581-3(a)(16); 6 Pa. Code Chapter 21); 2. home health care agency (see 35 P.S. § 448.802a; 28 Pa. Code Chapter 601); 3. long-term nursing facility (see 35 P.S. § 448.802a; 28 Pa. Code Chapter 201); 4. older adult daily living center (see 62 P.S. § 1511.1 and 71 P.S. § 581-3(a)(17.1)(iv); 6 Pa. Code Chapter 11); 5. personal care home (see 62 P.S. § 211; 55 Pa. Code Chapter 2620); or, 6. home health care organization or agency that provides care to a care-dependent individual in the individual's place of residence.

f. Neglect

- The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. No older adult who does not consent to the provision of protective services shall be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.



**g. Older Adult**

- A person within the jurisdiction of the Commonwealth who is 60 years of age or older.

**h. Recipient**

- An individual who receives care, services or treatment in or from a facility.

**i. Serious Bodily Injury**

- Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

**j. Serious Physical Injury**

- An injury that:
  - (1) causes a person severe pain; or
  - (2) significantly impairs a person's physical functioning, either temporarily or permanently.

**k. Sexual Abuse**

- Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

**3. Scope and Purpose of the Act (35 P.S. § 10225.102)**

- a. Provides access to services necessary to protect the health, safety and welfare of older adults (age 60 and over) who lack the ability to protect themselves and are at imminent risk of abuse, neglect, exploitation or abandonment. PDA, via the AAAs, assists older Pennsylvanians who are unable to perform or obtain services that are necessary to maintain physical or mental health, for whom there is no responsible caretaker and who is at imminent risk of danger to their person or property.
- b. Safeguards older people's rights while providing the protective services needed through a system of screening and referral by identifying matters of emergency, priority, nonpriority, another AAA service or planning area, or no need for protective services (35 P.S. § 10225.303(a)).



- c. Provides for identification, detection, intervention, reduction, correction or elimination of abuse (“abuse” is generally used in reference to abandonment, abuse, exploitation and/or neglect).
- d. PDA, and the AAAs, provide toll-free telephone access to enable abuse reporting. Reports may be made 24 hours a day, 365 days a year, by telephoning the local AAA or by telephoning 1.800.490.8505 (35 P.S. § 10225.302(b)).

#### 4. Reporting Abuse (35 P.S. § 10225.302 and § 10225.701)

##### a. Voluntary Reports

- (1) Any person who has reasonable cause to believe that an older adult is being abandoned, abused, exploited or neglected may file a report with an AAA (35 P.S. § 10225.302(a)).
- (2) A person who reports abuse, abandonment, exploitation and/or neglect may choose to remain anonymous and still be assured that his or her report will be investigated (35 P.S. § 10225.302; and, 35 P.S. § 10225.306(b)(4)). A person who chooses to file a report is given civil protection from retaliation (35 P.S. § 10225.302(c)) and enjoys immunity from civil and criminal liability unless they act in bad faith or with malicious purpose (35 P.S. § 10225.302(d)). Consequently, any person who has personal knowledge that abandonment, abuse, exploitation or neglect has been, or is being, perpetrated upon an older adult may voluntarily report such to the AAA.
- (3) PDA is promulgating Regulatory directives on voluntary report statutory compliance (35 P.S. § 10225.310).

##### b. Mandatory Reports

- (1) Notwithstanding, the voluntary reporting directive of Protective Services, the Act mandates that any employee or administrator of a facility who has reasonable cause to suspect that an individual (recipient) receiving care, services or treatment from a facility is a victim of abuse, shall immediately make a report of such abuse to the AAA (35 P.S. § 10225.701(a)(1)). Further, any employee or an administrator who has reasonable cause to suspect that such individual is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the AAA and



PDA, immediately contact law enforcement officials to make a report (35 P.S. § 10225.701(b)(1)). Consequently, any employee or an administrator who has knowledge that abuse has been, or is being, perpetrated upon a recipient is mandated to report, depending upon the severity of the abuse, to the AAA, law enforcement and PDA.

**(a) Oral Report**

**i. Mandatory reports to AAA**

An employee or an administrator who has reasonable cause to suspect that a recipient is a victim of abuse shall immediately make an oral report to the AAA. An employee shall notify the administrator immediately following the report to the AAA. And, within 48 hours of making the oral report, the employee or administrator shall make a written report to the AAA.

**ii. Mandatory reports to law enforcement**

An employee or an administrator who has reasonable cause to suspect that a recipient is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the AAA and PDA (1.717.783.6207), immediately contact law enforcement to make an oral report. An employee shall notify the administrator immediately following the report to law enforcement officials. And, within 48 hours of making the oral report, the employee and the administrator shall make a written report to law enforcement.

**(b) Written Report**

The written report to the AAA in matters of abuse, and to law enforcement in matters of sexual abuse, serious physical injury, serious bodily injury or suspicious death, shall include: name, age and address of the recipient; name and address of the recipient's guardian or next of kin; name and address of the facility; nature of the alleged offense; and, any other specific comments or observations that are directly related to the alleged incident and the individual involved (35 P.S. § 10225.701(c)).





- (2) A person who files a report is given protection from retaliation and has immunity from civil or criminal liability unless they act in bad faith or with malicious purpose (35 P.S. § 10225.707)).
- (3) PDA is, as well as the respective Pennsylvania Departments of Health and Public Welfare, promulgating Regulatory directives on mandatory report statutory compliance (35 P.S. § 10225.708).

c. Mandatory Reports (Others)

- (1) In addition to the Protective Services law voluntary and mandatory elder abuse reporting declarations, our Crimes Code (18 Pa. C.S.A. § 101) mandates reporting criminal acts or abuse for certain Commonwealth Agencies and for certain medical personnel, when such Agencies and personnel are engaged in the performance of their duties. That is, to wit:
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by means of a weapon or has injuries inflicted in violation of any penal law of this Commonwealth (18 Pa. C.S.A. § 5106(a)), shall report such criminal act injuries to the local law enforcement agency or to the State Police. Such is mandatory reporting for medical personnel when injuries sustained are the result of suspected criminal activity (cf 18 Pa. C.S.A. § 2713).

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- a. Every report that an AAA receives must be investigated to determine if the older person named in the report (victim) is in need of protective services (substantiated report) or is not in need of protective services (unsubstantiated report) (35 P.S. § 10225.303(d) & (c), respectively).
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4305); intimidation of witnesses or victims (§ 4952); retaliation against witness or victim (§ 4953); a felony promoting prostitution (§ 5902(b)); dissemination of obscene and other sexual materials to minors (§ 5903(c)); admitting minor to show of obscene and other sexual materials (§ 5903(d)); corruption of minors (§ 6301); or, sexual abuse of children (§ 6312).

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- forms may be copied by facilities for use by the applicants; however, the form must be centered on the paper or the address will not line up with the window envelope used by the State Police;
- forms are filled out by the applicants; assistance may be provided by facility personnel and facilities are encouraged to mail the completed application (rather than the applicant or employee mailing same) and the correct fee payment to the PA State Police.

**(2) Applicant/Employee may need the required Federal Bureau of Investigation (FBI) finger print card:**

- The completed card must be mailed to PDA, whereupon it is submitted to the PA State Police.
- It is then forwarded to the FBI and the FBI returns the completed report to PDA.
- It is not the FBI procedure to mail the completed form to the original applicant and the FBI will not accept completed finger print cards directly from the applicant/employee.
- PDA will forward to the facility a response that will indicate if the applicant/employee has or does not have a history of a prohibitive conviction under the Act.

**(3) The PA State Police background check costs \$10.00 and the FBI check costs \$24.00.**



(4) Inquiries on criminal history procedures, state and/or federal, may be directed to PDA at: 1.717.783.6207.

d. Provisional Employment (35 P.S. § 10225.506)

Facilities may employ applicants on a provisional basis for a single period not to exceed 30 days who have been a resident of Pennsylvania for two years immediately preceding the date of the application for employment; and, for applicants who have not been a resident of Pennsylvania for two years immediately preceding the date of the application for employment, a period of 90 days, if all of the following conditions are met:

- (1) The applicant has applied for the information required under the Act and the applicant provides a copy of the appropriate completed request forms to the administrator.
- (2) The facility has no knowledge of information pertaining to the applicant which would disqualify applicant from employment pursuant to the Act, subject to 18 Pa. C.S. § 4911 (relating to tampering with public records or information).
- (3) The applicant swears or affirms in writing that applicant is not disqualified from employment under the Act.

9. Enforcement (35 P.S. § 10225.505 and § 10225.706)

a. There are administrative and criminal penalties for intentional or willful failure to comply with the provisions of the Act. Any administrative enforcement of the reporting or criminal history provisions shall be conducted by the Commonwealth agency or agencies which license or have oversight authority for the facility (35 P.S. § 10225.505(a)(3) and § 10225.706(a)(3)). Any criminal enforcement of the reporting or criminal history provisions shall be prosecuted by the County District Attorney or Commonwealth Attorney General (35 P.S. § 10225.505(b) and § 10225.706(b); see 71 P.S. § 732-205(a)(6); see also 71 P.S. § 732-205(b)).

- (1) Administrative penalties may include a civil penalty of \$2,500.
- (2) Intentional or willful failure to comply or obstruction of compliance with the Act could result in criminal conviction as a misdemeanor of the third degree and a fine of \$2,500 and imprisonment for one year.



- (3) There are also penalties for failure to report a case of suspected abuse under the Act. Summary offense for the first violation, and a misdemeanor of the third degree for the second or subsequent violation.

#### 10. Immunity

No person nor entity shall be held liable for any action directly related to good faith compliance with the Act (35 P.S. § 10225.302(d), § 10225.305, § 10225.503(c) and § 10225.707).

PDA continues its efforts to raise public and professional awareness of elder abuse. PDA remains committed to intervening in the lives of our older Pennsylvanians in appropriate cases while avoiding unnecessary infringement of civil liberties. At the same time, PDA provides services and legal protection to victims and confidentiality for those who report cases of abuse. PDA is looking to the future, planning how to best meet the needs of Pennsylvania's older citizens and their communities. As we head into the 21st century, PDA is focused on its mission to enhance the lives of communities, families and older Pennsylvanians ...we need you to carry on this mission.

Tom Ridge  
Governor  
Commonwealth of Pennsylvania

Richard Browdie  
Secretary  
Department of Aging

By:  
Jeffrey J. Wood, Esquire  
Chief Counsel  
PA Department of Aging  
555 Walnut Street, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1919

(JJW—05/99)





**INDEPENDENT REGULATORY REVIEW COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
333 MARKET STREET  
14TH FLOOR  
HARRISBURG, PA 17101**

**(717) 783-5417  
Fax (717) 783-2664**

Today is Thursday, December 2, 1999

Honorable Elinor Z. Taylor, Caucus Secretary  
Pennsylvania House of Representatives  
315G Main Capitol  
Harrisburg, PA 17120

Re: Regulation #1-17 (#2077)  
Protective Services for Older Adults  
Department of Aging

Dear Representative Taylor *EZ*

We recently received this proposed rulemaking. Since you sponsored Act 169 of 1996 (House Bill 304) and cosponsored Act 13 of 1997 (House Bill 132), that give the Department the authority for this rulemaking, this might be of interest to you.

Notice of this regulation was published in the *Pennsylvania Bulletin* on November 27, 1999. The Commission's review period will begin at the close of the public comment period on December 27, 1999. If you want to comment on this proposal, please do so before January 28, 2000.

If you or your staff have any questions, contact John H. Jewett at 783-5475.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Nyce".

Robert E. Nyce  
Executive Director



**INDEPENDENT REGULATORY REVIEW COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
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HARRISBURG, PA 17101**

**(717) 783-5417  
Fax (717) 783-2664**

Today is Thursday, December 2, 1999

**Honorable Patricia H. Vance  
Pennsylvania House of Representatives  
150-A East Wing, Main Capitol  
Harrisburg, PA 17120**

**Re: Regulation #1-17 (#2077)  
Protective Services for Older Adults  
Department of Aging**

Dear Representative Vance,

A handwritten signature in black ink that reads "Pat".

We recently received this proposed rulemaking. Since you sponsored Act 13 of 1997 (House Bill 132) and cosponsored Act 169 of 1996 (House Bill 304), that give the Department the authority for this rulemaking, this might be of interest to you.

Notice of this regulation was published in the *Pennsylvania Bulletin* on November 27, 1999. The Commission's review period will begin at the close of the public comment period on December 27, 1999. If you want to comment on this proposal, please do so before January 28, 2000.

If you or your staff have any questions, contact John H. Jewett at 783-5475.

Sincerely,

A handwritten signature in black ink that reads "Bob".

**Robert E. Nyce  
Executive Director**





**INDEPENDENT REGULATORY REVIEW COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
333 MARKET STREET  
14TH FLOOR  
HARRISBURG, PA 17101**

**(717) 783-5417  
Fax (717) 783-2884**

Today is Thursday, December 2, 1999

Honorable Kevin Blaum  
House of Representatives  
38A East Wing, Main Capitol  
Harrisburg, PA 17120

Re: Regulation #1-17 (#2077)  
Protective Services for Older Adults  
Department of Aging

Dear Representative Blaum *Kevin*

We recently received this proposed rulemaking. Since you were one of the cosponsors of legislation, Act 169 of 1996 (House Bill 304) and Act 13 of 1997 (House Bill 132), that gives the Department the authority for this rulemaking, this might be of interest to you.

Notice of this regulation was published in the *Pennsylvania Bulletin* on November 27, 1999. The Commission's review period will begin at the close of the public comment period on December 27, 1999. If you want to comment on this proposal, please do so before January 28, 2000.

If you or your staff have any questions, contact John H. Jewett at 783-5475.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Nyce".

Robert E. Nyce  
Executive Director

**Honorable Elinor Z. Taylor, Caucus Secretary**  
**Pennsylvania House of Representatives**  
**315G Main Capitol**  
**Harrisburg, PA 17120**

**Honorable Patricia H. Vance**  
**Pennsylvania House of Representatives**  
**150-A East Wing, Main Capitol**  
**Harrisburg, PA 17120**

**Honorable Kevin Blaum**  
**House of Representatives**  
**38A East Wing, Main Capitol**  
**Harrisburg, PA 17120**

**Honorable Stanley E. Saylor**  
**House of Representatives**  
**54B East Wing, Main Capitol**  
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**Honorable Thomas M. Tighe**  
**House of Representatives**  
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**Harrisburg, PA 17120**

**Honorable Ronald I. Buxton**  
**House of Representatives**  
**528E Main Capitol**  
**Harrisburg, PA 17120**

**Honorable Jerry L. Nailor**  
**House of Representatives**  
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**Honorable Edward H. Krebs**  
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**Honorable Albert Masland**  
**House of Representatives**  
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**Honorable Camille George**  
**House of Representatives**  
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**Honorable Steven R. Nickol**  
**House of Representatives**  
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**Honorable Jane C. Orie**  
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**Honorable Jeffrey Earl Habay**  
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**Honorable Allen G. Kukovich**  
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**Honorable Mike Waugh**  
Senate of Pennsylvania  
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**Honorable Lisa M. Boscola**  
Senate of Pennsylvania  
183 Main Capitol

**Honorable Charles W. Dent**  
Senate of Pennsylvania  
460 Main Capitol  
Harrisburg, PA 17120



Original: 2077

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF AGING  
OFFICE OF CHIEF COUNSEL  
GOVERNOR'S OFFICE OF GENERAL COUNSEL  
555 WALNUT STREET, FIFTH FLOOR  
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Jeffrey J. Wood, Chief Counsel

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January 18, 2002

Mr. John R. McGinley, Jr., Esquire  
Chairman  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Subject: Regulation #1-17 (IRRC #2077)  
Final Form Regulations on Older Adults Protective Services Act

Dear Chairman McGinley:

This letter is to clarify the reasons for the Pennsylvania Department of Aging (PDA) decision to remove language pertaining to criminal history background checks from the final form regulation implementing The Older Adults Protective Services Act (OAPSA).

The Commonwealth Court of Pennsylvania issued a decision in *Nixon et al. v. Comm. of PA*, No. 359, (PA. Commw. 2001), on December 11, 2001, which, in effect, cast doubt on the constitutionality of the criminal history background check hiring prohibitions in OAPSA.

PDA believes the decision to remove language in § 15.131 - § 15.137 pertaining to prohibited offenses and mandated facility decisions regarding hiring or retention of applicants and/or employees from the final form regulation the most prudent course of action for two reasons. First, while the Court's determination is technically limited to the plaintiffs in the case, it is clear from the text of the opinion that the holding applies to a broader class of applicants. However, the parameters of that class are unclear. Second, in light of the *Nixon* decision, the legislature is contemplating changes to the statutory authority to comply with the Court's ruling in *Nixon*. Publishing regulations on PDA's interpretation of a section of the law subject to imminent change is contrary to PDA's goal of providing accurate direction to the public.

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HARRISBURG, PA




Mr. John R. McGinley, Jr., Esquire  
January 18, 2002  
Page 2

Subsequent to PDA's decision to remove the language at issue from the final form regulation, the Pennsylvania Office of Attorney General filed an appeal with the Pennsylvania Supreme Court. Based on the OAG's decision to defend the constitutionality of the OAPSA criminal history background check provisions, the Commonwealth will enforce the statute in the same manner as pre-*Nixon*. However, PDA retains its position that the best course of action in regard to the above-referenced regulations is to maintain its original decision to delete the language discussed. When direction is received from either the Supreme Court or the legislature, PDA will amend the regulations to include the criminal history background check provisions to provide accurate and specific clarification as to PDA's interpretation of the statutory law. PDA is confident that enforcement of the statutory law will be sufficient to provide protection to Pennsylvania's elderly citizens in this interim period.

Thank you for your consideration of the final form regulations. If I can provide any further clarification, please advise.

Very truly yours,



Jeffrey J. Wood  
Chief Counsel

JJW/jb

cc: Honorable Richard Browdie, Secretary  
Deputy Secretary Lori Gerhard  
Howard Burde, Deputy General Counsel  
Robert Hussar, PDA Regulatory Coordinator

**KEY**

**A. November, 1999 Proposed Rulemaking (PA Bulletin, 11/27/99)**

1. Proposed additions are shown by underlining
2. Proposed deletions are shown by {brackets}

**B. March, 2000 changes reflecting stakeholder comments**

1. Additions are shown by **BOLD, CAPITALIZED LETTERS**
2. Deletions are shown by ~~strike-throughs~~

**Title 6. Aging**  
**CHAPTER 15. PROTECTIVE SERVICES FOR OLDER ADULTS**

**GENERAL PROVISIONS**

- Sec.
- 15.1. Scope and authority.
  - 15.2. Definitions.

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- 15.11. Administrative functions and responsibilities of the Department.
- 15.12. Administrative functions and responsibilities of area agencies on aging.
- 15.13. Organization and structure of protective services functions.

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EXPLOITATION**

- 15.21. General reporting provisions.
- 15.22. Safeguards for those who make or receive reports.
- 15.23. Receiving reports; general agency responsibility.
- 15.24. Receiving reports; agency intake process.
- 15.25. Report form and content.
- 15.26. Screening and referral of reports received.
- 15.27. Handling of completed reports.

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- 15.41. Reports required to be investigated.
- 15.42. Standards for initiating and conducting investigations.
- 15.43. Resolution of unsubstantiated reports.
- 15.44. Resolution of substantiated reports.
- 15.45. Situations involving State-licensed facilities.
- 15.46. Law enforcement agencies as available resources.
- 15.47. Emergency medical services as available resources.

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- 15.61. Access to persons.
- 15.62. Access to records.
- 15.63. Access by consent.

## **EMERGENCY INTERVENTION**

- 15.71. Involuntary intervention by emergency court order.
- 15.72. The petition.
- 15.73. Court appointed counsel.
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- 15.75. Health and safety requirements.
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- 15.92. Client needs assessment.
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- 15.102. Maintenance of case {files} records.
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- 15.114. Obligation of the Commonwealth and the counties.

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- 15.121. Protective services staff qualifications.
- 15.122. Protective services casework training curriculum.
- 15.123. Protective services investigation training curriculum.
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- 15.125. Availability of training.
- 15.126. Training evaluation.
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- 15.132. Facility personnel requirements.
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- 15.134. Procedure.
- 15.135. Applicant OR EMPLOYEE rights of review.
- ~~15.136. Facility personnel rights of review and appeal.~~
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- 15.138. Violations.

### **EMPLOYEE REPORTING OF SUSPECTED ABUSE**

- 15.141. General requirements.
- 15.142. Additional reporting requirements.
- 15.143. Contents of reports.
- 15.144. Reports to department and coroner.
- 15.145. Investigation.
- 15.146. Restrictions on employees.
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15.149. Immunity.

## OTHER ADMINISTRATIVE PROVISIONS

15.{131}161. Waivers.

### Authority

The provisions of this Chapter 15 issued under the act of November 6, 1987 (P. L. 381, No. 79) (35 P. S. §§ 10225.101-10225.5102), unless otherwise noted.

### Source

The provisions of this Chapter 15 adopted November 25, 1988, effective November 26, 1988, 18 Pa.B. 5249, unless otherwise noted.

### Cross References

This chapter cited in 6 Pa. Code § 21.55 (relating to AAA placement activities).

## GENERAL PROVISIONS

### § 15.1. Scope and authority.

(a) This chapter governs the administration and provision of protective services for older adults under the act, **THE MANDATORY REPORTING OF THE ABUSE OF RECIPIENTS OF CARE (OF ANY AGE) AS DEFINED BY THE ACT AND REQUIRED CRIMINAL HISTORY RECORD INFORMATION REPORTS FOR APPLICANTS, EMPLOYEES AND ADMINISTRATORS OF FACILITIES AS SET FORTH BY THE ACT.**

(b) This chapter applies to the Department, ~~the Pennsylvania Department of Health, the Pennsylvania Department of Public Welfare,~~ area agencies on aging, providers of protective services for older adults, parties to the making and investigation of reports of a need for protective services by older adults {and}, subjects of reports and investigations, and the facilities defined in this chapter.

(c) The Department will enforce this chapter and maintain responsibility for future revisions as the continuing operation of the program requires.

### § 15.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

**Abandonment** - The desertion of an older adult by a caretaker.

**Abuse** -

{ (i) } The occurrence of one or more of the following acts:

{ (A) } ~~(i)~~ The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

{ (B) } ~~(ii)~~ The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.

{ (C) } ~~(iii)~~ Sexual harassment, rape or abuse, as defined in the Protection From Abuse Act ({35 P. S. §§ 10181-10190} 23 P. S. §§ 6101-6117).

{ (ii) } No older adult will be found to be abused solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care. }

**Act** - The Older Adults Protective Services Act (35 P. S. §§ {10211-10224} 10225.101-10225.5102).

**Administrator** - The person responsible for the administration of a facility. The term includes a person responsible for employment decisions or an independent contractor.

**Agency** - The local provider of protective services, which is the area agency on aging or the agency designated by the area agency on aging to provide protective services in the area agency's planning and service area.

**Applicant** - An individual who submits an application, which is being considered for employment, to a facility. THE APPLICANT IS THE PERSON SEEKING EMPLOYMENT, NOT THE PERSON PROCESSING THE APPLICATION.

**Area Agency on Aging** - The single local agency designated within a planning and service area by the Department to develop and administer the delivery of a comprehensive and coordinated plan of social services and activities for older persons **ADULTS**.

**Care** - Services provided to meet a person's need for personal care or health care. Services may include homemaker services, assistance with activities of daily living, physical therapy, occupational therapy, speech therapy, ~~medical~~ social services, home-care aide services, companion-care services, private duty nursing services, respiratory therapy, intravenous therapy, in-home dialysis and durable medical equipment services, which are routinely provided unsupervised and which require interaction with the care-dependent person. The term does not include durable medical equipment delivery.

**Care-Dependent Individual** - An adult who, due to physical or cognitive disability or impairment, requires assistance to meet needs for food, shelter, clothing, personal care or health care.

**Caretaker** - An individual or institution that has assumed the responsibility for the provision of care needed to maintain the physical or mental health of an older adult. This responsibility may arise voluntarily, by contract, by receipt of payment for care, as a result of family relationship or by order of a court of competent jurisdiction. { It is not the intent of the act to impose responsibility on an individual if the responsibility would not otherwise exist in law. }

**Case file {or}, case record or record** - A complete record of the information received and the actions taken by the agency on each report of need received. {of an older adult in need of protective services. The case file shall, w}When applicable, it shall include, but not be limited to, the following elements:

- (i) The report of need.
- (ii) Records of agency investigative activities including related evidence and testimony.
- (iii) {Client a}Assessment.
- (iv) Documentation of informed consent provided or agency efforts to obtain consent.
- (v) Notifications of {clients} older adults, alleged perpetrators, police {and the like}, agencies, organizations, and individuals.
- (vi) Records of court, intervention, petition or action.
- (vii) Service plan.

**Client aAssessment** - A determination based upon a comprehensive review of a client's social, physical and psychological status along with a description of the person's current resources and needs using the instrument(s) and procedures established by the Department for this purpose.

**Conflict of interest** - The conflict which may exist when the investigator of a report of the need for protective services has a personal or financial interest in, is responsible for, or is employed by others responsible for, the delivery of services which may be needed by an older adult to reduce or eliminate the need for protective services. A conflict of interest may also exist if an investigator has a specific personal or financial motivation to recommend services delivered by a specific agency or to allow referrals or case dispositions to be inappropriately influenced by the investigator's knowledge of agency staff, resource limitations or by agency constraints which affect agency staff or resource allocations.

**CONSUMER EMPLOYED AND DIRECTED ATTENDANT – AN EMPLOYEE WHO IS RECRUITED, HIRED, TRAINED AND SUPERVISED BY THE CONSUMER FOR WHOM PERSONAL CARE**

**SERVICES AND OTHER SUPPORT ACTIVITIES ARE BEING PROVIDED. THE AUTHORIZATION AND PAYMENT OF WAGES, PAYMENT OF THE TAXES AND INSURANCE AS REQUIRED, AND DISMISSAL OF THE ATTENDANT, IF NECESSARY, IS THE RESPONSIBILITY OF THE CONSUMER. IT SHOULD BE NOTED THAT CONSUMERS WHO EMPLOY AND DIRECT THEIR ATTENDANT CHOOSE TO BE RESPONSIBLE FOR ANY OR ALL OF THE ABOVE LISTED FUNCTIONS.**

**Court** - A court of common pleas or a district {justice} magistrate, if applicable.

**Department** - The Department of Aging of the Commonwealth.

**Desertion** - The willful failure without just cause by the responsible caretaker to provide for the care and protection of an older adult who is in need of protective services.

**DIRECT CONTACT – TOUCHING OF A FACILITY RECIPIENT BY AN EMPLOYEE CONSISTENT WITH THE PROFESSIONAL RESPONSIBILITIES OF THE EMPLOYEE.**

**Employee** - An individual who is employed by a facility. The term includes contract employees who have direct contact with residents or unsupervised access to their personal living quarters. The term also includes any person who is employed by, or who enters into a contractual relationship with A FACILITY, or who establishes any other agreement or arrangement with a home health care agency to provide care to a care-dependent individual in the individual's place of residence for a fee, stipend, or monetary consideration of any kind IN THE INDIVIDUAL'S PLACE OF RESIDENCE. THE TERM DOES NOT INCLUDE A CONSUMER-EMPLOYED AND DIRECTED ATTENDANT OR A PERSON WHO IS PROVIDING CARE TO A CARE-DEPENDENT INDIVIDUAL AND WHO IS EMPLOYED BY THE CARE-DEPENDENT INDIVIDUAL, OR BY ANOTHER PERSON DESIGNATED BY THE CARE-DEPENDENT INDIVIDUAL, RATHER THAN BY OR THROUGH A HOME HEALTH CARE AGENCY, AS DEFINED IN THESE REGULATIONS. THE TERM CONTRACT EMPLOYEE INCLUDES STUDENTS DOING AN INTERNSHIP OR CLINICAL ROTATION OR ANY OTHER PERSON WHO HAS BEEN GRANTED ACCESS TO THE FACILITY TO PERFORM A CLINICAL SERVICE FOR A FEE. A VOLUNTEER IS NOT AN EMPLOYEE.

**Exploitation** - An act or course of conduct by a caretaker or other person against an older adult or an older adult's resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.



**Facility** - Any of the following: (1) a domiciliary care home as defined in Section 2202-A of the Act of April 9, 1929 (P.L. 177, No. 175), known as *The Administrative Code of 1929*; (2) A home health care agency; (3) A long-term care nursing facility as defined in Section 802.1 of the Act of July 19, 1979 (P.L. 130, No. 48), known as *The Health Care Facilities Act*; (4) an older adult daily living center as defined in Section 2 of the Act of July 11, 1990 (P.L. 499, No. 118), known as *The Older Adult Daily Living Centers Licensing Act*; (5) a personal care home as defined in Section 1001 of the Act of June 13, 1967 (P.L. 31, No. 21), known as *The Public Welfare Code*, ~~including those entities licensed as personal care homes who publicly advertise, promote or otherwise hold themselves out to the public as assisted living facilities.~~

**Home Health Care Agency** - Any of the following: (1) A home health care organization or agency licensed by the Department of Health; (2) A public or private agency or organization, or part of an agency or organization, which provides care to a care-dependent individual in the individual's place of residence. The term shall include, but is not limited to, private duty home care providers, homemaker/home health aide providers, companion care providers, registry services, intravenous therapy providers, or any other entity which supplies, arranges for, or refers personnel to provide care for which that entity receives a fee, consideration, or compensation of any kind. **THE TERM INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING HOME HEALTH CARE AGENCIES OR PARTS OF AGENCIES:**

- 1) **COMMUNITY RESIDENTIAL REHABILITATION SERVICES LICENSED UNDER 55 PA. CODE CHAPTER 5310.**
- 2) **COMMUNITY HOMES AND FAMILY LIVING HOMES FOR INDIVIDUALS WITH MENTAL RETARDATION LICENSED UNDER 55 PA. CODE CHAPTER 6400 AND 55 PA. CODE CHAPTER 6500.**
- 3) **INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH MENTAL RETARDATION LICENSED UNDER 55 PA. CODE CHAPTER 6600, INCLUDING STATE AND NON-STATE OPERATED FACILITIES AND HOMES.**
- 4) **STATE MENTAL HOSPITALS.**

**Intimidation** - An Act or omission by any person or entity toward another person which is intended to, or with knowledge that the act or omission will, obstruct, impede, impair, prevent or interfere with the administration of this Act or any law intended to protect older adults from mistreatment.

**Investigation** - A systematic inquiry conducted by the agency to determine if allegations made in a report of need for protective services can be substantiated and/or if the older adult referred to in the report of need is an older adult in need of protective services.

**Incapacitated older adult** - An older adult who, because of one or more functional limitations, needs the assistance of another person to perform or obtain services necessary to maintain physical or mental health. ~~This term carries no reference to the competency or incompetency of an older adult as defined in the act of June 30, 1972 (P.L. 508, No. 164) (20 P.S. §§ 5501-55{37} 55, known as the { Incompetents } Incapacitated Persons Act.~~

**THE DEFINITION OF CAPACITY OR INCAPACITY OR COMPETENCE OR INCOMPETENCE AS DEFINED IN PENNSYLVANIA GUARDIANSHIP STATUTES DOES NOT APPLY TO THIS DEFINITION.**

**Informed consent** - Consent obtained for a proposed course of protective service provision. The consent shall be based on a reasonable attempt to provide information which conveys, at a minimum, the risks, alternatives and outcomes of the various modes of protective service provision available under the circumstances.

**Law Enforcement Official** - Any of the following: (1) A police officer of a municipality; (2) A district attorney; (3) The Pennsylvania State Police.

**Least restrictive alternative** - The appropriate course of action on behalf of the older adult which least intrudes upon the personal autonomy, rights and liberties of the older adult in circumstances where an older adult lacks the capacity to decide on matters and take actions essential to maintaining physical and mental health.

**Neglect** - The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. ~~{ An older adult who does not consent to the provision of protective services will not be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care. }~~

**Older adult** - A person within the jurisdiction of this Commonwealth who is 60 years of age or older.

**Older adult in need of protective services** - An incapacitated older adult who is unable to perform or obtain services that are necessary to maintain physical or mental health, for which there is no responsible caretaker and who is at imminent risk of danger to his person or property.

**Open disposition** - A situation in which a criminal history background check contains arrest information but does not contain information regarding one or more of the following: a final decision or sentencing announced by the court, the offense code, grading of the offense, or other information required in making a determination regarding an applicant or employee.

**Operator** - A person, society, corporation, governing authority or partnership legally responsible for the administration and operation of a

facility. **AT LICENSED FACILITIES, THE LICENSEE IS THE OPERATOR.**

**Planning and service area** - The geographic unit within this Commonwealth, as designated by the Secretary, for the allocation of funds for the delivery of social services to older persons **ADULTS** residing in that unit.

**Police department** - A public agency of the Commonwealth or of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of the criminal or traffic laws, or both.

**Police officer** - A full-time or part-time employee of the Commonwealth, a city, borough, town, township or county police department assigned to criminal or traffic or criminal and traffic law enforcement duties. The term does not include persons employed to check parking meters or to perform only administrative duties, auxiliary and fire police.

**Protective services** - Activities, resources and supports provided to older adults under the act ~~subsequent to an investigation,~~ to ~~{~~ detect, ~~}~~ prevent, reduce or eliminate abuse, neglect, exploitation ~~{~~ and ~~}~~ or abandonment.

**Protective services caseworker** - A protective services agency employee, regardless of staff title, who meets the minimum standards in §§ 15.121-15.127 (relating to staff training and experience standards) and is assigned by the agency under § 15.13(c) (relating to organization and structure of protective services functions) to perform the following protective services functions:

- (i) To receive reports of a need for protective services when necessary.
- (ii) To investigate reports received under this chapter.
- (iii) To assess the needs of protective services clients under this chapter.
- (iv) To develop and coordinate the implementation of service plans for protective services clients.

**Protective setting** - A setting chosen by the agency where services can be provided in the least restrictive environment to protect the physical and mental well-being of the older adult.

**Public or private entitlement or resource** - A publicly or privately funded health or human services program available either without charge or on a cost sharing basis to persons who qualify on the basis of one or more criteria, such as age, need, income or condition. The term includes various established financial assistance programs under public or private sponsorship. The term does not include individual personal income or financial assets.

**Recipient** - An individual OF ANY AGE who receives care, services or treatment in or from a facility.

**Report or report of need** - The written report of an older adult in need of protective services received under § 15.23 (relating to receiving reports; general agency responsibility) and recorded on the standardized protective services report form.

**Responsible caretaker** - A caretaker who is able and willing to provide the basic care and protection necessary to maintain the physical or mental health of an older adult. A caretaker reported to have abused, neglected, exploited or abandoned an older adult is presumed, subject to an investigation under this chapter, to be unable or unwilling to provide the necessary care and protection.

**Secretary** - The Secretary of the Department.

**Serious Bodily Injury** - Injury resulting from abuse or neglect which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

**Serious Physical Injury** - An injury resulting from abuse or neglect that: (1) causes a person severe pain; or (2) significantly impairs a person's physical functioning, either temporarily or permanently.

**Service plan** - A written plan developed by the agency on the basis of a comprehensive assessment of a client's **AN OLDER ADULT'S** need which describes identified needs, goals to be achieved and specific services to support goal attainment, with regular follow-up and predetermined reassessment of client progress. Specific services to support goal attainment may include, but are not limited to, homemaker services, home-delivered meals, attendant care, other in-home services, emergency shelter or food, legal aid services, transportation and other services. Service plans are cooperatively developed by the agency staff, the client **OLDER ADULT** or the client's **OLDER ADULT'S** appointed guardian and other family members when appropriate. The plan shall also address, if applicable, special needs of other members of the household unit as they may affect the older adult's need for protective services.

**Sexual Abuse** - Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

**State-licensed facility** - For all purposes involved in the determination of whether an individual is an older adult in need of protective services, a state licensed facility is defined as an institution licensed by the Commonwealth to provide temporary or permanent residence to persons in need of personal care or medical care, including, but not limited to, nursing homes, personal care homes, hospitals, State hospitals and mental retardation centers.

**State Police** - The Pennsylvania State Police.

**UNSUPERVISED ACCESS TO PERSONAL LIVING QUARTERS OF RESIDENTS – ACCESS TO PERSONAL LIVING QUARTERS OF RESIDENTS WHEN NOT ACCOMPANIED BY OR WITHIN DIRECT SUPERVISION OF AN EMPLOYEE OF THE FACILITY.**

**Cross References**

This section cited in 6 Pa. Code § 15.92 (relating to {client needs} assessment); 6 Pa. Code § 15.96 (relating to termination of protective services); 6 Pa. Code § 15.101 (relating to general); and 6 Pa. Code § 15.111 (relating to coordination of available resources).

**PROGRAM ADMINISTRATION**

**§ 15.11. Administrative functions and responsibilities of the Department.**

(a) General responsibilities. The Department will establish and maintain a Statewide system of protective services for older adults who need them. These services will be available and accessible through local protective services agencies. In maintaining this system of protective services, the Department's functions and responsibilities include, but are not limited to, the following:

(1) The review and approval of annual protective services plans submitted by area agencies under § 15.12(b) (relating to administrative functions and responsibilities of area agencies on aging).

(2) The allocation of funds appropriated for the implementation of the act to area agencies on aging to administer local protective services plans.

(3) The establishment of minimum standards of training and experience for protective services staff.

(4) The development and maintenance of a fiscal and service data collection system to collect information on local reports of a need for protective services, investigations {of reports}, services provided and other relevant data on protective services activities.

(5) The monitoring of local protective services delivery for compliance with this chapter and approved area agency on aging protective services plans.

(6) The development and maintenance of an ongoing program of public information and education to promote general awareness of and informed responses to the needs of older adults for protective services available under this chapter.

(7) Ongoing coordination with State agencies.

(b) Local protective services plans. The Department will review the annual protective services plan submitted under § 15.12(b) by an area agency on aging and will notify the area agency of approval or disapproval within 60 days.

(c) Staff training and experience. The minimum standards of training and experience of protective services staff employed to carry out activities under this chapter are set forth at §§ 15.121-15.127 (relating to staff training and experience standards).

(d) Public information and education. The Department will develop and maintain a campaign of public information and education about the needs for and availability of protective services under this chapter. The target of this campaign will be older adults and the general public, as well as professionals and others employed in situations where they are likely to have frequent contact with older persons **ADULTS** who need protective services. In designing and implementing the ongoing public awareness campaign, the Department will consult with other Commonwealth agencies and consider the concerns of area agencies on aging and the local entities identified by area agencies as having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment.

#### **§ 15.12. Administrative functions and responsibilities of area agencies on aging.**

(a) General responsibilities. An area agency on aging shall administer the delivery of protective services under this chapter in its planning and service area. The functions and responsibilities of the area agency on aging in administering protective services include, but are not limited to, the following:

(1) The development and submission of a protective services plan under subsection (b).

(2) The oversight of the delivery of protective services for older adults, either directly or purchased under contract with another agency, in compliance with the area agency's approved protective services plan, this chapter and other applicable State and Federal regulations or statutes. The plan shall assure that the agency will provide for the receipt of reports of need for protective services, the conduct of investigations of reports, the assessment of ~~client~~ need and the development of service plans throughout the period covered by the plan. The plan shall also describe sources for specific services that may be required by older adults who have been assessed as needing them, and policies pertaining to arranging for specific services if and when needs for specific services exceed supply.

(3) The coordination of the protective services related activities of local agencies and organizations having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment. These agencies and organizations include, but are not limited to, the following:

- (i) Local domestic violence agencies.
- (ii) County Assistance Offices.
- (iii) Local mental health/mental retardation programs.

- (iv) County offices of children and youth.
  - (v) Law enforcement agencies.
  - (vi) Legal services agencies.
  - (vii) Emergency medical service agencies, hospital emergency rooms and social services staff.
  - (viii) Home health agencies.
  - (ix) Drug and alcohol prevention and treatment organizations.
  - (x) Clergy associations and councils of churches.
- (4) The local extension of the Department's ongoing campaign of public information and education about the need for, and availability of, protective services for older adults.
- (5) The collection and submission to the Department of data on protective services activities. The data shall be recorded and reports submitted as required by the Department. At a minimum, the following information shall be included:
- (i) The number of substantiated and unsubstantiated reports.
  - (ii) The number of reports made in various categories of need for protective services, such as physical abuse, financial exploitation, neglect, abandonment and the like.
  - (iii) The demographic information on persons reported to be in need of protective services and on alleged perpetrators of abuse, neglect, exploitation and abandonment.
  - (iv) The origins of reports.
  - (v) The remedies and referrals.

(b) Protective services plan. {By February 24, 1989 an area agency on aging shall submit, as a supplement to its annual area plan, a protective services plan which includes a certification by the area agency that it is prepared to fulfill its responsibilities under the act.} The area agency on aging shall submit {thereafter}, on an annual basis, its protective services plan to the Department. The protective services plan shall contain, at a minimum, the following information:

- (1) An explanation of the organizational structure and staffing of the area agency's protective services functions, including provisions for purchasing these services if applicable. For the purpose of advising the agency on medically related issues encountered during {client} assessment and the development of service plans, the organizational structure shall include the consultation services of a registered nurse or physician licensed to practice in this Commonwealth.
- {(2) An explanation of how the area agency's organizational structure and staffing of protective services will prevent a conflict of interest between the investigation of reports received under this chapter and the area agency's service delivery functions. The explanation shall include assurances that the minimum criteria required under § 15.13 (relating to organization and structure of protective services functions) will be met.}

~~{(3)}~~(2) A description of the local process for delivering protective services to older adults who need them, including the 24-hour capability to receive reports, the investigation of reports and the necessary actions arising from investigations. The description shall focus on the specific local methodology to be implemented in activities for which this chapter allows for local differences and flexibility. The description of the plan for investigating reports shall include an explanation of steps to be taken to assure the standby capability required under § 15.41(c) (relating to reports required to be investigated). The description of the plan for seeking emergency court orders shall include the agency's identification of the providers of legal assistance who may be notified under § 15.71(b) (relating to involuntary intervention by emergency court order) when the agency petitions the court for emergency involuntary intervention.

~~{(4)}~~(3) A description of local funding for protective services which has, at the discretion of a county or local agency, been placed under the administrative control of the area agency on aging. There is no requirement by the Department that the area agency on aging obtain local funding for its protective services plan budget.

~~{(5)}~~(4) Documentation of applicable interagency relations, interagency agreements, service referral mechanisms and the locus of responsibility for cases with multi-service needs. The documentation shall include assurances that the area agency on aging has taken steps to avoid unnecessary duplication of existing efforts by other agencies which may carry responsibilities for some protective services activities.

~~{(6)}~~(5) A description of local methods to be used to assure the privacy and confidentiality of older adults receiving protective services as required under §§ 15.101-15.105 (relating to confidentiality).

~~{(7)}~~(6) A list of the entities, public and private, identified by the area agency on aging as having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment.

(c) Public awareness. The area agency on aging shall conduct within its planning and service area an ongoing campaign designed to inform and educate older adults, professionals and the general public about the need for and availability of protective services under this chapter. This ongoing campaign shall utilize materials and methodology developed by the Department and supplemented by the area agency with relevant information on the local protective services system. Special emphasis shall be placed on informing the community on how to make reports and request services.

(d) Department approval required. An area agency on aging, which has not received the Department's approval for its protective services plan may not provide services under this chapter.

## Cross References



This section cited in 6 Pa. Code § 15.11 (relating to administrative functions and responsibilities of the Department); 6 Pa. Code § 15.102 (relating to maintenance of case {files} records); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

### **§ 15.13. Organization and structure of protective services functions.**

(a) General organization. The area agency on aging may provide protective services directly or under a purchase of services contract with another provider agency. In either case, the area agency on aging is responsible for the compliance of protective services activities with this chapter. The area agency on aging shall assure that the agency meets the minimum standards of organization and structure set forth in this section.

{(b)} General structure. The agency shall provide for some separation of protective services functions from the general functions of other agency service management and casework. The agency may provide this separation by establishing a separately identifiable protective services unit. If the agency chooses not to establish a separate, identifiable protective services unit, the agency shall identify a subset of the staff in the organizational unit which has responsibility for protective services and the agency shall assign protective services cases as provided in subsection (c).}

{(c)} (b) Protective services caseworkers.

(1) The agency shall designate as a protective services caseworker at least one caseworker who meets the minimum standards in §§ 15.121-15.127 (relating to staff training and experience standards).

(2) The agency shall assign protective services cases to designated protective services caseworkers by allocating the anticipated agency caseload in a manner consistent with the agency's plan for caseload distribution.

(3) The agency's plan for caseload distribution shall be described in the agency's protective services plan and shall include the following specific information:

(i) The rationale for the proposed caseload distribution.

(ii) How the subset of workers will be defined and selected, including an estimate of the anticipated caseload size to be assigned to each designated protective services caseworker.

(iii) How the cases within a designated protective services caseworker's caseload will be prioritized.

(iv) How that prioritization system will be maintained.

(v) How the agency will develop and maintain the necessary specialized expertise required to fulfill protective services responsibilities.

~~(4)~~ (4) The agency may not designate as a protective services caseworker an area agency on aging ombudsman or a caseworker under

the Department's Long Term Care Assessment and Management Program (LAMP). }

~~{ (5) }~~ ~~(4)~~ The protective services caseload assigned to a protective services caseworker may not be planned to exceed 30 ongoing protective services cases. {If the agency wishes to assign protective services cases to a protective services caseworker who also has other responsibilities, the agency shall set forth in its plan how it will assure that the caseworker's overall caseload is adjusted for the increased intensity of workload imposed by performing protective services functions.}

~~{ (6) }~~ ~~(5)~~ The case assignment system of the agency shall encourage the appropriate transfer of cases into and out of protective services caseloads as provided under § 15.96 (relating to termination of protective services).

~~{(d)}~~ (c) Other staff. The immediate supervisor of a protective services caseworker {is permitted to discharge nonprotective service duties. The supervisor} is required to be trained as set forth in §§ 15.121-15.127. {The supervisor may not be responsible for direct supervision of more than eight full-time protective services caseworkers.} An intake worker of the agency is permitted to discharge nonprotective service duties. An intake worker who receives a report of the need for protective services shall receive training as set forth in §§ 15.121-15.127.

~~{(e)}~~ (d) Conflict of interest. The area agency on aging shall describe in its protective services plan the steps it will take to avoid or minimize the potential of a conflict of interest between the investigative and service delivery functions in the protective services caseload. The description shall identify points in the organization and structure of protective services delivery where a potential conflict of interest may exist and explain the specific organizational responses which the area agency on aging will make to avoid or minimize that potential. The responses may include provisions for assuring some separation between the investigative and service delivery functions. The description shall also include proposed steps for addressing an actual conflict of interest if one arises. Nothing in this chapter constitutes an absolute bar to an area agency from delivering protective services and other area agency on aging services {themselves} itself or through the same provider solely because of the potential existence of a conflict of interest.

~~{(f)}~~ (e) Depth of agency capacity. The agency shall require sufficient staff of all categories to be trained under §§ 15.121-15.127 to insure that routine staff absences will not compromise the agency's ability to fulfill its responsibilities under the act. Trained standby staff members shall be available to provide protective services as required, but are not required to be regularly assigned to protective services duties.

## Cross References

This section cited in 6 Pa. Code § 15.2 (relating to definitions); and 6 Pa. Code § 15.12 (relating to administrative functions and responsibilities of area agencies on aging).

## **REPORTING SUSPECTED ABUSE, NEGLECT, ABANDONMENT OR EXPLOITATION**

### **§ 15.21. General reporting provisions.**

~~(a)~~ A person who has reasonable cause to believe that an older adult needs protective services may report this to the local provider of protective services. An area agency on aging shall publicize, on an ongoing basis, the name, address and phone number of the agency where reports are to be made.

Where applicable, reports shall comply with the provisions of Sections 15.141 - 15.147.

~~(b) No older adult will be found to be abused or neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care. If these factors do result in a finding that the older adult is in need of protective services, the older adult or guardian must provide consent before services can be provided to reduce or remove the need for protective services, except in those cases involving emergency involuntary intervention.~~

### **§ 15.22. Safeguards for those who make or receive reports.**

(a) Protection from retaliation. Under the act, a person or entity who takes discriminatory, retaliatory or disciplinary action against an employee or other person who makes a report, against a person who cooperates with the agency or the Department to provide testimony or other information about a report, or against a victim of abuse, commits a violation of the act. The person who takes the discriminatory, retaliatory or disciplinary action is subject to a civil lawsuit by the person who made the report, the victim of abuse named in the report, or the person who cooperated with the agency or the Department. If the court which hears the lawsuit decides in favor of the plaintiff, the plaintiff shall recover triple compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater, from the person or entity which committed the violation.

(b) Immunity from liability. As provided under the act, a person who participates in the making of a report or completion of an investigation or who provides testimony in an administrative or judicial proceeding arising out of a report shall be immune from civil or criminal liability because of these actions unless the person acted in bad faith or with malicious purpose. The act does

not extend this immunity to liability for acts of abuse, neglect, exploitation or abandonment, even if the acts are the subject of the report or testimony.

(c) Intimidation; Penalty. Any person, including the victim, with knowledge sufficient to justify making a report or cooperating with the agency, including possibly providing testimony in any administrative or judicial proceeding, shall be free from any intimidation by an employer or by any other person or entity. Any person who violates this subsection is subject to civil lawsuit by the person intimidated or the victim wherein the person intimidated or the victim shall recover treble compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater.

(d) **THE ADMINISTRATOR OF A FACILITY SHALL POST NOTICES AND USE OTHER APPROPRIATE MEANS TO NOTIFY EMPLOYEES, RESIDENTS, AND OTHER INDIVIDUALS OF PROTECTIONS AND OBLIGATIONS UNDER THE ACT, AND KEEP THEM INFORMED OF SUCH PROTECTIONS AND OBLIGATIONS.**

### **§ 15.23. Receiving reports; general agency responsibility.**

(a) **Twenty-four hour capability.** The agency shall be capable of receiving reports of older adults in need of protective services 24 hours a day, 7 days a week-including holidays. This capability may include the use of a local emergency response system or a crisis intervention agency.

(b) **Accessibility of professional staff.** Regardless of the arrangements made by the agency to receive reports outside the normal business hours of the agency, the agency shall provide 24 hours a day, 7 days a week - including holidays-accessibility to a protective services caseworker by a person receiving reports so that referrals required under § 15.26(b) (relating to screening and referral of reports received) may be made for immediate attention. If this accessibility is provided by means of telephone, telephone paging device or other alternatives to direct physical presence, the protective services caseworker shall be capable of returning the call within 30 minutes.

(c) **Toll-free public telephone access.** To facilitate reporting of older adults in need of protective services, the agency shall provide toll-free telephone access to persons residing in the planning and service area served by the agency. If possible, the agency shall utilize the same telephone number everywhere in the planning and service area at all times. This number shall be extensively publicized throughout the planning and service area with special emphasis on older adults and persons likely to be in contact with victims or perpetrators of abuse, neglect, exploitation and abandonment.

(d) **Reports from outside the planning and service area.** The agency shall receive all reports made regardless of their place of origin or the location in this Commonwealth of the older adult in need of protective services. If the older adult who is the subject of a report does not reside in the planning and service area of the agency or, at that time, is not in the planning and service area, the

agency shall notify the agency which provides protective services in the planning and service area where the older adult {can be} is located and relay to that agency the information received in the report.

### **Cross References**

This section cited in 6 Pa. Code § 15.2 (relating to definitions); 6 Pa. Code § 15-26 (relating to screening and referral of reports received); 6 Pa. Code § 15.41 (relating to reports required to be investigated); 6 Pa. Code § 15.44 (relating to resolution of substantiated reports); 6 Pa. Code § 15.105 (relating to limited access to records and disclosure of information); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§ 15.24. Receiving reports; agency intake process.**

(a) Personnel who may receive reports. A report shall be received only by persons who have received training on the minimum requirements and procedures for receiving, recording, screening and referring reports under § 15.124 (relating to protective services intake training curriculum). When the agency uses an answering service to receive calls from persons reporting a need for protective services, the agency shall have one of the following options:

(1) To provide the training for intake workers required under § 15.124 to appropriate staff of the answering service organization.

(2) To provide that all calls are forwarded directly to designated protective services intake workers or caseworkers of the agency for completion of a Report of Need form.

(b) Anonymity for reporters. A person who reports an older adult in need of protective services may remain anonymous, if desired. In an attempt to secure the reporter's name if additional information or assistance is needed for investigation or service provision, a person who receives a report shall inform an anonymous reporter of the statutory protection from retaliation and liability.

#### **§ 15.25. Report form and content.**

(a) Standardized {reports} forms. An initial report received shall be committed to writing on the standardized report form required by the Department. Information subsequently obtained through investigations may be reported on other forms or sheets of paper for inclusion in the case record.

(b) Handling oral reports. A report may be received in writing or orally. A report received orally shall be committed immediately to writing on the standardized form.

(c) **Minimum contents.** The person receiving a report shall make every effort to obtain information necessary to complete the standardized report form. At a minimum, the completed report shall contain the following information:

- (1) The date and time of the report.
- (2) The name, address and phone number of the person making the report, unless withheld.
- (3) The name, address and, if available, age and phone number of the person reported to need protective services.
- (4) The nature of the incident which precipitated the report.
- (5) The nature and extent of the need for protective services. Indicate if the person is in a life threatening situation.
- (6) The physical and mental status of the person in need, to the extent obtainable.

**§ 15.26. Screening and referral of reports received.**

(a) **Screening.** A person **MEETING QUALIFICATIONS SET FORTH AT §15.121(c)(3)** who receives a report shall screen the report during and immediately following receipt of the report to assign it to one of the following referral categories:

- (1) Emergency.
- (2) Priority.
- (3) Nonpriority.
- (4) Another planning and service area.
- (5) No need for protective services.

(b) **Referral categories and actions.**

- (1) **Emergency.** A report placed in this category requires immediate attention because specific details in the report indicate the possibility that the older person **ADULT** reported to need protective services is at imminent risk of death or serious physical harm. The person receiving an emergency report shall immediately contact a protective services caseworker designated under § 15.23(b) (relating to receiving reports; general agency responsibility) and provide that caseworker with the information contained in the report.
- (2) **Priority.** A report placed in this category contains details which clearly suggest that the need for protective services is serious enough to require early intervention. The person receiving a priority report shall immediately contact a protective services caseworker designated under § 15.23(b) and provide that caseworker with the information in the report.
- (3) **Nonpriority.** A report shall be placed in this category when it does not appropriately fall within the emergency or priority categories and, therefore, does not require immediate attention by the agency. A report in this category shall be referred to a protective services caseworker of the agency within the normal business hours of the agency's current or next

day of business under the agency's established procedures for referring these reports.

(4) Another planning and service area. A report which is covered under § 15.23(d) shall be placed in this category. It shall be referred to the agency which has the designated responsibility for protective services in the planning and service area in which the older ~~person~~ **ADULT** reported to need protective services is located at the time of the report. A report in this category will also meet the criteria for placement in one of the other categories in this subsection. The provisions for referral for the other category shall apply to a referral to another planning and service area.

(5) No need for protective services.

(i) A report shall be placed in this category when the person reported to be in need of protective services ~~{does not}~~ meets one or more of the following criteria:

(A) Is ~~{at least}~~ less than 60 years old.

(B) ~~{Cannot}~~ Has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health, as set forth in Section 15.2, definition of an older adult in need of protective services.

(C) Has ~~{no}~~ a responsible caretaker at the time of the report.

(D) Is not at imminent risk of danger to his person or property.

(ii) A report in this category shall be referred to a protective services caseworker of the agency within the normal business hours of the agency's current or next day of business. The protective services caseworker shall review the details of the report and take whatever steps necessary to confirm or reject the categorization of no need for protective services. If the caseworker confirms the screening categorization, appropriate referrals shall be made to the area agency on aging ~~{service}~~ care management system or, if concerning an adult under 60 years of age, to another community agency. If the caseworker rejects the categorization, the report shall be placed in the appropriate category and be handled accordingly.

(iii) A report shall not be placed in this category due to the temporary relocation of the victim to a safe environment, such as a hospital or emergency shelter, from which the victim will be released to return to the original abusive situation or to a new location which has not yet been determined to be safe.

### **Cross References**

This section cited in 6 Pa. Code § 15.23 (relating to receiving reports; general agency responsibility); 6 Pa. Code § 15.27 (relating to handling of completed reports); and 6 Pa. Code § 15.41 (relating to reports required to be investigated).

**§ 15.27. Handling of completed reports.**

(a) Reports to be signed. Completed report forms shall be signed by the person who received the report.

(b) Appropriate routing of reports. A completed report form shall be promptly routed to appropriate staff of the agency under § 15.26(b) (relating to screening and referral of reports received) and, if involving a state-licensed facility, SUFFICIENT INFORMATION TO BEGIN AN INVESTIGATION SHALL BE provided to the appropriate state licensing agency, and shall be handled in a manner which safeguards the confidentiality of information contained in the report. Sections 15.103 and 15.104 (relating to responsibilities of staff with access to confidential information; and penalties for violation of confidentiality provisions) also apply to staff of an emergency response agency under contract with the agency to receive reports during times when the agency is not open for business.

**INVESTIGATING REPORTS OF NEED FOR  
PROTECTIVE SERVICES**

**§ 15.41. Reports required to be investigated.**

(a) General. The agency shall provide for an investigation of a report received under §§15.23 (relating to receiving reports; general agency responsibility) and referred under § 15.26 (relating to screening and referral of reports received) to determine if the report can be substantiated and, if so, immediate steps that are necessary to remove or reduce an imminent risk to person or property. The investigation shall be initiated within 72 hours following the receipt of a report or sooner as provided under § 15.42 (relating to standards for initiating and conducting investigations) and include sufficient collateral information provided by interviews, documents, reports or other methods to determine if the older adult is in need of protective services.

Where applicable, reports and investigations shall comply with Sections 15.141 - 15.147 WHICH MANDATE THAT REPORTS INVOLVING VICTIMS AGED 60 OR OLDER SHALL BE INVESTIGATED BY THE AGENCY WHILE THOSE INVOLVING VICTIMS UNDER AGE 60 SHALL BE REFERRED FOR INVESTIGATION TO THE STATE AGENCY WHICH LICENSED THE FACILITY.

(b) Trained and identified investigators. Only a person who has completed the minimum training required for protective services caseworkers by the Department under § 15.121-15.127 (relating to staff training and experience standards) may conduct investigations under this section. When, for reasons



unexpected and beyond the agency's control, a trained staff person is not available to conduct investigations, the agency shall notify the Department and seek the Department's approval for its proposed plan for carrying out its investigation responsibilities under this section. The agency shall provide each investigator with official credentials which document the identity of the investigator and the legal authority to implement provisions of this chapter.

(c) Agency responsibility. The agency is responsible for assuring that an investigation under this section can be conducted whenever circumstances require it. This responsibility includes the provision of standby capability for use if the agency's regularly assigned staff is not available.

### **Cross References**

This section cited in 6 Pa. Code § 15.12 (relating to administrative functions and responsibilities of area agencies on aging); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§15.42. Standards for initiating and conducting investigations.**

(a) Requirements by report category.

(1) Emergency report.

(i) The investigation of a report categorized as emergency shall be initiated immediately following the referral of the report. The ~~investigator~~ **CASEWORKER** shall make every attempt to ensure the immediate safety of the older adult and to conduct a face to face visit as soon as possible. The agency shall assure that reasonable attempts will be made to conduct a face to face visit within 24 hours after the report is received.

(ii) When, after reasonable efforts to gain access to the older adult, the ~~investigator~~ **CASEWORKER** is denied access, the ~~investigator~~ **CASEWORKER** shall document the efforts made and take action, as appropriate, under §§ 15.61 or 15.71 (relating to access to persons; and involuntary intervention by emergency court order).

(2) Priority report. The investigation of a report categorized as priority shall be initiated as soon as possible. The agency shall assure that reasonable attempts to initiate the investigation will be made within 24 hours after the report is received. The investigation of a priority report is initiated only by contact with the older adult reported to need protective services. The ~~agency's investigator~~ **CASEWORKER** shall make every attempt to visit with the older adult face to face within the 24 hours provided. When, after reasonable efforts to gain access to the older adult, the ~~investigator~~ **CASEWORKER** is denied access, the ~~investigator~~ **CASEWORKER** shall document the efforts made and take action, as appropriate, under §§ 15.61 or 15.71.

(3) Nonpriority report.

(i) The investigation of a report categorized as nonpriority shall be initiated in a timely manner but never later than 72 hours after the report was received. At the discretion of the agency, the initiation of an investigation of a nonpriority report shall include a visit to the older adult reported to need protective services when details in the report indicate a need to see and talk with the older adult face to face in order to secure or verify facts essential to the ongoing investigation.

(ii) The investigation of a report categorized as nonpriority shall include at least one visit to the older adult reported to need protective services at an appropriate point in the course of the investigation. Every attempt shall be made to visit with the older adult face to face. When, after reasonable efforts to gain access to the older adult, the investigator **CASEWORKER** is denied access, the investigator **CASEWORKER** shall document the efforts made and, when appropriate, take action under §§ 15.61 or 15.71.

(4) No need report. The investigation of a report categorized as no need for protective services shall consist of the protective services caseworker's review of the report categorization. If the caseworker agrees with the initial categorization, appropriate referrals shall be made within 72 hours after the report was received, to the area agency on aging service management system or, if concerning an adult under 60 years of age to another community agency, if available. If the caseworker does not agree with the initial categorization, the report shall be placed in another category in this subsection and addressed under the applicable provisions for investigating a report in that category.

(b) Reports involving county or area agency on aging employees. If the agency is required to investigate a report which alleges that abuse, neglect, exploitation or abandonment has been perpetrated by an employee of the county, the area agency on aging or its subcontractor, the agency shall notify the Department as early as possible during the current or next day of normal business hours. The notification shall be made by phone to a person designated by the Department and shall include the pertinent details of the report. A copy of the completed report of need shall be immediately forwarded by mail to the Department. Copies of written records of investigative activities shall also be forwarded to the Department for review. The Department reserves the right to intervene in the agency's investigation of a report under this subsection if it is determined appropriate to assure a fully objective investigation.

(c) In the event that the Department determines that there may be interference with the course of any AN AGENCY IS UNABLE TO CONDUCT, OR HAS NOT CONDUCTED, WHAT THE DEPARTMENT CONSIDERS AN ACCEPTABLE protective services investigation, the Department reserves the

right to intervene in the agency's investigation, OR CONDUCT ITS OWN INVESTIGATION.

~~{(c)}~~ (d) Written records of investigative activities. The investigative activities, including home visits and other contacts with the older adult or other persons or organizations needed to facilitate the investigation, shall be documented in writing and placed in the case record. Documentation may include dated and signed photographs and statements related to suspected abuse.

~~{(d)}~~ (e) Completing investigations of reports. The agency shall make all reasonable efforts to complete an investigation of a report of need for protective services under this section as soon as possible and, in cases of abuse and neglect, at least within 20 days of the receipt of the report. ~~{The investigation of the report is completed only when the report has been determined to be substantiated or unsubstantiated and, if substantiated, after necessary steps have been taken to reduce an imminent risk to the older adult's person or property.}~~

### Cross References

This section cited in 6 Pa. Code § 15.41 (relating to reports required to be investigated); 6 Pa. Code § 15.45 (relating to situations involving State-licensed facilities); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

### § 15.43. Resolution of unsubstantiated reports.

(a) When, upon investigation of a report, it is determined that there is no need for protective services, the report shall be classified as ~~{an}~~ unsubstantiated ~~{report}~~.

(b) A case opened by an unsubstantiated report shall be closed and information identifying the person who made the report and the alleged perpetrator of abuse, if applicable, shall be immediately deleted from the case record~~{s in the case file}~~.

(c) For the purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, the name of the person reported to need protective services and other information relevant to the circumstances which led to the report may be maintained for a period of 6 months in a separate locked file accessible only to limited authorized staff for review when it is necessary to establish that a previous report was made. At the end of 6 months, case ~~{files}~~ records maintained under this subsection shall be destroyed unless additional reports lead to their being reopened.

(d) When an older adult who is the subject of an unsubstantiated report has needs for other services, the older adult shall be informed of the availability of

services through the area agency on aging service management system or another appropriate community agency.

### **Cross References**

This section cited in 6 Pa. Code § 15.102 (relating to maintenance of case {files} records); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§ 15.44. Resolution of substantiated reports.**

(a) When an investigation confirms the details of a report made under § 15.23 (relating to receiving reports; general agency responsibility) or determines that the subject of the report is an older adult in need of protective services, the report shall be classified as {a} substantiated {report}.

(b) The agency shall provide for a timely {client} assessment of the need for protective services by the older adult who is the subject of a substantiated report if the older adult gives informed consent to an assessment. If an older adult found to need protective services does not consent to an {client} assessment, the agency may seek, when appropriate, a court order under § 15.61 (relating to access to persons).

(c) On the basis of the {completed client} assessment, the agency shall provide for the development of a service plan of recommended actions which reflect the least restrictive alternatives for removing or reducing imminent risk to person or property and promote ~~client~~ self-determination and continuity of care being provided at the time of the agency's intervention. The service plan may include, when appropriate, the pursuit of civil or criminal remedies.

(d) Developed service plans shall be put into effect under § 15.94 (relating to service delivery).

### **Cross References**

This section cited in 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§ 15.45. Situations involving State-licensed facilities.**

(a) General. The following apply to investigations of reports concerning older adults who reside in State-licensed facilities:

(1) The agency continues to maintain its general responsibility for protective services when a licensing agency assumes, or is assigned, the role of investigating a report received by the agency.

(2) The response times provided in § 15.42(a) (relating to standards for initiating and conducting investigations) for initiating investigations of reports apply to initiating investigations of reports under this section. The initiation of the investigation under subsection (c) is accomplished by the referral of the report to the appropriate administrative office.

(3) The supervisor of a protective services caseworker who initiates an investigation under this section shall be informed during the current day or next day of normal agency operating hours concerning the report and shall consult frequently with the caseworker about the progress and findings of the investigation.

(4) The agency shall notify the area agency on aging ombudsman of reports and investigations concerning older adults residing in State licensed facilities for which the area agency on aging provides ombudsman services. In situations that ombudsman services **AS ESTABLISHED BY THE OLDER AMERICANS ACT, AS AMENDED (1992), PUB. L. 100.175. DEPARTMENT OF AGING REAUTHORIZATION 71 P.S. §581-1 ET SEQ.** are determined to be appropriate, the agency shall request those services from the ombudsman.

(b) Agency coordination with the licensing agency.

(1) Except as provided under subsection (c), the agency shall notify the appropriate licensing agency under procedures developed by the Department, in consultation with the licensing agency, Notification shall be made immediately using the licensing agency's after-hours reporting phone number, if one exists; if not, within 24 hours of the initiation of the investigation or before the close of business during the next day of the licensing agency's normal hours of business, that an investigation has been initiated in a facility licensed by the State licensing agency. The notification shall identify the facility, the older adult and the nature of the report.

(2) During the course of the investigation the agency shall coordinate its investigative activities and findings with the licensing agency to avoid duplication of effort and to foster jointly developed remedies to situations requiring protective services intervention.

(c) State-operated mental health and mental retardation facilities. If the agency receives a report concerning an older adult who resides in a facility operated by the Department of Public Welfare under its Office of Mental Health or its Office of Mental Retardation, the agency shall provide for an investigation of that report as follows:

(1) The protective services caseworker or investigator to whom the report is referred shall initiate the investigation by referring the report to the appropriate administrative office under procedures jointly developed by the Department and the Department of Public Welfare for investigation under their patient rights program. The jointly developed procedures provide for specific points of contact between the agency and the Department of

Public Welfare and establish a system which assures that the agency will be kept fully informed of the activities, findings and results of investigations through written records of the investigative activities and remedial actions as they develop.

(2) The agency shall closely monitor an investigation referred under paragraph (1) to determine that the investigation is effectively implemented and that appropriate remedies have been effected to correct the situation which led to the making of the report. The referral of an investigation to the Office of Mental Health or Office of Mental Retardation does not relieve the agency of its mandated authority and responsibility to provide protective services. If the agency determines that an older adult's need for protective services is not adequately being met under paragraph (1), the agency shall intervene and conduct its own investigation.

### **Cross References**

This section cited in 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

### **§ 15.46. Law enforcement agencies as available resources.**

(a) General. This chapter may not be interpreted to deny an older adult who needs protective services access to the normal protections available from the police and other law enforcement agencies as appropriate.

(b) Interagency coordination. To facilitate the cooperation of law enforcement officials with the provision of protective services when necessary, the agency shall fulfill the following minimum coordinating activities:

(1) Achieve specific coordination objectives with:

- (i) Police departments in the planning and service area.
- (ii) The district attorney's office.
- (iii) State Police field installations for the planning and service area.
- (iv) Officials of the court system.
- (v) Legal assistance agencies.

(2) Establish designated points of contact with law enforcement agencies to facilitate access when necessary.

(3) Establish basic procedures to be followed when the agency makes reports of criminal conduct or requests for special assistance to law enforcement agencies and when the law enforcement agencies report the need for protective services to the agency.

(4) Provide for the necessary exchange of information about protective services for older adults and the role of law enforcement in the provision of those services.

(c) The role of law enforcement in protective services. The agency's protective services workers shall receive training as required under §§ 15.121-15.127

(relating to staff training and experience standards) in applicable sections of the criminal code and the role of law enforcement officials when criminal conduct is encountered or suspected.

(d) Legal options information. The agency shall take steps to inform older adults who need protective services of the various legal options, civil or criminal, available through appropriate agencies as possible remedies to situations of risk to person or property. If an older adult reported to need protective services requests the agency to contact a law enforcement agency, the agency shall respond to that request in an appropriate and timely manner.

(e) Police assistance to protective services worker. A protective services worker may, as appropriate, request the assistance of a police officer when investigating a report which indicates a possible danger to the worker. As provided under § 15.74 (relating to forcible entry), forcible entry may be made only by a police officer or State Trooper accompanied by a representative of the agency after obtaining a court order.

(f) Simultaneous investigation. {If an investigation of a report results in a police investigation} In the event that both a report of need for protective services and a police report have been filed, the protective services investigation shall continue simultaneously with the police investigation. The agency may take steps to coordinate its investigation with the police investigation and the investigation of the State Licensing Agency and shall make available as provided under § 15.105 (relating to limited access to records and disclosure of information) relevant information from the case record.

(g) Report of death. If the death of an older adult reported to need protective services occurs prior to the agency's investigation of the report, during the investigation or at any time prior to the closure of the protective services case, when there is some nexus between the death and the need for protective services, the agency shall immediately report that death to the police and the county coroner.

### **Cross References**

This section cited in 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

### **§ 15.47. Emergency medical services as available resources.**

This chapter may not be interpreted to deny an older adult who needs protective services access to the normal protections of the emergency medical services that would be available to anyone, regardless of age, in similar circumstances.

## Cross References

This section cited in 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

## AGENCY ACCESS TO PERSONS AND RECORDS

### § 15.61. Access to persons.

(a) Access assured by law. The agency shall have access to older persons **ADULTS** who have been reported to need protective services to:

(1) Investigate reports received under this chapter.

(2) Assess {client} the older person's **ADULT'S** need and develop a service plan for addressing determined needs.

(3) Provide for the delivery of services by the agency or other service provider arranged for under the service plan developed by the agency.

(b) Access to persons. Except in emergency or priority protective services cases, access to persons shall be between the hours of 7 a.m. and 9 p.m.

(c) When access is denied. If the agency is denied access to an older adult reported to need protective services and access is necessary to complete the investigation or the {client} assessment and service plan, or the delivery of needed services to prevent further abuse, neglect, exploitation or abandonment of the older adult reported to need protective services, the protective services caseworker shall make reasonable efforts to clearly inform the party denying access of the legal authority for access in section {7} 304 of the act (35 P. S. § {10217} 10225.304) and the available recourse through a court order. If the party continues to deny the agency access to the older adult, the agency may petition the court for an order to require the appropriate access when one of the following conditions applies:

(1) The caretaker or a third party has interfered with the completion of the investigation, the {client} assessment and service plan or the delivery of services.

(2) The agency can demonstrate that the older adult reported to need protective services is denying access because of coercion, extortion or justifiable fear of future abuse, neglect, or exploitation or abandonment.

## Cross References

This section cited in 6 Pa. Code § 15.42 (relating to standards for initiating and conducting investigations); 6 Pa. Code § 15.44 (relating to resolution of substantiated reports); 6 Pa. Code § 15.63 (relating to access by consent); 6 Pa.



Code § 15.92 (relating to client needs assessment); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

### **§ 15.62. Access to records.**

(a) Access assured by law. The agency shall have access to records relevant to:

(1) Investigations of reports received under this chapter.

(2) The assessment of client need and the development of a service plan when an older adult's need for protective services has been or is being established.

(3) The delivery of services arranged for under the service plan developed by the agency to respond to an older adult's assessed need for specific services.

(b) Access to records. Except in emergency or priority protective services cases, access to records shall be between the hours of 7 a.m. and 9 p.m.

(c) When access to records is denied. If the agency is denied access to records necessary for the completion of a proper investigation of a report or an {client} assessment and service plan, or the delivery of needed services to prevent further abuse, neglect, exploitation or abandonment of the older adult reported to need protective services, the protective services caseworker shall clearly inform the party denying access to the records of the legal authority for access as set forth in section {7} 304 of the act (35 P.S. § {10217} 10225.304) by the agency and the available recourse through a court order. If the party continues to deny access to relevant records, the agency may petition the court of common pleas for an order requiring the appropriate access when one of the following conditions applies:

(1) The older adult has provided written consent for confidential records to be disclosed and the keeper of the records denies access.

(2) The agency is able to demonstrate that the older adult is denying access to records because of incompetence, coercion, extortion or justifiable fear of future abuse, neglect, exploitation or abandonment.

### **Cross References**

This section cited in 6 Pa. Code § 15.63 (relating to access by consent); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

### **§ 15.63. Access by consent.**

The agency's access to confidential records held by other agencies or individuals and the agency's access to an older adult reported to need protective services shall require the consent of the older adult or a court-

appointed guardian except as provided under §§ 15.61, 15.62 or 15.71 (relating to access to persons; access to records; or involuntary intervention by emergency court order).

### **Cross References**

This section cited in 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

## **EMERGENCY INTERVENTION**

### **§ 15.71. Involuntary intervention by emergency court order.**

(a) **General.** When there is clear and convincing evidence that, if protective services are not provided, the ~~person~~ **OLDER ADULT** to be protected is at imminent risk of death or serious physical harm, the agency may petition the court for an emergency order to provide the necessary services. The person to be protected shall be an older adult in need of protective services as defined in this chapter. The courts of common pleas of each judicial district shall ensure that a judge or district ~~{justice}~~ magistrate is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under this section whenever the agency determines that delay until normal court hours would significantly increase the danger the older adult faces. Only the agency, through its official representative, may bring a petition for involuntary intervention by emergency court order.

(b) **Legal representation.** When the agency petitions the court for emergency involuntary intervention, the agency shall make sure the older adult has the opportunity to be represented by counsel at all stages of the proceedings. If the older adult has an attorney known to the agency, the agency shall attempt to notify that attorney before it files a petition for emergency involuntary intervention. If the agency has no knowledge of an attorney who represents the older adult, the agency shall attempt to notify the legal services provider identified by the area agency on aging in its protective services plan to provide legal assistance under this chapter. The notification shall contain enough information about the risk to the older adult and the proposed remedy to enable counsel to determine if representation is necessary at the emergency hearing. Notification to counsel shall include a copy of the petition with the affidavits attached as well as the time, date and place of presentation of the petition except when § 15.72(b) (relating to the petition) applies.

### **Cross References**

This section cited in 6 Pa. Code § 15.12 (relating to administrative functions and responsibilities of area agencies on aging); 6 Pa. Code § 15.42 (relating to standards for initiating and conducting investigations); 6 Pa. Code § 15.63 (relating to access by consent); 6 Pa. Code § 15.73 (relating to court appointed counsel); 6 Pa. Code § 15.81 (relating to rights of protective services clients); 6 Pa. Code § 15.91 (relating to general); 6 Pa. Code § 15.92 (relating to {client needs} assessment); 6 Pa. Code § 15.93 (relating to service plan); 6 Pa. Code § 15.94 (relating to service delivery); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

### **§ 15.72. The petition.**

(a) **Contents.** The petition which the agency files for an emergency court order of involuntary intervention shall state the following information:

(1) The name, age and physical description of the older adult insofar as these facts have been ascertained.

(2) The address or other location where the older adult can be found.

(3) The name and relationship of a guardian, caregiver or other responsible party residing with the older adult, when applicable.

(4) A description of how the older adult is at imminent risk of death or serious physical harm.

(5) The physical and mental status of the older adult, to the extent known.

(6) The attempts made by the agency to obtain the informed consent of the older adult, or the older adult's court appointed guardian, when applicable, to the provision of protective services by the agency.

(7) The specific short-term, least restrictive, involuntary protective services which the agency is petitioning the court for an order to provide.

(8) A description of how the proposed services would remedy the situation or condition which presents an imminent risk of death or serious physical harm.

(9) A statement showing why the proposed services are not overbroad in extent or duration and why less restrictive alternatives as to their extent or duration are not adequate.

(10) A statement that other voluntary protective services have been offered, attempted or have failed to remedy the situation.

(11) A statement that reasonable efforts have been made to communicate with the older adult in a language the older adult understands in the case of an older adult who is hearing impaired or who does not understand the English language.

(12) Other relevant information deemed appropriate by the agency.

(b) **Oral petitions.** Nothing in this chapter precludes or prohibits the oral presentation of a petition for emergency involuntary intervention. When oral presentation is warranted, the written petition shall be prepared, filed and

served on the older adult and counsel within 24 hours of the entry of the emergency order or on the next business day, when the 24-hour period would fall on a weekend or legal holiday.

(c) Affidavits. Allegations which are not based upon personal knowledge shall be supported by affidavits provided by persons having that knowledge. The affidavits shall be attached to the petition.

(d) Emergency order duration. In the petition, the agency shall request an emergency order of a specific duration which may not exceed 72 hours from the time the order is granted. The agency shall request the court of common pleas to hold a hearing when the initial emergency order expires to review the need for an additional emergency court order or other continued court and protective services involvement, or both. The issuance of an emergency order is not evidence of the competency or incompetency of the older adult.

### **Cross References**

This section cited in 6 Pa. Code § 15.71 (relating to involuntary intervention by emergency court order); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§ 15.73. Court appointed counsel.**

The act requires that an emergency order under this section provide that the older adult has the right to legal counsel. If no representation for the older adult is present at the time the emergency order is requested, the agency shall inform the court of its efforts to notify counsel under § 15.71(b) (relating to involuntary intervention by emergency court order). If the older adult is unable to provide for counsel, the court will appoint counsel as authorized by the act at the time the emergency order is entered to ensure that legal representation will be provided at the time of the emergency protective services review hearing.

### **Cross References**

This section cited in 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§ 15.74. Forcible entry.**

When the agency requests a court order for forcible entry to the premises where an older adult at imminent risk of death or serious physical harm is located, the agency shall request the court to direct that a local or State police

officer carry out the forcible entry accompanied by a representative of the agency.

#### **Cross References**

This section cited in 6 Pa. Code § 15.46 (relating to law enforcement agencies as available resources); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§ 15.75. Health and safety requirements.**

The agency shall take reasonable steps to assure protection of the older adult's dependents and property while the older adult is receiving services under an emergency court order. The agency is not responsible for the actual provision of all needed services but shall coordinate professional linkage referrals and follow-up to assure that the needed services and protections are being provided and maintained.

#### **Cross References**

This section cited in 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§ 15.76. Documentation.**

The agency shall document in the case record emergency intervention actions it takes.

### **INDIVIDUAL RIGHTS OF PARTIES INVOLVED**

#### **§ 15.81. Rights of protective services clients.**

The agency shall observe the following minimum requirements to safeguard the rights of an older adult who is reported to need protective services:

(1) The agency shall discreetly notify the older ~~person~~ **ADULT** during the investigation that a report of need for protective services has been made and shall provide the person with a brief summary of the nature of the report. The protective services **CASE**worker performing the investigation shall determine when and how this notification is accomplished.

(2) If the older adult requests additional information contained in the {report} record, the agency shall provide the information subject to the

requirements in § 15.105 (relating to limited access to records and disclosure of information).

(3) A denial of services by the Department or an authorized agency under this chapter may be appealed under Chapter 3 (relating to fair hearings and appeals).

(4) Nothing in this chapter limits the rights of an older adult to file a petition under the Protection from Abuse Act (~~{35}~~ 23 P.S. §§ ~~{10181-10190}~~ 6101-6117).

(5) An older adult determined to need protective services has the right to refuse protective services except as provided under a court order. The agency shall obtain, when possible, the older adult's signed statement refusing protective services or document unsuccessful efforts to obtain a signed statement.

(6) An older adult has the right to legal counsel when the agency petitions the court for emergency or other orders to provide protective services without the older adult's consent. The act provides that if an older adult is unable to provide for counsel, counsel shall be appointed by the court. Under § 15.71 (relating to involuntary intervention by emergency court order), the agency is required to take steps to involve counsel when emergency petitions are filed.

(7) As provided under §§ 15.101-15.105 (relating to confidentiality), an older adult has the right to the confidentiality of information received and maintained by the agency in reports, investigations, service plans and other elements of a case record.

#### **§ 15.82. Rights of alleged abusers.**

An individual who , **AS A RESULT OF A PROTECTIVE SERVICES INVESTIGATION, IS DETERMINED** ~~is alleged in a protective services report~~ to be a perpetrator of the abuse, neglect, exploitation or abandonment of an older adult is entitled to the following if the report is substantiated by the agency:

(1) The agency shall notify the alleged perpetrator at the conclusion of the investigation of the report that allegations have been made and shall provide the alleged perpetrator with a brief summary of the allegations. (2) As provided under § 15.105 (relating to limited access to records and disclosure of information), the alleged perpetrator may request, and the agency shall provide, additional information contained in the report.

(3) An alleged perpetrator is entitled to file an appeal with the Department under 1 Pa. Code Part 11 (relating to general rules of administrative practice and procedure) to challenge the agency's finding resulting from the investigation of a report made under this chapter. The agency's finding is that information, after an investigation is concluded, which substantiated the need for protective services. The appeal process applicable to ~~clients~~ **OLDER ADULTS** under Chapter 3 (relating to fair hearings and appeals)

also applies to alleged perpetrators of abuse, neglect, exploitation or abandonment. This appeal shall be in writing to the Secretary and be postmarked within 30 days from the date of notification by the agency required under this section.

## PROVISION OF SERVICES

### § 15.91. General.

(a) **Protective Services.** Protective services are activities, resources and supports provided to older adults under the act subsequent to INITIATION OF an investigation to {detect,} prevent, reduce or eliminate abuse, neglect, exploitation and abandonment. Protective services activities include, but are not limited to, the following:

- (1) Administering protective services plans.
- (2) Receiving and maintaining records of reports of abuse.
- (3) Conducting investigations of reported abuse.
- (4) Conducting client assessments and developing service plans.
- (5) Petitioning the court.
- (6) Providing emergency involuntary intervention.
- (7) Arranging for available services needed to fulfill service plans, which may include, as appropriate, arranging for services for other household members in order to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult. A partial listing of the services which may be made available to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult is found at Section 15.93(c).
- (8) Purchasing, on a temporary basis, as provided under § 15.112 (relating to uses of funding authorized by the act) services determined by a service plan to be necessary to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult when the services are not available within the existing resources of the agency or other appropriate provider.

(b) **Availability of protective services.** The agency shall offer protective services under one or more of the following conditions:

- (1) An older adult requests the services.
- (2) Another interested person requests the services on behalf of an older adult.
- (3) If, after **INITIATION OF AN** investigation of a report, the agency determines the older adult needs the services.

(c) **Informed consent required.** The agency shall provide protective services only to ~~persons~~ **OLDER ADULTS** who give informed consent to the services. The consent shall be in writing when possible. If the ~~person~~ **OLDER ADULT**

does not consent or, if after consenting, withdraws the consent, protective services may not be provided unless the provision of the services is allowable as a ~~client~~ consent exemption.

(d) ~~Client~~ **Consent** exemptions. Protective services may be provided to older adults in need of protective services without ~~client~~ consent only in the following situations:

(1) When ordered by a court under section ~~{7}~~ 304 of the act (35 P. S. § ~~{10217}~~ 10225.304).

(2) When requested by an older ~~person's~~ **ADULT'S** court-appointed guardian.

(3) When provided under § 15.71 (relating to involuntary intervention by emergency court order).

(e) Interference with services. If a person interferes with the provision of services or interferes with the right of an older adult to consent to the provision of services, the agency may petition the court for an order enjoining the interference.

#### **§ 15.92. ~~{Client needs a}~~ Assessment.**

(a) When a report is substantiated by the agency, or if an {client} assessment is necessary to determine whether or not the report is substantiated, the agency shall, with the consent of the older adult, provide for a timely {client} assessment. If the older adult does not consent, the agency may apply §§ 15.61 or 15.71 (relating to access to persons; or involuntary intervention by emergency court order).

(b) The protective services caseworker shall make face-to-face contact with the older adult to evaluate and document information including, but not limited to, the following:

(1) Personal appearance.

(2) Physical environment.

(3) Physical health.

(4) Mental functioning.

(5) Activities of daily living.

(6) Social environment.

(7) Economic status-including eligibility for public and private entitlements or resources as defined under § 15.2 (relating to definitions).

(8) Nutrition.

(9) Recent experiences-losses, separations, major changes in relationships or environments.

(10) The need for a formal medical or psychiatric evaluation.

(c) The assessment shall be written and include, whenever possible, ~~client~~ **OLDER ADULT**-given information for each area of ~~client~~ functioning.



(d) The assessment shall be written so that the reader can determine which information came from the ~~client~~ **OLDER ADULT** and which constitutes the worker's judgment.

(e) The assessment shall be written in a standard format as required by the Department. Data entries shall be based on commonly accepted and defined nomenclature to make the data more usable across and within agencies and to ensure that ~~clients~~ **OLDER ADULTS** are evaluated uniformly according to the standardized definitions.

### **Cross References**

This section cited in 6 Pa. Code § 15.95 (relating to case management); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

### **§ 15.93. Service plan.**

(a) Upon completion of the {client needs} assessment and with the consent of the older adult, a service plan shall be prepared. The service plan shall be cooperatively developed by the agency staff, the older ~~person~~ **ADULT** or his appointed guardian, and other family members, if appropriate. Protective services may not be provided under the act to a ~~person~~ **AN OLDER ADULT** who does not consent to the services or who, having consented, withdraws consent, unless the services are ordered by a court, requested by a court-appointed guardian of the older adult or provided under § 15.71 (relating to involuntary intervention by emergency court order).

(b) The service plan shall be in writing and shall include a recommended course of action which utilizes the least restrictive alternative, encourages ~~client~~ self-determination and continuity of care. The recommended course of action may also include pursuit of civil or criminal remedies.

(c) The service plan shall describe the older adult's identified needs, the goals to be achieved, the specific services which will be used to support attainment of the goals and the procedures to be followed with regard to regular follow-up and assessment of ~~client~~ progress. Specific services which may be used to implement the service plan include, but are not limited to:

- (1) Medical evaluations.
- (2) Psychiatric or psychological evaluations.
- (3) Legal services.
- (4) Public or private entitlements or resources.
- (5) Financial management.
- (6) Personal or environmental safety.
- (7) Emergency shelter.
- (8) Transportation.
- (9) Home delivered meals.
- (10) Attendant care.

(11) Homemaker services.

(d) The service plan shall also address, if applicable, special needs of other members of the household unit as they may affect the older adult's need for protective services. The identification in a {service} ~~care~~ plan of service needs of other members of the older adult's household does not obligate the agency to pay the costs of the services.

### **Cross References**

This section cited in 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§ 15.94. Service delivery.**

(a) The agency shall, with the consent of the older adult, provide for implementation of the course of action recommended in the service plan. The implementation may be provided by direct provision of services by the agency, purchase of services from another agency, referral to another agency, provision of services by family and friends or a combination of these or other methods.

(b) Protective services may not be provided under the act to a ~~person~~ **AN OLDER ADULT** who does not consent to services or who, having consented, withdraws consent, unless the services are ordered by a court, requested by a guardian of the older adult or provided under § 15.71 (relating to involuntary intervention by emergency court order).

### **Cross References**

This section cited in 6 Pa. Code § 15.44 (relating to resolution of substantiated reports).

#### **§ 15.95. Case management.**

(a) Coordination of services. The protective services caseworker is responsible for coordination of sources of services being provided to the older adult who needs protective services. The caseworker shall also take reasonable steps to assure that services necessary to achieve the goals in the service plan are being provided.

(b) Case records. A separate record shall be established to contain information on protective services cases. The protective service case record on an older adult shall be separated from other records maintained by the agency on that older adult. Confidentiality of the protective services case record shall be maintained by the agency as set forth in §§ 15.101-15.105

(relating to confidentiality). The protective services case record includes, but is not limited to, the following:

- (1) The report of a need for protective services.
- (2) The record of investigation.
- (3) The written findings of the client assessment.
- (4) The service plan.
- (5) Notes of contact with the client **OLDER ADULT** and others involved with the case.
- (6) Court documents-for example, petitions, orders and the like.
- (7) Letters of notification-abused and abuser.

(c) Reassessment. Reassessment shall be done for protective service clients.

{(1) Reassessment shall be carried out within the time limits specified in the service plan. It shall be done at least every 30 days if continuous protective service intervention is being provided as part of the service plan.}

{(2)} (1) Reassessment shall be {comprehensive and involve the areas of client functioning listed under § 15.92 (relating to client-needs assessment) and} written in the standardized format {selected for the original assessment} established by the Department.

{(3)} (2) Reassessment shall be done before a protective serviceS client's case is terminated, {or if the level of client need has changed} transferred , or it is the agency's judgment that a reassessment is appropriate , OR THE OLDER ADULT'S CONDITION HAS CHANGED.

{(4) The reassessment shall be documented and followed by an updating of the service plan if changes occur in the client's needs, in goals to be achieved or in the pattern of service delivery.

(5) When services are being provided through the temporary purchase of services, the need for continuation of the services shall be discussed and efforts to provide the services through other resources described, as required under § 15.113 (relating to time limitation on service purchases).}

### **Cross References**

{This section cited in 6 Pa. Code § 15.113 (relating to time limitation on service purchases).}

### **§ 15.96. Termination of protective services.**

(a) The agency shall terminate protective services when the older adult is no longer "an older adult in need of protective services" under § 15.2 (relating to definitions).

(b) Except when the older adult withdraws consent to the delivery of protective services, the agency may terminate protective services in one of the following ways:

(1) By closing the case when no further service intervention is required by the {client} older adult.

(2) By closing the case when a court order for services has terminated and the {client} older adult does not consent to further service intervention.

(3) By transferring the {client} older adult to the service management system of the area agency.

(4) By transferring the {client} older adult to another appropriate agency.

(c) When the agency terminates protective services, the agency shall inform the older adult and, if applicable, responsible {caretakers} caregivers of this action and its rationale; ~~{~~ and shall attempt to secure a signed statement of understanding concerning the action. ~~}~~ When the agency transfers a protective services case, {T} the case record shall reflect the transfer of a client AN OLDER ADULT to another agency, the specific agency of referral and the acceptance of the referral by the other agency.

### **Cross References**

This section cited in 6 Pa. Code § 15.13 (relating to organization and structure of protective services functions).

## **CONFIDENTIALITY**

### **§ 15.101. General.**

Information contained in the agency's protective services case files, as defined under § 15.2 (relating to definitions), shall be considered confidential and shall be maintained under this chapter.

### **Cross References**

This section cited in 6 Pa. Code § 15.12 (relating to administrative functions and responsibilities of area agencies on aging); 6 Pa. Code § 15.81 (relating to rights of protective services clients); 6 Pa. Code § 15.95 (relating to case management); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

### **§ 15.102. Maintenance of case {files} records.**

- (a) Protective services case {files} records shall be kept, when not in use by authorized persons, in a locked container and separate from other agency files. The report, the record of investigation, notes of contact with the client **OLDER ADULT** and others involved with the case, court documents and letters of notification may not be transferred to, or reprinted for, other agency files. The {client} assessment and service plan may be transferred to other agency case files with assurance by the agency that a—client's **AN OLDER ADULT'S** complete protective services case record can be immediately produced.
- (b) When an individual case {file} record is removed from its storage location for use by an authorized person, the person shall sign for the {file} record according to sign-out procedures developed by the agency.
- (c) Except as provided under § 15.105 (relating to limited access to records and disclosure of information) only staff with direct responsibility for protective services functions may be authorized by the agency to have access to the protective services case {files} records. General access is restricted to protective services supervisors, protective services caseworkers and clerical staff assigned to type and maintain case records.
- (d) As provided under § 15.43 (relating to resolution of unsubstantiated reports), when the agency cannot substantiate a report of a need for protective services the case opened by the unsubstantiated report shall be closed and information identifying the person who made the report and the alleged perpetrator of abuse, if applicable, shall be immediately deleted from {records in} the case {file} record.
- (e) For the purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, the name of the person **OLDER ADULT** reported to be in need of protective services and other information relevant to the circumstances which led to the report may be maintained for a period of 6 months in a separate locked file accessible only to authorized staff for review when necessary to establish that a previous report was made. At the end of 6 months, case {files} records maintained under this subsection shall be destroyed unless additional reports lead to their being reopened.
- (f) The agency shall develop written procedures for the deletion or expungement of information in case {files} records and for the destruction of case {files} records so that unauthorized persons are not able to gain access to information from case {files} records. The procedures shall be submitted to the Department in the protective services plan required under § 15.12(b) (relating to administrative functions and responsibilities of area agencies on aging).

#### **Cross References**

This section cited in 6 Pa. Code § 15.12 (relating to administrative functions and responsibilities of area agencies on aging); 6 Pa. Code § 15.81 (relating to rights of protective services clients); 6 Pa. Code § 15.95 (relating to case management); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

**§ 15.103. Responsibilities of staff with access to confidential information.**

(a) The agency shall assure that staff with access to information contained, or to be contained, in a case {file} record are fully aware of the confidentiality provisions of this chapter and of the local agency.

(b) A staff person who is authorized to have access to information contained, or to be contained, in a case {file} record is required to take every possible step to safeguard the confidentiality of that information. This requirement extends to known information related to a case but not recorded in writing.

(c) A staff person who is to be authorized to have access to confidential information related to protective services cases shall sign a statement provided by the Department, assuring knowledge of applicable confidentiality requirements and the penalties for violating them.

**Cross References**

This section cited in 6 Pa. Code § 15.12 (relating to administrative functions and responsibilities of area agencies on aging); 6 Pa. Code § 15.27 (relating to handling of completed reports); 6 Pa. Code § 15.81 (relating to rights of protective services clients); 6 Pa. Code § 15.95 (relating to case management); 6 Pa. Code § 15.104 (relating to penalties for violation of confidentiality requirements); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

**§ 15.104. Penalties for violation of confidentiality requirements.**

(a) If a staff person who is authorized to have access to confidential information under this chapter is strongly suspected of violating the requirements in the signed confidentiality statement under § 15.103(c) (relating to responsibilities of staff with access to confidential information), that person shall be immediately suspended from protective services duties pending an investigation and determination of culpability.

(b) If a staff person who is authorized to have access to confidential information under this chapter is determined upon investigation to have violated the requirements in the signed confidentiality statement under § 15.103(c), that person shall be subject to the appropriate disciplinary action in the confidentiality statement.

**Cross References**

This section cited in 6 Pa. Code § 15.12 (relating to administrative functions and responsibilities of area agencies on aging); 6 Pa. Code § 15.27 (relating to handling of completed reports); 6 Pa. Code § 15.81 (relating to rights of protective services clients); 6 Pa. Code § 15.95 (relating to case management); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

#### **§ 15.105. Limited access to records and disclosure of information.**

Information in a protective services case {file} record may not be disclosed, except as provided in this section.

(1) Information may be disclosed to a court of competent jurisdiction {or }- under a court order. {Disclosure shall be made only to the court of common pleas.} The protective service agency shall disclose case {file} record information for the purpose of in camera review by the court.

(2) If an investigation by the agency results in a report of criminal conduct, law enforcement officials shall have access to relevant records maintained by the agency or the Department.

(3) In arranging specific services to effect service plans, the agency may disclose to appropriate service providers information necessary to initiate the delivery of services.

(4) A subject of a report , **A COURT-APPOINTED GUARDIAN OR AN ATTORNEY PROVIDING LEGAL SERVICES TO THE SUBJECT OF THE REPORT** made under § 15.23 (relating to receiving reports; general agency responsibility) may receive, upon written request, information contained in the report except that prohibited from being disclosed by paragraph (5).

(5) The release of information that would identify the person who made a report of suspected abuse, neglect, exploitation or abandonment or a person who cooperated in a subsequent investigation, is prohibited unless the Secretary can determine that the release will not be detrimental to the safety of the person. Prior to releasing information under this paragraph, the Secretary will notify the person whose identity would be released that the person has 45 days to advise the Secretary why this anticipated release would be detrimental to the safety of that person.

(6) When the Department is involved in the hearing of an appeal by a subject of a report made under § 15.23, the appropriate Department staff shall have access to information in the {report} case record relevant to the appeal.

(7) For the purposes of monitoring agency performance, appropriate staff of the Department may have access to agency protective services records.

(8) For the purposes of monitoring agency performance and carrying out other administrative responsibilities, individuals with local administrative

authority over the protective services program may have access to agency protective services records.

### **Cross References**

This section cited in 6 Pa. Code § 15.12 (relating to administrative functions and responsibilities of area agencies on area); 6 Pa. Code § 15.46 (relating to law enforcement agencies as available resources); 6 Pa. Code § 15.81 (relating to rights of protective services clients); 6 Pa. Code § 15.82 (relating to rights of alleged abusers); 6 Pa. Code § 15.95 (relating to case management); 6 Pa. Code § 15.102 (relating to maintenance of case files); and 6 Pa. Code § 15.112 (relating to uses of funding authorized by the act).

## **FINANCIAL OBLIGATIONS**

### **§ 15.111. Coordination of available resources.**

(a) The agency shall insure that funding authorized under the act is not used to supplant public and private entitlements or resources as defined at § 15.2 (relating to definitions) for which ~~protective services clients~~ **OLDER ADULTS** are, or may be, eligible.

(b) The agency shall attempt to establish the {client's} older adult's eligibility for appropriate public and private entitlements and resources and shall exhaust the eligibility for benefits prior to the utilization of funds authorized by the act for the provision of services.

(c) The agency is required to coordinate the utilization of public and private entitlements and resources. This chapter does not establish a means test for the provision of protective services. **A AN OLDER ADULT WHO IS A** protective service client who receives a service may not be required to pay a fee not required of other older adults receiving the same service.

### **§ 15.112. Uses of funding authorized by the act.**

The agency may utilize funding authorized by the act to pay for activities, including, but not limited to, the following:

(1) Administering protective services plans as described at § 15.12(b) (relating to administrative functions and responsibilities of area agencies on aging).

(2) Receiving reports and maintaining records of reports as provided under §§ 15.23 and 15.101-15.105 (relating to receiving reports; general agency responsibility; and confidentiality).

(3) Conducting investigations under §§ 15.41-15.47 (relating to investigating reports of need for protective services).



(4) Conducting {client} assessments and developing service plans under §§ 15.92 and 15.93 (relating to {client needs} assessment; and service plan).

(5) Petitioning the court under §§ 15.61-15.63 and 15.71-15.75 (relating to agency access to persons and records; and emergency intervention).

(6) Providing emergency involuntary intervention under §§ 15.71-15.75.

(7) Arranging for available services needed to carry out service plans, which may include, as appropriate, arranging for services for other household members to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult. The inclusion of services needed by other household members in the service plan will allow the agency to arrange for the provision of those services through public and private entitlements or resources for which the individuals are or may be eligible. The inclusion does not obligate the agency to pay for the services or to provide services which are not available from another appropriate provider.

(8) Purchasing, on a temporary basis, services determined by the service plan to be necessary to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult when the services are not available within the existing resources of the agency or another appropriate provider. Funding authorized by the act and expended under an area agency on aging protective services plan may not be used for the purchase of services which are already financed through other State-administered plans for local service delivery or through local public and private resources under those plans except with the specific prior approval of the Department. The protective services plan shall identify the agency's proposed expenditures for activities under this paragraph. The agency shall insure that every attempt has been made to provide the service through existing agency resources, appropriate utilization of other providers and the coordination of public and private entitlements and resources prior to entering into the purchase of services for a protective services client.

### **Cross References**

This section cited in 6 Pa. Code § 15.91 (relating to general).

#### **§ 15.113. Time limitation on service purchases.**

(a) After exhausting available steps to provide necessary services through existing agency resources, utilization of other providers and the coordination of public and private entitlements and resources, the agency may purchase those services on a time-limited basis.

(b) The purchase of services under this section is limited to a 30-day period which may be renewed only with adequate justification. The agency shall consider the 30-day period to be a maximum time limit for the purchase of

services and not a standard time allotment. After the decision to purchase services has been made, the agency shall continue the pursuit of alternate ways to provide the services and terminate the purchase of services as soon as possible.

(c) If at the end of 30 days of continuous service purchase on behalf of an individual **OLDER ADULT WHO IS A** protective services client, the services are still necessary and still available only through purchase, complete justification of the need for services and documentation of the unavailability of the services shall be made a part of the client {reassessment required by} record as required by § 15.95(b) (relating to case management).

### **Cross References**

This section cited in 6 Pa. Code § 15.95 (relating to {case} care management).

#### **§ 15.114. Obligation of the Commonwealth and the counties.**

The obligation of the Commonwealth and the counties to provide funds to the Department or an agency for services provided under this chapter shall be entirely discharged by the appropriations made to the Department or an agency. If the agency has met its responsibility under the law, no action at law or equity may be instituted in a court to require the Department, an agency, county or the Commonwealth to provide benefits or services under the act for which appropriations from the Commonwealth or counties are not available. The responsibility of the area agency on aging, the county and the Commonwealth to provide funding is met when resources authorized by the act and provided under approved area agency on aging plans have been expended.

### **STAFF TRAINING AND EXPERIENCE STANDARDS**

#### **§ 15.121. Protective services staff qualifications.**

(a) General. The area agency on aging shall assure that staff directly involved with the protective services caseload meet the minimum standards of training and experience in this chapter. The minimum standards apply to staff assigned to protective services on a full-time basis, a part-time basis or as standby staff. The minimum standards apply to incumbent staff as well as those hired after November 26, 1988.

(b) Criminal record. The protective services agency shall require persons to be hired or to be assigned to carry out responsibilities for protective services

investigations, {client} assessments and service planning and arrangement to submit the following information:

(1) Under 18 Pa. C.S. §§ 9101-9183 (relating to the criminal history record information act), a report of criminal history record information from the State Police or a statement from the State Police that the State Police Central Repository contains no information relating to that person. The criminal history record information shall be limited to that which is disseminated under 18 Pa. C.S. § 9121(b)(2) (relating to general regulations).

(2) If the applicant or assignee is not a resident of this Commonwealth, a report of Federal criminal history record information under the Federal Bureau of Investigation appropriation of Title II of the Act of October 25, 1972 (Pub.L. 92-544, 86 Stat. 1109).

(c) Staff training and experience requirements. The minimum standards for protective services job functions are as follows:

(1) Protective services supervisor. A protective services supervisor shall:

(i) Have 3 years direct aging casework experience or an equivalent combination of education and experience.

(ii) Complete the curriculum described at § 15.122 (relating to protective services casework training curriculum).

(iii) Complete the curriculum described at § 15.123 (relating to protective services investigation training curriculum) if the protective services supervisor will be performing protective services investigations.

(iv) Complete written evaluations that assess competencies achieved by the learner.

(v) Undergo in-service training in protective services annually as required by the Department.

(2) Protective services caseworker. A protective services caseworker shall:

(i) Have 1 year direct aging casework experience.

(ii) Complete the curriculum described at § 15.122.

(iii) Complete the curriculum described at § 15.123.

(iv) Complete written evaluations that assess competencies achieved by the learner.

(v) Undergo in-service training in protective services annually as required by the Department.

(3) Protective services intake workers. Staff persons designated to receive reports of older adults who need protective services shall complete the curriculum under § 15.124 (relating to protective services intake training curriculum).

## **Cross References**

This section cited in 6 Pa. Code §15.2 (relating to definitions); 6 Pa. Code § 15.11 (relating to administrative functions and responsibilities of the Department); 6 Pa. Code § 15.13 (relating to organization and structure of protective services functions); 6 Pa. Code § 15.41 (relating to reports required to be investigated); 6 Pa. Code § 15.46 (relating to law enforcement agencies as available resources); 6 Pa. Code § 15.125 (relating to availability of training); and 6 Pa. Code § 15.126 (relating to training evaluation).

### **§ 15.122. Protective services casework training curriculum.**

The protective services casework training curriculum shall consist of comprehensive training including, but not limited to, the following topics:

- (1) An overview of abuse, neglect, exploitation and abandonment.
- (2) Laws and regulations of the Commonwealth relating to elder abuse, neglect, exploitation and abandonment **OF OLDER ADULTS**.
- (3) Detection of abuse, neglect, exploitation and abandonment.
- (4) Protective services case assessments.
- (5) Provision of protective services.
- (6) Interviewing skills.
- (7) The resistant client **OLDER ADULT**.
- (8) Utilization of local resources.
- (9) ~~Inc~~ompetence } **OR Incapacity**.
- (10) Relationships with other agencies.
- (11) Confidentiality.
- (12) Institutional investigations.
- (13) Service options for victims of abuse, neglect, exploitation and abandonment.
- (14) Informed consent.
- (15) Self-neglect.
- (16) Retaliation.

### **Cross References**

This section cited in 6 Pa. Code § 15.2 (relating to definitions); 6 Pa. Code § 15.11 (relating to administrative functions and responsibilities of the Department); 6 Pa. Code § 15.13 (relating to organization and structure of protective services functions); 6 Pa. Code § 15.41 (relating to reports required to be investigated); 6 Pa. Code § 15.46 (relating to law enforcement agencies as available resources); 6 Pa. Code § 15.121 (relating to protective services staff qualifications); and 6 Pa. Code § 15.127 (relating to in-service training).

### **§ 15.123. Protective services investigation training curriculum.**

The protective services investigation training curriculum shall consist of comprehensive training including, but not limited to, the following topics:

- (1) Laws and regulations of the Commonwealth related to investigations and criminal procedures.
- (2) The criminal justice system.
- (3) Developing the investigative plan.
- (4) Investigative techniques.
- (5) Maintaining control of the interview.
- (6) Interviewing {the} reporters.
- (7) Interviewing collateral sources.
- (8) Interviewing {the} victims.
- (9) Observation techniques.
- (10) Techniques to obtain documentary evidence.
- (11) Techniques to gather and preserve physical evidence.
- (12) Closing the investigation.
- (13) Presenting testimony in court.
- (14) Coordination with other State Agencies.

### **Cross References**

This section cited in 6 Pa. Code § 15.2 (relating to definitions); 6 Pa. Code § 15.11 (relating to administrative functions and responsibilities of the Department); 6 Pa. Code § 15.13 (relating to organization and structure of protective services functions); 6 Pa. Code § 15.41 (relating to reports required to be investigated); 6 Pa. Code § 15.46 (relating to law enforcement agencies as available resources); 6 Pa. Code § 15.121 (relating to protective services staff qualifications); and 6 Pa. Code § 15.127 (relating to in-service training).

### **§ 15.124. Protective services intake training curriculum.**

The protective services intake training curriculum shall consist of training including, but not limited to, the following topics:

- (1) Interviewing the reporter.
- (2) Completion of the report form.
- (3) Preliminary case status assessment to determine report categories.
- (4) Requirements for referral of the report to the protective services staff.
- (5) Emergency procedures.
- (6) Confidentiality.

### **Cross References**

This section cited in 6 Pa. Code § 15.2 (relating to definitions); 6 Pa. Code § 15.11 (relating to administrative functions and responsibilities of the Department); 6 Pa. Code § 15.13 (relating to organization and structure of protective services functions); 6 Pa. Code § 15.24 (relating to receiving reports; agency intake process); 6 Pa. Code § 15.41 (relating to reports required to be investigated); 6 Pa. Code § 15.46 (relating to law enforcement agencies as available resources); and 6 Pa. Code § 15.121 (relating to protective services staff qualifications).

#### **§ 15.125. Availability of training.**

(a) The Department will provide for the development of training curricula described in this section and will require the training to be conducted on a timely and recurring basis. The Department will also provide for annual in-service training.

(b) The agency shall utilize staff meeting the requirements in § 15.121(c)(1) and (2) (relating to protective services staff qualifications) to conduct training for protective services intake workers. The training shall be in conformity with the curriculum for protective services intake workers established by the Department.

#### **Cross References**

This section cited in 6 Pa. Code § 15.2 (relating to definitions); 6 Pa. Code § 15.11 (relating to administrative functions and responsibilities of the Department); 6 Pa. Code § 15.13 (relating to organization and structure of protective services functions); 6 Pa. Code § 15.41 (relating to reports required to be investigated); and 6 Pa. Code § 15.46 (relating to law enforcement agencies as available resources).

#### **§ 15.126. Training evaluation.**

A person who completes the training set forth for each job function in § 15.121 (relating to protective services staff qualifications) shall complete written evaluations that assess competencies achieved by the learner.

#### **Cross References**

This section cited in 6 Pa. Code § 15.2 (relating to definitions); 6 Pa. Code § 15.11 (relating to administrative functions and responsibilities of the Department); 6 Pa. Code § 15.13 (relating to organization and structure of protective services functions); 6 Pa. Code § 15.41 (relating to reports required to be investigated); and 6 Pa. Code § 15.46 (relating to law enforcement agencies as available resources).

#### **§ 15.127. In-service training.**

(a) In addition to the required training set forth in §§15.122 and 15.123 (relating to protective services casework training curriculum; and protective services investigation training curriculum), protective services supervisors and protective services caseworkers shall participate in in-service training in protective services as required by the Department each year beginning with the calendar year following completion of the required basic protective services training set forth in §11.122 (relating to protective services casework training curriculum).

(b) Annual in-service training **SHALL CONSIST OF A MINIMUM OF ONE DAY OF TRAINING AND** {shall} may include, but not be limited to, the following topics:

- (1) Update on laws and regulations relating to protective services.
- (2) Technical assistance for common problems.
- (3) Best practice presentations.

### **Cross References**

This section cited in 6 Pa. Code § 15.2 (relating to definitions); 6 Pa. Code §§15.11 (relating to administrative functions and responsibilities of the Department); 6 Pa. Code § 15.13 (relating to organization and structure of protective services functions); 6 Pa. Code § 15.41 (relating to reports required to be investigated); and 6 Pa. Code § 15.46 (relating to law enforcement agencies as available resources).

## **CRIMINAL HISTORY RECORD INFORMATION REPORTS**

### **§ 15.131. Prospective facility personnel.**

(a) General rule - A facility, as defined in § 15.2, shall require all applicants for employment to submit with their applications the following criminal history record information REPORT, obtained within the one-year period immediately preceding the date of application, as appropriate AS SET FORTH AT §15.134 (RELATING TO PROCEDURES):

(1) State Police report - Facilities shall require all applicants to submit a report of criminal history record information REPORT obtained from the State Police or a written statement from the State Police that their central repository contains no such information relating to such applicant.

(2) ~~FBI~~ FEDERAL BUREAU OF INVESTIGATION report - Facilities shall require all applicants, who are not residents of Pennsylvania or have not resided in Pennsylvania for an uninterrupted period of two years preceding the date of application to the facility, to submit an ~~FBI~~ FEDERAL BUREAU OF INVESTIGATION criminal history record information report

pursuant to the FBI's FEDERAL BUREAU OF INVESTIGATION'S appropriation under the Departments of State, Justice and Commerce, the Judiciary and Related Agencies Appropriation Act of 1978 (Public Law 92-544, 86 Stat. 1109).

(3) Applicants required to submit an FBI FEDERAL BUREAU OF INVESTIGATION criminal history record information report shall submit a full set of fingerprints to the Department which will be forwarded to the FBI FEDERAL BUREAU OF INVESTIGATION, to comply with the requirement of this subsection.

(b) Proof of residency - Facilities may require an applicant to furnish proof of residency, including, but not limited to, the following documentation, one or more of which shall be considered reasonable proof of residency:

(1) Motor vehicle records, such as a valid driver's license.

(2) Housing records, such as mortgage records, rent receipts or certification of residency in a nursing home.

(3) Public utility records and receipts, such as electric bills.

(4) Local tax records.

(5) A completed and signed, Federal, State or local income tax return with the applicant's name and address preprinted on it.

~~(6) Records of contacts with public or private social agencies.~~

~~(7) (6) Employment records, including records of unemployment compensation.~~

#### § 15.132 Facility personnel- EMPLOYEE requirements.

~~(a) The following facility personnel EMPLOYEES are required to submit A criminal history record information INFORMATION REPORT, as described in Section 15.131(a) and (b):~~

~~(1) Persons WHO BEGAN serving as facility administrators and operators on July 1, 1998 who have direct contact with clients and were employed by the facility as administrators and operators for a period of less than one year of continuous employment shall comply with resident and, as applicable, non-resident criminal history record information REPORT requirements by July 1, 1999.~~

~~(2) (1) Administrators and operators who have direct contact with clients and who began serving as administrators and operators ON OR after July 1, 1998, shall comply with the criminal history record information requirements within 90 30 days from the date of employment IF A RESIDENT OR 90 DAYS IF A NON-RESIDENT.~~

~~(3) (2) Employees of a facility WHO COMMENCED EMPLOYMENT ON OR AFTER July 1, 1998, who were employed by the facility for a period of less than one year of continuous employment shall comply with the criminal history record information REPORT requirements by July 1, 1999~~



**WITHIN 30 DAYS FROM THE DATE OF EMPLOYMENT IF A RESIDENT OR 90 DAYS IF A NON-RESIDENT.**

~~(4) (3) Exceptions:~~

~~(i) Employees of the facility on July 1, 1998, who were employed by the facility for a continuous period of at least one year prior to July 1, 1998 are exempt from the requirements of this section.~~

~~(ii) (i) Employees who have complied with the requirements of this section who transfer to another facility established and/or supervised by the same operator are exempt from compliance with the requirements of Section 15.131.~~

~~(5) (4) Employees at facilities which supply, arrange for, or refer their employees to provide care, as defined in this Chapter, in other facilities shall comply with criminal history record information REPORT requirements in paragraph (3) (2) by providing A criminal history record information REPORT to the facility which supplies, arranges for, or refers them AND TO THE FACILITY AT WHICH THEY PROVIDE CARE. The grandfathering and transfer exemptions in paragraph (4) (3) also, as applicable, apply to these employees. (Example: Employees of a home health care staffing agency assigned by the agency to provide care in a long-term care nursing facility must provide A criminal history record information REPORT to the staffing agency AND TO THE LONG-TERM CARE NURSING FACILITY) RESPONSIBILITY FOR NOTIFICATION OF THE EMPLOYEE OF CRIMINAL HISTORY RECORD REPORT REQUIREMENTS RESTS WITH THE STAFFING AGENCY.~~

~~(6) (5) Exceptions: Employees referenced in (5) who have complied with applicable criminal history record information requirements in accordance with this Chapter are not required to submit criminal history record information to the facilities to which they are supplied, referred, or for which their services are arranged. THE TRANSFER OF OWNERSHIP OF A FACILITY SHALL NOT CREATE A REQUIREMENT THAT PREVIOUSLY GRANDFATHERED EMPLOYEES PROVIDE A CRIMINAL HISTORY RECORD INFORMATION REPORT TO THE NEW OWNER.~~

~~(b) Employees are responsible for determining whether they are required to obtain a criminal history record information report as required by this Section. If an employee fails to comply with the requirements of this Section and is subsequently terminated for failure to comply within the required time period, the facility cannot be held liable for failure to inform the employee of his obligations under this Section.~~

### § 15.133 Facility Responsibilities

(a) A facility shall not hire an applicant nor retain an employee required to submit a criminal history record information report where the report reveals a felony conviction under the act of April 14, 1972 (P.S. 238, No. 64) known as The Controlled Substance, Drug, Device or Cosmetic Act. FACILITIES ARE NOT PROHIBITED FROM EMPLOYING PERSONS WITH CONVICTIONS UNDER THE CONTROLLED SUBSTANCE, DRUG, DEVICE OR COSMETIC ACT THAT ARE GRADED AS LESS THAN FELONIES (I.E. MISDEMEANORS).

(b) A facility shall not hire an applicant nor retain any employee required to submit a criminal history record information report where the report reveals a conviction under one or more of the provisions of 18 Pa. C.S. (relating to crimes and offenses):

Chapter 25 (relating to criminal homicide).

§ 2702 (relating to aggravated assault).

§ 2901 (relating to kidnapping).

§ 2902 (relating to unlawful restraint).

§ 3121 (relating to rape).

§ 3122.1 (relating to statutory sexual assault).

§ 3123 (relating to involuntary deviate sexual intercourse).

§ 3124.1 (relating to sexual assault).

§ 3125 (relating to aggravated indecent assault).

§ 3126 (relating to indecent assault).

§ 3127 (relating to indecent exposure).

§ 3301 (relating to arson and related offenses).

§ 3502 (relating to burglary).

§ 3701 (relating to robbery).

A felony offense under Chapter 39 (relating to theft and related offenses), or two or more misdemeanors under Chapter 39. FACILITIES ARE NOT PROHIBITED FROM EMPLOYING PERSONS WITH SUMMARY OFFENSES OR WITH ONLY ONE MISDEMEANOR UNDER CHAPTER 39.

§ 4104 (relating to forgery).

§ 4114 (relating to securing execution of documents by deception).

§ 4302 (relating to incest).

§ 4303 (relating to concealing death of child).

§ 4304 (relating to endangering welfare of children).

§ 4305 (relating to dealing in infant children).

§ 4952 (relating to intimidation of witnesses or victims).

§ 4953 (relating to retaliation against witness or victim).

A felony offense under § 5902(b) (relating to prostitution and related offenses).

§ 5903(c) or (d) (relating to obscene and other sexual materials and performances).

§ 6301 (relating to corruption of minors).

§ 6312 (relating to sexual abuse of children).

~~(c) — If a facility receives a report from the State Police showing open disposition for a crime which would prohibit hiring an applicant or retaining an employee, the administrator or designee shall require the applicant or employee to obtain and submit court documents showing disposition within 60 days of receipt of the original report. Failure to provide court documents as required will result in an administrative prohibition against hiring or retention. If the reason for open disposition is court scheduling, the administrator or designee shall check status every 30 days until a court date is set and, thereafter, as appropriate in order to receive the disposition as soon as possible. AN ARREST FOR A CRIME WHICH WOULD PROHIBIT HIRING AN APPLICANT OR RETAINING AN EMPLOYEE IF IT RESULTED IN A CONVICTION IS NOT ITSELF GROUNDS FOR REJECTION OR TERMINATION OF THAT PERSON UNLESS AND UNTIL THERE IS A CONVICTION. HOWEVER, THE FACILITY MUST ASCERTAIN THE ULTIMATE DISPOSITION OF THAT ARREST OR OTHER OPEN DISPOSITION TO DETERMINE WHETHER IT EVER BECOMES OR BECAME A CONVICTION.~~

~~(1) — IF THE REASON FOR THE OPEN DISPOSITION IS THAT THE CHARGES HAVE NOT YET BEEN RESOLVED, THE ADMINISTRATOR OR DESIGNEE SHALL CHECK THE STATUS WITH THE EMPLOYEE EVERY 30 DAYS UNTIL A COURT DATE IS SET, AND THEREAFTER AS APPROPRIATE UNTIL THERE IS A DISPOSITION, IN ORDER TO RECEIVE THE DISPOSITION AS SOON AS POSSIBLE.~~

~~(2) — IF THE REASON FOR THE OPEN DISPOSITION ON THE CRIMINAL HISTORY RECORD INFORMATION REPORT IS THAT THE CHARGES WERE RESOLVED FAVORABLY TO THE APPLICANT OR EMPLOYEE (SUCH AS THE CHARGES WERE DISMISSED OR THE PERSON WAS ACQUITTED), BUT THEY WERE NEVER EXPUNGED FROM HIS OR HER RECORD, THE ADMINISTRATOR OR DESIGNEE SHALL REQUIRE THE PERSON TO OBTAIN AND SUBMIT PROOF SHOWING THE DISPOSITION WITHIN 60 DAYS OF RECEIPT OF THE ORIGINAL REPORT. PROOF CAN BE COURT DOCUMENTS, OTHER OFFICIAL COURT RECORDS, OR OTHER PROOF DEEMED ACCEPTABLE TO THE DEPARTMENT. IF THE PERSON IS MAKING GOOD FAITH EFFORTS TO OBTAIN THE PROOF BUT CANNOT DO SO WITHIN 60 DAYS, THE ADMINISTRATOR OR DESIGNEE CAN MAKE A~~

~~REQUEST TO THE DEPARTMENT FOR ADDITIONAL TIME FOR THE PERSON TO OBTAIN THE PROOF.~~

~~(3) NOTHING IN THIS SECTION REQUIRES AN APPLICANT OR EMPLOYEE TO FORMALLY EXPUNGE AN ARREST FROM HIS OR HER CRIMINAL RECORD IN ORDER TO AVOID THE PROHIBITION ON EMPLOYMENT OR RETENTION.~~

~~(d)(c) A facility shall not hire an applicant nor retain an employee required to submit a criminal history record information report where the criminal background check reports REPORT SHOWS conviction of a Federal or out-of-state offense similar in nature, as determined by the Department, to those listed in subsections (a) and (b).~~

~~(e) (d) A facility shall ensure that applicant OR EMPLOYEE responsibility to obtain criminal history record check(s) INFORMATION REPORTS is explained to each applicant orally in a language understood by the applicant OR EMPLOYEE AND IN WRITTEN FORM UNDERSTOOD BY THE APPLICANT OR EMPLOYEE.~~

~~(f) (e) A facility AN ADMINISTRATOR shall ensure that information obtained from the criminal history record INFORMATION REPORT remains confidential and is used solely to determine an applicant's eligibility for employment OR EMPLOYEE'S ELIGIBILITY FOR RETENTION.~~

~~(g) (f) Facilities, except those referenced in Section 15.132 (a)(6)) (relating to facility personnel requirements), shall maintain employment records which include a copy of the completed request form for the State Police criminal history record check or of the completed State Police criminal history record check, SP-4-64, issued in response to a request for a criminal background check. FACILITIES SHALL MAINTAIN EMPLOYMENT RECORDS WHICH INCLUDE A COPY OF THE COMPLETED REQUEST FORM FOR THE OFFICIAL STATE POLICE CRIMINAL HISTORY RECORD INFORMATION REPORT FORM AND THE COMPLETED OFFICIAL STATE POLICE CRIMINAL HISTORY RECORD INFORMATION REPORT FORM ISSUED IN RESPONSE TO A REQUEST FOR A CRIMINAL HISTORY RECORD INFORMATION REPORT.~~

~~(h) (g) Facilities, except those referenced in Section 15.132 (a)(6)) (relating to facility personnel requirements), shall maintain employment records which include, as applicable, a copy of the completed request form for the FBI FEDERAL BUREAU OF INVESTIGATION criminal history record INFORMATION REPORT check or AND a copy of the FBI FEDERAL BUREAU OF INVESTIGATION criminal history record INFORMATION REPORT check form showing no convictions for one or more Federal or out-of-state offenses similar in nature to the provisions in subsection (b), as determined by the Department.~~

~~(i) Facilities at which care is provided by employees supplied, referred or arranged by other facilities shall, at a minimum, obtain from those other facilities written assurance that:~~

~~(1) Employees who are supplied, referred or arranged have complied with criminal history record information requirements in this Chapter.~~

~~(2) Employee criminal history record information will be made available when necessary.~~

**(i)(h) WHEN THE DECISION NOT TO HIRE, OR TO TERMINATE EMPLOYMENT, IS BASED IN WHOLE OR IN PART ON CRIMINAL HISTORY RECORD INFORMATION, FACILITIES MUST PROVIDE WRITTEN NOTICE EXPLAINING THE RIGHT AND PROCEDURE FOR APPLICANT APPEAL OF THE DECISION NOT TO HIRE OR TO TERMINATE EMPLOYMENT PURSUANT TO THE ACT AND CONSISTENT WITH 18 PA CSA § 9125.**

### **§ 15.134 Procedure**

**(a) Applicants and facility personnel EMPLOYEES AS DESCRIBED AT 15.132 required to obtain a criminal history record information report from the State Police may obtain forms from a State Police facility.**

**(1) The State Police may charge a fee of not more than \$10.00. A facility's check, cashier's check, certified check or money order must accompany the request unless other payment arrangements are made with the State Police.**

**(2) Facilities may at their option require that applicants and facility personnel return the form to a designated individual for submission of the request by the facility.**

**(b) Applicants and facility personnel EMPLOYEES AS DESCRIBED AT 15.132 required to obtain a federal criminal history record information report from the FBI FEDERAL BUREAU OF INVESTIGATION shall obtain the information packet from the facility or contact the Department for instructions, all necessary forms and the required FBI FEDERAL BUREAU OF INVESTIGATION fingerprint card.**

**(1) Applicants and facility personnel EMPLOYEES shall return the FBI FEDERAL BUREAU OF INVESTIGATION fingerprint card and any forms, and a CASHIER'S check, CERTIFIED CHECK, OR MONEY ORDER in an amount not to exceed the established fee set by the FBI FEDERAL BUREAU OF INVESTIGATION. Upon receipt, the Department will submit the request to the State Police within five working days for transfer to the FBI FEDERAL BUREAU OF INVESTIGATION. All checks should be written to the FBI FEDERAL BUREAU OF INVESTIGATION.**

**(2) Upon receipt of the completed criminal history record information report from the FBI FEDERAL BUREAU OF INVESTIGATION, the**

Department will determine if the applicant is eligible for employment OR IF THE EMPLOYEE MAY BE RETAINED and will contact the applicant OR EMPLOYEE with a written statement within ten THIRTY working days.

~~(d) (3) If the Department receives a report from the FBI showing open disposition for a crime which would prohibit hiring an applicant or retaining an employee, the Department shall require the applicant or employee to obtain and submit to the Department court documents showing disposition, within 60 days of the date the Department notifies the applicant or employee. Failure to provide court documents as required will result in an administrative prohibition against hiring or retention. AN ARREST FOR A CRIME WHICH WOULD PROHIBIT HIRING AN APPLICANT OR RETAINING AN EMPLOYEE IF IT RESULTED IN A CONVICTION IS NOT ITSELF GROUNDS FOR REJECTION OR TERMINATION OF THAT PERSON UNLESS AND UNTIL THERE IS A CONVICTION. HOWEVER, THE FACILITY MUST ASCERTAIN THE ULTIMATE DISPOSITION OF THAT ARREST OR OTHER OPEN DISPOSITION TO DETERMINE WHETHER IT EVER BECOMES OR BECAME A CONVICTION.~~

~~(1) IF THE REASON FOR THE OPEN DISPOSITION IS THAT THE CHARGES HAVE NOT YET BEEN RESOLVED, THE ADMINISTRATOR OR DESIGNEE SHALL CHECK THE STATUS WITH THE EMPLOYEE EVERY 30 DAYS UNTIL A COURT DATE IS SET, AND THEREAFTER AS APPROPRIATE UNTIL THERE IS A DISPOSITION, IN ORDER TO RECEIVE THE DISPOSITION AS SOON AS POSSIBLE.~~

~~(2) IF THE REASON FOR THE OPEN DISPOSITION ON THE CRIMINAL HISTORY RECORD INFORMATION REPORT IS THAT THE CHARGES WERE RESOLVED FAVORABLY TO THE APPLICANT OR EMPLOYEE (SUCH AS THE CHARGES WERE DISMISSED OR THE PERSON WAS ACQUITTED), BUT THEY WERE NEVER EXPUNGED FROM HIS OR HER RECORD, THE ADMINISTRATOR OR DESIGNEE SHALL REQUIRE THE PERSON TO OBTAIN AND SUBMIT PROOF SHOWING THE DISPOSITION WITHIN 60 DAYS OF RECEIPT OF THE ORIGINAL REPORT. PROOF CAN BE COURT DOCUMENTS, OTHER OFFICIAL COURT RECORDS, OR OTHER PROOF DEEMED ACCEPTABLE TO THE DEPARTMENT. IF THE PERSON IS MAKING GOOD FAITH EFFORTS TO OBTAIN THE PROOF BUT CANNOT DO SO WITHIN 60 DAYS, THE ADMINISTRATOR OR DESIGNEE CAN MAKE A REQUEST TO THE DEPARTMENT FOR ADDITIONAL TIME FOR THE PERSON TO OBTAIN THE PROOF.~~

~~NOTHING IN THIS SECTION REQUIRES AN APPLICANT OR EMPLOYEE TO FORMALLY EXPUNGE AN ARREST FROM HIS OR~~

**~~HER CRIMINAL RECORD IN ORDER TO AVOID THE PROHIBITION ON EMPLOYMENT OR RETENTION.~~**

(c) Fees - While submission of criminal history record information REPORT to facility administrators or their designees is the responsibility of the applicant OR EMPLOYEE, facility administrators may assume financial responsibility for the fees through a quarterly payment system.

(d) Applicants and facility personnel EMPLOYEES are responsible to fill out all necessary forms to comply with this Section. Facilities shall assist any applicant or employee in complying with this requirement if requested.

(e) Applicants and facility personnel EMPLOYEES shall obtain both Pennsylvania and FBI FEDERAL BUREAU OF INVESTIGATION criminal history record information reports obtained no longer than one year prior to their application for employment. Administrators, operators and non-exempt employees shall, within the time limits required for submitting criminal checks, provide Pennsylvania and FBI FEDERAL BUREAU OF INVESTIGATION checks CRIMINAL HISTORY RECORD INFORMATION REPORTS obtained no longer than one year prior to their date of submission. If the date of the record report exceeds the one year prior to application for employment or the required date of submission for administrators, operators and non-exempt employees, a new clearance REPORT shall be obtained. CRIMINAL HISTORY RECORD INFORMATION REPORTS PROVIDED BY THE PENNSYLVANIA DEPARTMENT OF EDUCATION, PURSUANT TO ACT 14 OF 1997, AS IT RELATES TO NURSE AIDE RESIDENT ABUSE TRAINING ACT WHICH MEET THE CRITERIA ESTABLISHED BY THIS SUBSECTION MAY BE ACCEPTED TO SATISFY THE REQUIREMENTS OF THIS CHAPTER.

(f) EACH Applicants and facility personnel are EMPLOYEE IS responsible for reviewing all HIS/HER OWN criminal history record information reports for accuracy.

(g) Applicants and facility personnel may question the Department's determination by submitting a request for review within 30 days of receipt of the determination. ANY INFORMATION THE APPLICANT OR EMPLOYEE SUBMITS TO REVERSE THE DEPARTMENT OF AGING'S DECISION SHALL BE SUBMITTED WITHIN ONE YEAR FROM THE DATE OF THE DEPARTMENT OF AGING'S DETERMINATION OF A PROHIBITIVE STATUS.

**§ 15.135 Applicant OR EMPLOYEE rights of review.**

(a) An applicant OR EMPLOYEE may review, challenge and appeal the completeness or accuracy of the applicant's OR EMPLOYEE'S criminal history record information report pursuant to the procedures set forth in the

Criminal History Record Information Act (18 Pa. C.S.A. Sections 9125 AND 9152-9183) and, if applicable, Federal regulations at 28 CFR Section 16.34.

~~(b) If an applicant's criminal history record is, as a result of a challenge by the applicant, changed so as to remove any disqualification for employment, a facility may reconsider the applicant's application for any positions available at that time.~~ **APPLICANTS OR EMPLOYEES MAY CHALLENGE THE CONVICTION(S) COMPARISON INTERPRETATION OF THE DEPARTMENT INVOLVING THEIR OFFENSES IDENTIFIED IN THE FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORD INFORMATION REPORT. APPEALS MUST BE FILED WITHIN 30 DAYS FROM RECEIPT OF THE WRITTEN STATEMENT (6 PA. CODE 15.134(B)(2)) PURSUANT TO 6 PA. CODE CHAPTER 3 AND 1 PA. CODE CHAPTER 35.**

~~(c) If an applicant's challenge to the criminal history record is deemed invalid, the applicant's rights for reconsideration by the facility are exhausted.~~

**§ 15.136 Facility personnel rights of review and appeal.**

~~(a) Facility personnel, may review, challenge and appeal the completeness or accuracy of criminal history record information report pursuant to the procedures set forth in the Criminal History Record Information Act (18 Pa. C.S.A. Sections 9152-9183) and, if applicable, Federal regulations at 28 CFR Section 16.34.~~

~~(b) If an employee's criminal history record information report is, as a result of a challenge by the employee, changed so as to remove any basis for termination, the facility must reinstate the employee to either the employee's former position or an equivalent position.~~

~~(c) An employee's challenge to the criminal record information report is limited to the appeal rights set forth in the Criminal History Record Information Act (18 Pa. C.S. Sections 9152-9183).~~

**§ 15.137 6 Provisional hiring.**

(a) Administrators FACILITIES may employ applicants on a provisional basis for a single period, not to exceed 30 days for applicants applying for the Pennsylvania criminal history record information report, and not to exceed 90 days for applicants applying for the FBI FEDERAL BUREAU OF INVESTIGATION criminal history record information report, if all of the following conditions are met:

(1) Applicants have applied for the information required under § 15.131 and provide the administrator FACILITY with a copy of the completed request forms.



(2) The administrator FACILITY has no knowledge about applicants which would disqualify them from employment pursuant to the Acts, subject to 18 Pa. C.S. § 4911 (relating to tampering with public record information).

(3) Applicants swear or affirm in writing that they are not disqualified from employment under the Act.

(4) If the information obtained from the criminal history record checks INFORMATION REPORT reveals that applicants are disqualified from employment in accordance with § 15.133, the applicant must be dismissed immediately.

(5) The provisionally employed applicant receives:

(i) An orientation which provides information on policies, procedures and laws which address standards of proper care and recognition and reporting of abuse and/or neglect of recipients.

(ii) Regular supervisory observation of the applicant carrying out his/her duties WITH THE RESULTS OF THE OBSERVATIONS DOCUMENTED IN THE EMPLOYEE PERSONNEL FILE.

(6) For a home health care agency, the supervision of a provisionally employed applicant must include random, direct observation/evaluation of the applicant and care recipient by an employee who has been employed by the home health agency for at least one year WITH THE RESULTS OF THE OBSERVATIONS DOCUMENTED IN THE EMPLOYEE PERSONNEL FILE.

(7) For a home health agency which has been in business for less than one year, supervision of a provisionally employed applicant must include random, direct observation/evaluation of the applicant and care recipient by an employee with prior employment experience of at least one year with one or more other home health care agencies WITH THE RESULTS OF THE OBSERVATIONS DOCUMENTED IN THE EMPLOYEE PERSONNEL FILE.

(b) The FACILITY administrator or designee shall on the 30th day of provisional employment for a Pennsylvania resident applicant or the 90th day for a non-resident applicant review the contents of the applicant's personnel file to ensure that the required copy of the State Police or FBI FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORD INFORMATION REPORT ~~criminal background check~~ results is physically present in the folder along with the correspondence from the State Police or the Department advising that the applicant's employment may be continued or must be terminated.

(c) Except as provided in (d), If inspection of the file on day 30 or 90, as appropriate, reveals that the information noted above has not been provided to the employer, the applicant's employment shall be immediately suspended or terminated.

(d) If information regarding criminal history record INFORMATION reports has not been provided as required due to the inability of the State Police or the FBI FEDERAL BUREAU OF INVESTIGATION to provide it within the mandated timeframes, the period of provisional employment is extended until the facility receives the required reports from the State Police or FBI FEDERAL BUREAU OF INVESTIGATION. DURING SUCH A PERIOD OF EXTENDED PROVISIONAL EMPLOYMENT, IN ADDITION TO THE SUPERVISION STANDARDS SET FORTH IN § 15.137(A)(5)(6)(7), REGULAR RANDOM DIRECT SUPERVISORY OBSERVATION OF THE EMPLOYEE CARRYING OUT HIS/HER DUTIES MUST BE CONDUCTED WITH THE RESULTS DOCUMENTED IN THE EMPLOYEE PERSONNEL FILE.

### § 15.138 7 Violations

#### (a) Administrative -

(1) An FACILITY administrator or his designee who intentionally or willfully fails to comply or obstructs compliance with the provisions of § 15.131 through 15.136 of this chapter commits a violation of this chapter and shall be subject to an administrative penalty under paragraph (3).

(2) A facility owner that intentionally or willfully fails to comply with or obstructs compliance with § 15.131 through 15.136 of this chapter commits a violation of this chapter and shall be subject to an administrative penalty under paragraph (3).

(3) The Commonwealth agency or Commonwealth agencies which license the facility have jurisdiction to determine violations of this chapter and may issue an order assessing a civil penalty of not more than \$2,500. An order under this paragraph is subject to 2 Pa. C.S. Ch. 5, Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

**(3)(i) COMMONWEALTH AGENCIES WITH JURISDICTION TO LICENSE FACILITIES COVERED BY THESE REGULATIONS SHALL ENSURE THAT CRIMINAL HISTORY RECORD REPORT AND PROVISIONAL HIRING REQUIREMENTS ARE BEING MET BY THE FACILITIES THEY LICENSE.**

(4) ~~In order~~ To assist Commonwealth agencies carry out the responsibilities set forth in paragraph (3), representatives of these agencies THE DEPARTMENTS OF AGING, HEALTH AND WELFARE who have knowledge SUSPICION of violations AS SET FORTH IN PARAGRAPHS a (1), a (2), b (1) OR b (2) will report them to the appropriate Commonwealth licensing agency UNDER PROCEDURES DEVELOPED BY THE DEPARTMENT IN CONSULTATION WITH THE LICENSING AGENCY. THE REPORT SHALL BE MADE IN WRITING

AND INCLUDE SUFFICIENT INFORMATION TO ENABLE THE LICENSING AGENCY TO CONDUCT ITS INVESTIGATION. AT A MINIMUM, THE WRITTEN REPORT SHALL IDENTIFY THE FACILITY, THE ADMINISTRATOR, OWNER, OPERATOR OR DESIGNEE SUSPECTED OF COMMITTING THE VIOLATION AND A DESCRIPTION OF THE SUSPECTED VIOLATION.

(b) Criminal -

(1) An FACILITY administrator or his designee who intentionally or willfully fails to comply or obstructs compliance with this chapter commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than one year, or both.

(2) A facility owner that intentionally or willfully fails to comply with or obstructs compliance with this chapter commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than one year, or both.

**REPORTING SUSPECTED ABUSE**

**§ 15.141. General Requirements.**

(a) FACILITY Administrators or employees who have reasonable cause to suspect that a ~~client~~ RECIPIENT is a victim of abuse must:

(1) Immediately make an oral report to the agency.

(2) Within 48 hours of making the oral report, make a written report to the agency AS SET FORTH AT § 15.143 (CONTENTS OF REPORTS).

(b) Employees making oral or written reports must immediately notify the facility administrator of these reports.

(c) Agencies will notify facility administrators, or their designees, and state agencies with facility licensing responsibilities immediately when written reports of abuse are received.

(d) Employees required to report abuse may request facility administrators or their designees to make, or assist them to make, oral or written reports.

**§ 15.142. Additional Reporting Requirements.**

(a) Employees or FACILITY administrators who have reasonable cause to suspect that a recipient is the victim of sexual abuse, serious physical injury or serious bodily injury, or that a recipient's death is suspicious, must, in addition to the reporting requirements in Section 15.141(a):

(1) Immediately make an oral report to law enforcement officials. An employee shall immediately notify the FACILITY administrator or his designee following a report to law enforcement officials.

(2) Make an oral report to the Department during the current business day or, if the incident occurs after normal business hours, at the opening of the next business day.

(3) Within 48 hours of making the oral report, make a written report to law enforcement officials and the agency.

(b) Law enforcement officials will promptly notify facility administrators or their designees that reports have been made with them.

**(C) EMPLOYEES OR FACILITY ADMINISTRATORS SHALL IN ADDITION TO COMPLYING WITH THESE REQUIREMENTS, COMPLY WITH ANY REPORTING REQUIREMENTS OF THE COMMONWEALTH AGENCY THAT LICENSES OR FUNDS THE FACILITY.**

### **§ 15.143. Contents of Reports.**

~~(a) Written reports under Sections 15.141 and 15.142 must be made on forms supplied by the Department. The Department will provide facilities with initial supplies; facilities may duplicate report forms for submission to agencies and law enforcement officials.~~ **WRITTEN REPORTS UNDER SECTION 15.141 AND 15.142 (RELATING TO GENERAL REQUIREMENTS; AND ADDITIONAL REPORTING REQUIREMENTS) SHALL BE MADE ON FORMS SUPPLIED BY THE DEPARTMENT OR APPROVED BY THE DEPARTMENT.**

(b) The report shall include, at a minimum, the following information:

(1) Name, age and address of recipient.

(2) Name, address of recipient's guardian or next-of-kin.

(3) Facility name and address.

(4) Description of the incident.

(5) Specific comments or observations.

### **§ 15.144. Reports to Department and Coroner by Agencies.**

(a) Department

(1) Within 48 hours of receipt of a written report under §15.142 involving sexual abuse, serious physical injury, serious bodily injury or suspicious death, the agency shall transmit a written report to the department.

~~(2) Within 48 hours of receipt of a written report under § 15.142 involving a victim/recipient under age 60, the agency shall transmit a copy of the report to the Department.~~

~~(3)~~ (2) A report under this subsection shall be made in a manner and on forms prescribed by the Department. The report shall include, at a minimum, the following information.

(i) The name and address of alleged victim.

(ii) Where the suspected abuse occurred.

- (iii) The age and sex of the alleged perpetrator and victim.
- (iv) The nature and extent of the suspected abuse, including any evidence of prior abuse.
- (v) The name and relationship of the individual responsible for causing the alleged abuse to the victim, if known, and any evidence of prior abuse by that individual.
- (vi) The source of the report.
- (vii) The individual making the report and where that individual can be reached.
- (viii) The actions taken by the reporting source, including taking of photographs and x-rays, removal of recipient and notification under subsection (b).

(b) Coroner - For a report under §15.142 which concerns the death of a recipient, if there is reasonable cause to suspect that the recipient died as a result of abuse, the agency shall give the oral report and forward a copy of the written report to the appropriate coroner within 24 hours. COUNTY CORONER OF THE COUNTY WHEREIN THE DEATH OCCURRED.

**§ 15.145. Investigation.**

(a) Upon receipt of a report under §15.141 and 15.142, protective services officials shall respond as follows:

(1) If the victim/recipient is aged 60 or older, the agency shall conduct an investigation to determine if the older person ADULT who is the subject of the report is in need of protective services. The investigation by the agency shall be conducted as set forth at §15.41 through 15.47 (Investigating Reports of Need for Protective Services).

(2) If the victim/recipient is under age 60, the agency shall not conduct an investigation. Investigation of such reports shall be conducted by the state agency, if any, which licensed the facility.

(3) If the victim/recipient is under age 18, the agency shall notify, and forward reports to, the regional office of the Department of Public Welfare, Office of Children, Youth and Families or the state "ChildLine" and the county office of child protective services.

(4) If the under age 60 victim/recipient resides in a nursing home or is receiving home health services, the agency shall notify the Regional Office of the Department of Health and forward reports to that Office. IF THE VICTIM/RECIPIENT RESIDES IN A NURSING HOME OR IS RECEIVING HOME HEALTH SERVICES, THE AGENCY SHALL NOTIFY THE DEPARTMENT OF HEALTH OFFICE WITH FACILITY LICENSING RESPONSIBILITIES AND THE REGIONAL OFFICE OF THE DEPARTMENT OF HEALTH AND FORWARD REPORTS TO THOSE OFFICES.

~~(5) If the under age 60 victim/recipient resides in a personal care home, the agency shall notify the Regional Office of the Department of Public Welfare and forward reports to that Office.~~ **IF THE VICTIM/RECIPIENT RESIDES IN A PERSONAL CARE HOME, THE AGENCY SHALL NOTIFY THE DEPARTMENT OF PUBLIC WELFARE REGIONAL OFFICE WITH FACILITY LICENSING RESPONSIBILITIES AND FORWARD REPORTS TO THAT OFFICE.**

~~(6) If the under age 60 victim/recipient resides in a Domiciliary Care home or receives services from an adult day care center~~ **ADULT DAILY LIVING CENTER,** the agency shall notify the Department and forward reports to that Department.

~~(7) If the agency has knowledge or believes that the victim/recipient has mental retardation or mental health issues, the agency shall notify the county MH/MR office in addition to making other reports required by this subsection.~~ **IF THE AGENCY HAS KNOWLEDGE OR BELIEVES THAT THE VICTIM/RECIPIENT HAS MENTAL RETARDATION OR A MENTAL HEALTH CONDITION, THE AGENCY SHALL NOTIFY THE DEPARTMENT OF PUBLIC WELFARE OFFICE WITH FACILITY LICENSING RESPONSIBILITIES AND THE COUNTY MH/MR OFFICE IN ADDITION TO MAKING OTHER REPORTS REQUIRED BY THIS SUBSECTION.**

**(b) Cooperation - To the fullest extent possible, law enforcement officials, the facility , THE COMMONWEALTH AGENCY WHICH LICENSED THE FACILITY and the agency shall coordinate their respective investigations. Law enforcement officials, the facility , THE COMMONWEALTH AGENCY WHICH LICENSED THE FACILITY and the agency shall advise each other and provide any applicable additional information on an ongoing basis.**

#### **§ 15.146. Restrictions on employees.**

~~(a) Facility plan of supervision – Within 90 days of publication of these regulations, facilities shall develop and submit to the agency and the Commonwealth agency with regulatory authority over the facility a copy of their facility supervision/suspension plan. The plan shall:~~

~~(1) Describe policies and procedures to be followed upon notification that an employee is alleged to have committed abuse of a recipient.~~

~~(2) Describe how and by whom supervision of alleged abusers will be carried out.~~

~~(3) Describe the process of rendering a decision to suspend an employee.~~

~~(b) Following written approval of plans by the agency and the Commonwealth agency with regulatory authority over the facility, facilities shall follow these plans in instances involving allegations of abuse by employees.~~

~~(c) Changes to plans shall be approved in writing by the agency and the Commonwealth agency with regulatory authority over the facility prior to their implementation.~~

~~(d) Individual plan of supervision — Upon notification that an employee is alleged to have committed abuse, the facility shall immediately implement the plan of supervision or, where appropriate, suspension of the employee. The facility shall immediately submit to the agency and the Commonwealth agency with regulatory authority over the facility a copy of the employee's supervision plan pertaining to the specific instance of alleged abuse for approval.~~

~~(e) Following approval of an individual plan of supervision/suspension/termination by the agency and Commonwealth agency, the facility shall follow the plan. Changes to the plan must be approved by the agency and the Commonwealth agency with regulatory authority over the facility prior to their implementation.~~

~~(f) Supervision plan for home health agencies — The plan of supervision established by a home health care agency must, in addition to the requirements in (a) through (e), include periodic, random direct observation/ evaluation of the employee and care recipient by an individual continuously employed by the home health care agency for at least one year. For a home health agency in business for less than one year, supervision must include random, direct observation/evaluation by an employee with prior employment experience of at least one year with one or more other home health care agencies.~~

~~(g) Prohibition — Upon filing of criminal charges against an employee, the Commonwealth agency which licenses the facility shall order the facility to immediately prohibit that employee from having access to recipients at the facility. If the employee is a director, operator, administrator or supervisor, the employee shall be subject to restrictions deemed appropriate by the Commonwealth agency which licenses the facility to assure the safety of recipients at the facility.~~

**(A) UPON NOTIFICATION THAT AN EMPLOYEE IS ALLEGED TO HAVE COMMITTED ABUSE, THE FACILITY SHALL, WITHIN 72 HOURS, DEVELOP AND IMPLEMENT A PLAN OF SUPERVISION OR, WHEN APPROPRIATE, SUSPENSION OF THE EMPLOYEE. THE FACILITY SHALL WITHIN 72 HOURS SUBMIT TO THE AGENCY AND THE COMMONWEALTH AGENCY WITH REGULATORY AUTHORITY OVER THE FACILITY A COPY OF THE EMPLOYEE'S SUPERVISION PLAN PERTAINING TO THE SPECIFIC INSTANCE OF ALLEGED ABUSE FOR APPROVAL.**

**(B) FOLLOWING APPROVAL OF AN INDIVIDUAL PLAN OF SUPERVISION BY THE AGENCY AND COMMONWEALTH AGENCY, THE FACILITY SHALL FOLLOW THE PLAN. CHANGES TO THE PLAN MUST BE APPROVED BY THE AGENCY AND THE**

**COMMONWEALTH AGENCY WITH REGULATORY AUTHORITY OVER THE FACILITY PRIOR TO THEIR IMPLEMENTATION.**

- (C) THE PLAN OF SUPERVISION ESTABLISHED BY A HOME HEALTH CARE AGENCY SHALL, IN ADDITION TO THE REQUIREMENTS IN SUBSECTION (A) AND (B) OF THIS SECTION, INCLUDE PERIODIC, RANDOM DIRECT OBSERVATION/EVALUATION OF THE EMPLOYEE AND CARE RECIPIENT BY AN INDIVIDUAL CONTINUOUSLY EMPLOYED BY THE HOME HEALTH CARE AGENCY FOR AT LEAST 1 YEAR. FOR A HOME HEALTH AGENCY IN BUSINESS FOR LESS THAN ONE YEAR, SUPERVISION SHALL INCLUDE RANDOM, DIRECT OBSERVATION/EVALUATION BY AN EMPLOYEE WITH PRIOR EMPLOYMENT EXPERIENCE OF AT LEAST 1 YEAR WITH ONE OR MORE OTHER HOME HEALTH CARE AGENCIES.**
- (D) UPON FILING OF CRIMINAL CHARGES AGAINST AN EMPLOYEE AS THE RESULT OF A REPORT MADE IN COMPLIANCE WITH § 15.142 (ADDITIONAL REPORTING REQUIREMENTS), THE COMMONWEALTH AGENCY WHICH LICENSED THE FACILITY SHALL ORDER THE FACILITY TO IMMEDIATELY PROHIBIT THAT EMPLOYEE FROM HAVING ACCESS TO RECIPIENTS AT THE FACILITY. IF THE EMPLOYEE IS A DIRECTOR, OPERATOR, ADMINISTRATOR OR SUPERVISOR, THE EMPLOYEE SHALL BE SUBJECT TO RESTRICTIONS DEEMED APPROPRIATE BY THE COMMONWEALTH AGENCY WHICH LICENSES THE FACILITY TO ASSURE THE SAFETY OF RECIPIENTS AT THE FACILITY.**

**§ 15.147. Confidentiality of and access to confidential reports.**

**(a) General rule - Except as provided in subsection (b) all information concerning a report under this chapter shall be confidential.**

**(b) Exceptions - Relevant information concerning a report under this chapter shall be made available to all of the following:**

**(1) An employee of the department or of an agency in the course of official duties in connection with responsibilities under this chapter, INCLUDING THE LONG TERM CARE OMBUDSMAN.**

**(2) An employee of the Department of Health or the Department of Public Welfare in the course of official duties.**

**(3) An employee of an agency of another state which performs protective services similar to those under this chapter.**

**(4) A practitioner of the healing arts who is examining or treating a recipient and who suspects that the recipient is in need of protection under this chapter.**

**(5) The director, or an individual specifically designated in writing by the director, of any hospital or other medical institution where a victim is being**



treated if the director or designee suspects that the recipient is in need of protection under this chapter.

(6) The recipient or the guardian of the recipient.

(7) A court of competent jurisdiction pursuant to a court order.

(8) The Attorney General.

(9) Law enforcement officials of any jurisdiction as long as the information is relevant in the course of investigating cases of abuse.

(10) A mandated reporter under who made a report of suspected abuse.

Information released under this paragraph shall be limited to the following:

(i) The final status of the report following the investigation.

(ii) Services provided or to be provided by the agency.

(c) Excision of certain names - The name of the person suspected of committing the abuse shall be excised from a report made available under subsection (b)(4), (5) and (10).

(d) Release of information to alleged perpetrator and victim. Upon written request, an alleged perpetrator and victim may receive a copy of all information, except that prohibited from being disclosed by subsection (e).

(e) Protecting identity of person making report - Except for reports to law enforcement officials, the release of data that would identify the individual who made a report under this chapter or an individual who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential information.

## **§ 15.148. Penalties.**

### **(a) Administrative.**

(1) An administrator or his designee who intentionally or willfully fails to comply or obstructs compliance with the provisions of § 15.141 through 15.147 of this chapter or who intimidates or commits a retaliatory act against an employee who complies in good faith with the provisions of this chapter commits a violation of this chapter and shall be subject to an administrative penalty under paragraph (3).

(2) A facility owner that intentionally or willfully fails to comply with or obstructs compliance with § 15.141 through 15.147 of this chapter or that intimidates or commits a retaliatory act against an employee who complies in good faith with this chapter commits a violation of this chapter and shall be subject to an administrative penalty under paragraph (3).

(3) The Commonwealth agency or Commonwealth agencies which regulate the facility have jurisdiction to determine violations of this chapter and may issue an order assessing a civil penalty of not more than \$2,500. An order under this paragraph is subject to 2 Pa. C.S. Ch. 5, Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7, Subch. A (relating to judicial review of Commonwealth agency action).

(4) In order to assist Commonwealth agencies carry out the responsibilities set forth in paragraph (3), representatives of these agencies OF THE DEPARTMENTS OF HEALTH, WELFARE OR AGING who have knowledge SUSPICION of violations AS SET FORTH IN PARAGRAPHS a (1), a (2), b (1) OR b (2) will report them to the appropriate Commonwealth licensing agency UNDER PROCEDURES DEVELOPED BY THE DEPARTMENT IN CONSULTATION WITH THE LICENSING AGENCY. THE REPORT SHALL BE MADE IN WRITING AND INCLUDE SUFFICIENT INFORMATION TO ENABLE THE LICENSING AGENCY TO CONDUCT ITS INVESTIGATION. AT A MINIMUM, THE WRITTEN REPORT SHALL IDENTIFY THE FACILITY, THE ADMINISTRATOR, OWNER, OPERATOR OR DESIGNEE SUSPECTED OF COMMITTING THE VIOLATION AND A DESCRIPTION OF THE SUSPECTED VIOLATION.

(b) Criminal.

(1) An administrator or his designee who intentionally or willfully fails to comply, or obstructs compliance, with this chapter commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than one year, or both.

(2) A facility owner that intentionally or willfully fails to comply with, or obstructs compliance with, this chapter, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than one year, or both.

(c) Penalties for failure to report - A person required under this chapter to report a case of suspected abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation. If the agency learns of a person's refusal to complete all reporting requirements, the agency shall, WITHIN 72 HOURS, notify the police.

§ 15.149. Immunity.

An administrator or a facility shall not be held civilly liable for any action directly related to good faith compliance with this chapter.

**OTHER ADMINISTRATIVE PROVISIONS**

§ 15.{131}161. Waivers.

(a) The Department may, at its discretion and for justifiable reason, grant exceptions to and departures from this chapter to an area agency on aging when the area agency on aging can, by clear and convincing evidence, demonstrate that compliance would cause an unreasonable and undue hardship upon the area agency on aging and that an exception would not impair the health, safety or welfare of a ~~protective services client~~ **OLDER ADULTS** or otherwise compromise the intent of this chapter. The Department cannot, however, waive statutory requirements in the act.

(b) A waiver request shall be made in writing to the Secretary. A request shall specifically identify and explain the burden created by the requirement for which the exception is being sought, the alternative method for fulfilling the basic intent of the requirement and evidence of the steps to be taken to assure that the health, safety and welfare of ~~protective services clients~~ **OLDER ADULTS** will not be compromised.

(c) An exception granted under this chapter may be revoked by the Department at its discretion for a justifiable reason. Notice of revocation will be in writing and will include the reason for the action of the Department and a specific date upon which the exception will be terminated.

(d) In revoking an exception, the Department will provide for a reasonable time between the date of written notice of revocation and the date of termination of an exception for the agency to come into compliance with the applicable regulations.

(d) If an agency wishes to request a reconsideration of a denial or revocation of an exception, it shall do so in writing to the Secretary within 15 days of receipt of the adverse notification.

## IRRC

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**From:** Markham, Christopher L.  
**Sent:** Tuesday, August 29, 2000 3:48 PM  
**To:** IRRC  
**Subject:** FW: Dept. of Aging

-----Original Message-----

**From:** Markham, Christopher L.  
**Sent:** Friday, August 25, 2000 3:08 PM  
**To:** IRRC  
**Subject:** Dept. of Aging



Psregs-.DOC

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF AGING

RECEIVED

2000 JAN 12 PM 4: 18

**DATE:** BRIEFING PAPER  
August 4, 1999

ORIGINAL: 2077  
MIZNER

**TO:** Richard Browdie  
Secretary

COPIES: Harris  
Jewett  
Markham  
Nanorta, Sandusky,  
Wyatte

**THROUGH:** Adrian Turowski  
Dan Ainscough

**FROM:**   
Debbie Carroll  
Criminal History Background Check Unit  
Bureau of Contracts and Management

**SUBJECT:** Supplemental Act 13 Reports -- July 1999

Attached for your review is a supplemental report to the Monthly Act 13 Reports to PDA.

This report will be generated on a monthly basis in conjunction with the Monthly Act 13 Report. The purpose of this report is to provide you with information relative to multiple abuse reports by facility. The report is grouped via facility type followed by facility name. The incident date column provides the date the incident occurred and the report date column is the date the facility actually contacted PDA.

NOTE: If a facility is non-compliant and does not report a "serious" abuse to PDA, the report date column will be blank. The incident date and alleged abuse information is determined via documentation from the AAA.

Additionally, Under Age 60 Abuse Reports not involving one of the four "serious" abuses are included within this report. The alleged abuse column will read "Under 60 AAA" and the report date column will be blank, as facilities are not mandated to contact PDA.

Also attached is a one page summary report that provides statistical information regarding all abuse reports received by PDA. The purpose of this report is to provide you with a quick glance of the number of abuse reports received by PDA and a breakdown of the type of abuse occurring and the location.

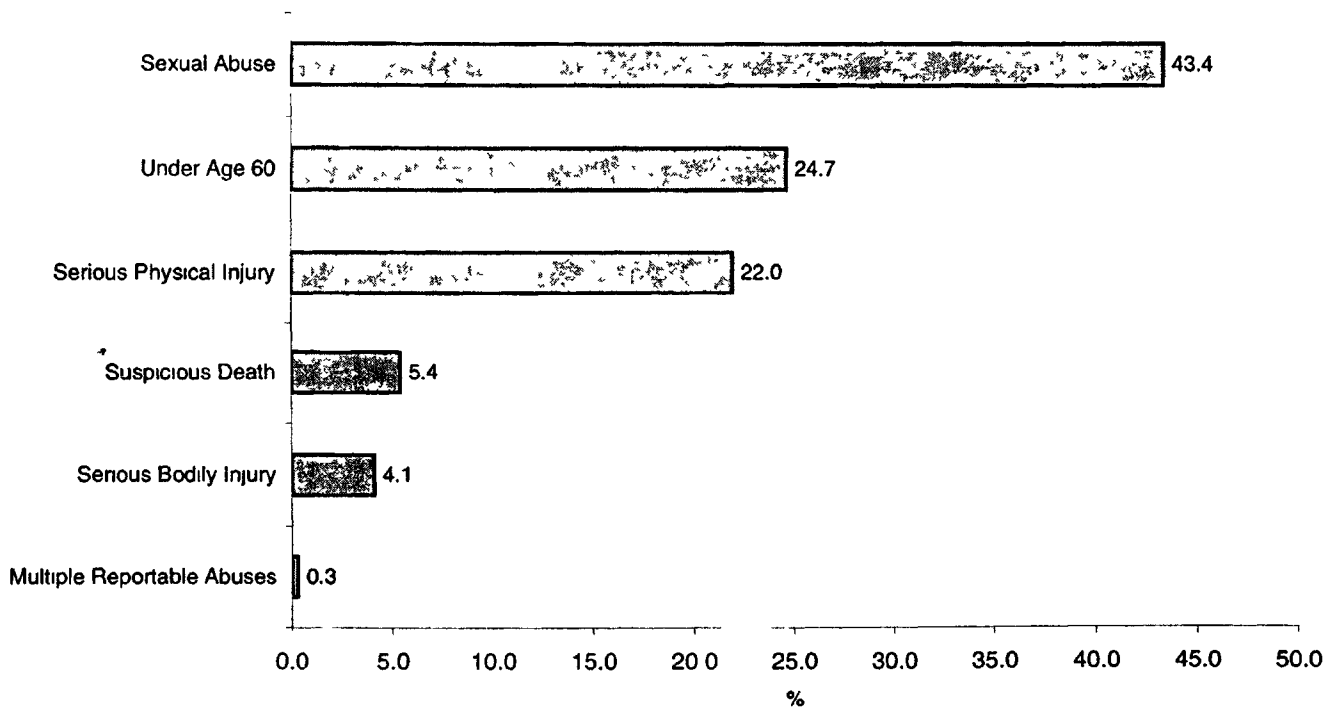
If you have any questions regarding these reports or require additional information, please contact me. Thank you

cc: File

Summary Report on All Act 13 Calls Received By PDA

| Type of Reporting Facility       | Type of Abuse         |                         |              |                  |  | Under Age 60 | Multiple Reportable Abuses | Row Total    | Percent of Total |
|----------------------------------|-----------------------|-------------------------|--------------|------------------|--|--------------|----------------------------|--------------|------------------|
|                                  | Serious Bodily Injury | Serious Physical Injury | Sexual Abuse | Suspicious Death |  |              |                            |              |                  |
| Adult Daily Living Center        | 0                     | 3                       | 3            | 0                |  | 3            | 0                          | 9            | 3.1              |
| Comm. Resid. Rehab. Svcs.        | 0                     | 0                       | 3            | 0                |  | 1            | 0                          | 4            | 1.4              |
| Domicillary Care Home            | 0                     | 0                       | 3            | 0                |  | 1            | 0                          | 4            | 1.4              |
| Family Living Home               | 0                     | 0                       | 3            | 0                |  | 0            | 0                          | 3            | 1.0              |
| Group Home                       | 0                     | 2                       | 11           | 0                |  | 31           | 0                          | 44           | 14.9             |
| Home Health                      | 1                     | 6                       | 4            | 0                |  | 8            | 0                          | 19           | 6.4              |
| Hospital                         | 0                     | 1                       | 0            | 0                |  | 0            | 0                          | 1            | 0.3              |
| ICF/MR                           | 0                     | 2                       | 4            | 0                |  | 15           | 0                          | 21           | 7.1              |
| Nursing Home                     | 8                     | 39                      | 82           | 12               |  | 10           | 1                          | 152          | 51.5             |
| Personal Care Home               | 3                     | 12                      | 14           | 2                |  | 3            | 0                          | 34           | 11.5             |
| Unknown                          | 0                     | 0                       | 1            | 2                |  | 1            | 0                          | 4            | 1.4              |
| <b>Total Number</b>              | <b>12</b>             | <b>65</b>               | <b>128</b>   | <b>16</b>        |  | <b>73</b>    | <b>1</b>                   | <b>295</b>   | <b>100.0</b>     |
| <b>Abuse By Percent of Total</b> | <b>4.1</b>            | <b>22.0</b>             | <b>43.4</b>  | <b>5.4</b>       |  | <b>24.7</b>  | <b>0.3</b>                 | <b>100.0</b> | <b>-</b>         |

**Percent of Act 13 Reports By Abuse Type**



## Report on All Act 13 Reports Received By The Department From Implementation Through July 31, 1999

| Facility Type             | Facility Name                      | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------------------|------------------------------------|---------------|-------------|-------------------------|--------|-----|
| Adult Daily Living Center | Adult Care of Chester County       | 01/27/1999    | 01/28/1999  | Sexual Abuse            | Female | 76  |
| Adult Daily Living Center | Adult Day Center at Barclay Square | 02/23/1998    | 02/23/1998  | Serious Physical Injury | Female | 86  |
| Adult Daily Living Center | ARC                                | 06/17/1999    |             | Under 60 AAA            | Female | 32  |
| Adult Daily Living Center | Community Choices                  | 09/09/1998    | 09/22/1998  | Sexual Abuse            | Female |     |
| Adult Daily Living Center | Dr. Gertrude A. Barber Center      | 06/30/1999    | 07/01/1999  | Serious Physical Injury | Female | 39  |
| Adult Daily Living Center | Gertrude Barber Center             | 11/18/1998    | 11/18/1998  | Sexual Abuse            | Female | 22  |
| Adult Daily Living Center | Landis Homes - Eden West Adult Day | 05/05/1999    |             | Under 60 AAA            | Male   | 44  |
| Adult Daily Living Center | The ARC of Lackawanna County       | 02/01/1999    | 02/02/1999  | Serious Physical Injury | Female | 28  |
| Adult Daily Living Center | United Cerebral Palsy              | 06/25/1999    |             | Under 60 AAA            | Male   | 28  |
| Comm. Resid. Rehab. Svcs. | Brian's House Inc.                 | 03/21/1999    | 03/26/1999  | Sexual Abuse            | Female | 46  |
| Comm. Resid. Rehab. Svcs. | Laurel Highlands                   | 05/02/1999    |             | Under 60 AAA            | Female | 36  |
| Comm. Resid. Rehab. Svcs. | Skills Industrial Services         | 03/19/1999    | 03/23/1999  | Sexual Abuse            | Female | 52  |
| Comm. Resid. Rehab. Svcs. | The Dr. Gertrude Barber Center     | 01/04/1999    | 02/04/1999  | Sexual Abuse            | Female | 21  |
| DC                        | Family Support Assoc               | 05/22/1998    | 05/26/1998  | Sexual Abuse            | Female | 35  |

Tuesday, August 03, 1999

Page 1 of 18

DC=DOMICILIARY CARE HOME GH=GROUP HOME HH=HOME HEALTH CARE AGENCY NH=NURSING HOME PCH=PERSONAL CARE HOME

| Facility Type      | Facility Name                        | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|--------------------|--------------------------------------|---------------|-------------|-------------------------|--------|-----|
| DC                 | McCandless Dom Care Home             | 06/01/1999    | 06/01/1999  | Sexual Abuse            | Female | 52  |
| DC                 | PA Mentor                            | 01/25/1999    |             | Under 60 AAA            | Female | 58  |
| DC                 | Sandy Tester (Dom Care)              | 11/17/1998    | 11/18/1998  | Sexual Abuse            | Female | 38  |
| Family Living Home | Access Services                      |               | 07/21/1999  | Sexual Abuse            | Male   | 21  |
| Family Living Home | Cambria Residential Services         | 03/08/1999    | 03/09/1999  | Sexual Abuse            | Female | 32  |
| Family Living Home | Family Support Associates            | 04/19/1999    | 04/26/1999  | Sexual Abuse            | Female | 28  |
| GH                 |                                      | 02/15/1999    |             | Under 60 AAA            | Male   | 50  |
| GH                 | Beacon Light Behavioral Health Syste | 06/29/1999    |             | Under 60 AAA            | Male   | 20  |
| GH                 | Community Living Care MH/MR          | 02/13/1998    | 02/13/1998  | Sexual Abuse            | Male   | 48  |
| GH                 | Community Services Alternatives      | 11/23/1998    |             | Under 60 AAA            | Male   | 37  |
| GH                 | Community Services Group             | 07/18/1999    | 07/22/1999  | Serious Physical Injury | Female | 38  |
| GH                 | Community Services Group             | 05/19/1999    | 05/19/1999  | Sexual Abuse            | Female | 49  |
| GH                 | Community Services Group Home        | 12/09/1998    |             | Under 60 AAA            | Female | 52  |
| GH                 | Dando Villa                          | 04/16/1999    | 04/19/1999  | Sexual Abuse            | Male   | 34  |
| GH                 | Dando Villa                          | 04/27/1999    | 04/28/1999  | Sexual Abuse            | Male   | 34  |
| GH                 | Dando Villa                          | 04/16/1999    | 04/19/1999  | Sexual Abuse            | Male   | 40  |
| GH                 | Dando Villa                          | 04/27/1999    | 04/28/1999  | Sexual Abuse            | Male   | 67  |

Tuesday, August 03, 1999

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DC=DOMICILIARY CARE HOME GH=GROUP HOME HH=HOME HEALTH CARE AGENCY NH=NURSING HOME PCH=PERSONAL CARE HOME



| Facility Type | Facility Name                    | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|----------------------------------|---------------|-------------|-------------------------|--------|-----|
| GH            | Erie Homes for Children & Adults | 03/02/1999    |             | Under 60 AAA            | Female | 12  |
| GH            | Erie Homes for Children & Adults | 01/15/1999    | 01/29/1999  | Serious Physical Injury | Female | 39  |
| GH            | Fayette Resources                | 06/24/1999    |             | Under 60 AAA            | Male   | 56  |
| GH            | Friendship Community             | 06/13/1999    |             | Under 60 AAA            | Female | 46  |
| GH            | Friendship Community             | 05/29/1999    |             | Under 60 AAA            | Female | 58  |
| GH            | Friendship Community             | 06/06/1999    |             | Under 60 AAA            | Female | 35  |
| GH            | Friendship Community Home        | 05/16/1999    | 05/26/1999  | Sexual Abuse            | Female | 35  |
| GH            | Friendship Community Home        | 05/26/1999    |             | Under 60 AAA            | Female | 35  |
| GH            | Futtrel Inc.                     | 07/06/1999    |             | Under 60 AAA            | Female | 48  |
| GH            | Futtrel Inc.                     | 05/02/1999    | 05/13/1999  | Sexual Abuse            | Female | 24  |
| GH            | Gertrude Barber Center           | 03/08/1999    |             | Under 60 AAA            | Female | 56  |
| GH            | Gertrude Barber Center           | 01/25/1999    |             | Under 60 AAA            | Male   | 33  |
| GH            | Group Home - Carolyn Street      | 03/29/1999    |             | Under 60 AAA            | Female | 55  |
| GH            | Human Services Consultants       | 12/23/1998    |             | Under 60 AAA            | Male   | 30  |
| GH            | Impact Systems, Inc.             | 07/12/1999    |             | Under 60 AAA            | Female | 47  |
| GH            | Keystone City Residence          | 05/21/1999    | 05/21/1999  | Sexual Abuse            | Female | 20  |
| GH            | Keystone City Residence          | 04/27/1999    |             | Under 60 AAA            | Female | 29  |

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DC=DOMICILIARY CARE HOME GH=GROUP HOME HH=HOME HEALTH CARE AGENCY NH=NURSING HOME PCH=PERSONAL CARE HOME

| Facility Type | Facility Name                   | Incident Date | Report Date | Alleged Abuse | Sex    | Age |
|---------------|---------------------------------|---------------|-------------|---------------|--------|-----|
| GH            | Keystone Residence              | 04/28/1999    | 05/05/1999  | Sexual Abuse  | Female | 40  |
| GH            | Keystone Residence              | 05/21/1999    |             | Under 60 AAA  | Male   | 41  |
| GH            | Lifepath                        | 03/31/1999    |             | Under 60 AAA  | Female | 49  |
| GH            | Lifepath                        | 05/19/1999    |             | Under 60 AAA  | Female | 26  |
| GH            | Lifepath                        | 03/11/1999    |             | Under 60 AAA  | Male   | 41  |
| GH            | Lifepath                        | 03/11/1999    |             | Under 60 AAA  | Male   | 38  |
| GH            | Lifepath                        | 03/11/1999    |             | Under 60 AAA  | Male   | 46  |
| GH            | Lifepath                        | 04/03/1999    |             | Under 60 AAA  | Male   | 22  |
| GH            | Lifestyle Support Services      | 06/29/1999    |             | Under 60 AAA  | Male   | 26  |
| GH            | Mapleview Residential Services  | 03/02/1999    | 03/02/1999  | Sexual Abuse  | Male   | 38  |
| GH            | PAI Adult Day Services          | 11/02/1998    |             | Under 60 AAA  | Male   | 40  |
| GH            | Skills Essentials of Central PA | 04/21/1999    |             | Under 60 AAA  | Male   | 35  |
| GH            | Skills Essentials of Central PA | 06/01/1999    |             | Under 60 AAA  | Male   | 35  |
| GH            | Skills Essentials of Central PA | 06/01/1999    |             | Under 60 AAA  | Male   | 35  |
| GH            | Tri County Human Services       | 01/28/1999    |             | Under 60 AAA  | Male   | 49  |
| GH            | VIA                             | 12/20/1998    |             | Under 60 AAA  | Female | 49  |
| GH            | VIA                             | 12/20/1998    |             | Under 60 AAA  | Female | 50  |

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DC=DOMICILIARY CARE HOME GH=GROUP HOME HH=HOME HEALTH CARE AGENCY NH=NURSING HOME PCH=PERSONAL CARE HOME

| Facility Type | Facility Name                       | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|-------------------------------------|---------------|-------------|-------------------------|--------|-----|
| HH            | Allied In-Home Services             | 03/24/1999    | 03/25/1999  | Serious Physical Injury | Female | 24  |
| HH            | Brandywine Home Health Care & Hospi | 10/05/1998    | 10/07/1998  | Serious Physical Injury | Female | 71  |
| HH            | Carolyn Ferdgin                     | 03/06/1998    | 03/06/1998  | Sexual Abuse            | Female | 46  |
| HH            | Comfort Care - Holy Spirit          | 10/18/1998    | 10/28/1998  | Serious Bodily Injury   | Male   | 101 |
| HH            | Community Health Services           | 04/26/1999    |             | Under 60 AAA            | Female | 52  |
| HH            | Home Nurse Inc.                     | 12/03/1998    | 12/23/1998  | Serious Physical Injury | Male   | 36  |
| HH            | Home Nursing Agency                 | 02/23/1999    | 03/09/1999  | Serious Physical Injury | Female | 58  |
| HH            | Impact Systems                      | 02/03/1999    |             | Under 60 AAA            | Female | 55  |
| HH            | Impact Systems                      | 06/18/1999    |             | Under 60 AAA            | Female | 37  |
| HH            | Impact Systems                      | 05/17/1999    |             | Under 60 AAA            | Female | 31  |
| HH            | Impact Systems                      | 01/31/1999    |             | Under 60 AAA            | Male   | 23  |
| HH            | Impact Systems                      | 06/18/1999    |             | Under 60 AAA            | Male   | 30  |
| HH            | Impact Systems Inc.                 | 12/11/1998    | 12/12/1998  | Serious Physical Injury | Male   | 32  |
| HH            | Lehigh Valley Home Care             | 01/04/1999    | 01/06/1999  | Serious Physical Injury | Female | 81  |
| HH            | VIA of the Lehigh Valley            | 04/17/1999    | 04/20/1999  | Sexual Abuse            | Female | 27  |
| HH            | VIA of the Lehigh Valley            | 04/17/1999    | 04/20/1999  | Sexual Abuse            | Female | 31  |
| HH            | Visiting Nurse Association          | 02/17/1999    |             | Under 60 AAA            | Male   | 20  |

| Facility Type | Facility Name                     | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|-----------------------------------|---------------|-------------|-------------------------|--------|-----|
| HH            | VNA                               | 03/18/1999    |             | Under 60 AAA            | Female | 54  |
| HH            | VNA                               | 05/05/1999    |             | Sexual Abuse            | Female | 38  |
| HOS           | Riddle Memorial Hospital          | 06/23/1998    | 06/23/1998  | Serious Physical Injury | Female | 86  |
| ICF/MR        | Allegheny Valley School           | 10/23/1998    | 10/23/1998  | Sexual Abuse            | Female | 29  |
| ICF/MR        | Allegheny Valley School           | 07/01/1999    |             | Under 60 AAA            | Female | 34  |
| ICF/MR        | Allegheny Valley School           | 01/22/1999    |             | Under 60 AAA            | Male   | 26  |
| ICF/MR        | Allegheny Valley School           | 02/26/1999    |             | Under 60 AAA            | Male   | 24  |
| ICF/MR        | Allegheny Valley School           | 11/24/1998    | 11/24/1998  | Serious Physical Injury | Male   | 37  |
| ICF/MR        | Conewago Residential Services     | 11/30/1998    | 12/02/1998  | Sexual Abuse            | Male   | 38  |
| ICF/MR        | Deveraux Whitlock Center          | 02/24/1999    |             | Under 60 AAA            | Female | 26  |
| ICF/MR        | Deveraux Whitlock Center          | 02/09/1999    |             | Sexual Abuse            | Male   | 48  |
| ICF/MR        | Devereux                          | 07/30/1999    |             | Under 60 AAA            | Female | 33  |
| ICF/MR        | Devereux Whitlock Center          | 03/26/1999    |             | Under 60 AAA            | Male   | 55  |
| ICF/MR        | Friendship Community (Eden Commun | 07/08/1999    |             | Under 60 AAA            | Male   | 45  |
| ICF/MR        | Friendship Community (Eden Commun | 07/08/1999    |             | Under 60 AAA            | Male   | 45  |
| ICF/MR        | Friendship Community (Eden Commun | 07/09/1999    |             | Under 60 AAA            | Male   | 45  |
| ICF/MR        | Gertrude Barber Center            | 05/03/1999    |             | Under 60 AAA            | Female | 38  |

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DC=DOMICILIARY CARE HOME GH=GROUP HOME HH=HOME HEALTH CARE AGENCY NH=NURSING HOME PCH=PERSONAL CARE HOME

| Facility Type | Facility Name                    | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|----------------------------------|---------------|-------------|-------------------------|--------|-----|
| ICF/MR        | Gertrude Barber Center           | 02/16/1999    |             | Under 60 AAA            | Female | 42  |
| ICF/MR        | Keystone Residence               | 03/17/1999    |             | Under 60 AAA            | Female | 17  |
| ICF/MR        | Keystone Residence               | 03/26/1999    |             | Under 60 AAA            | Male   | 15  |
| ICF/MR        | Rose Villa ICF/MR                | 06/11/1999    |             | Under 60 AAA            | Male   | 53  |
| ICF/MR        | Selinsgrove Center               | 01/29/1999    |             | Under 60 AAA            | Female | 37  |
| ICF/MR        | The Jewish Employment Center     | 01/12/1999    | 01/12/1999  | Sexual Abuse            | Female | 40  |
| ICF/MR        | The Rodney ICF/MR                | 04/24/1999    | 04/27/1999  | Serious Physical Injury | Male   | 37  |
| NH            | Abbingtion Crest Nursing & Rehab | 07/08/1999    | 07/13/1999  | Sexual Abuse            | Female | 88  |
| NH            | Abbingtion Crest Nursing & Rehab | 01/29/1999    | 02/03/1999  | Sexual Abuse            | Female | 69  |
| NH            | Allied Skilled Nursing Center    | 11/25/1998    | 11/25/1998  | Suspicious Death        | Male   | 83  |
| NH            | Armstrong County Health Center   | 06/02/1998    | 06/02/1998  | Serious Physical Injury | Female | 90  |
| NH            | Barclay Friends Nursing Facility | 01/26/1999    |             | Suspicious Death        | Female | 91  |
| NH            | Bear Acres Geriatric Ctr.        | 04/24/1998    | 04/24/1998  | Sexual Abuse            | Female | 94  |
| NH            | Belair Nursing Home              | 10/26/1998    | 10/27/1998  | Serious Physical Injury | Female | 67  |
| NH            | Berkshiem                        | 02/24/1998    | 02/27/1998  | Serious Bodily Injury   | Female | 71  |
| NH            | Beverly Healthcare               | 07/23/1999    |             | Under 60 AAA            | Female | 57  |
| NH            | Beverly Healthcare - Gettysburg  | 03/16/1999    | 03/16/1999  | Serious Physical Injury | Male   | 73  |

| Facility Type | Facility Name              | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|----------------------------|---------------|-------------|-------------------------|--------|-----|
| NH            | Beverly Manor              | 05/20/1999    | 05/25/1999  | Sexual Abuse            | Female | 57  |
| NH            | Beverly Manor              | 06/08/1999    | 06/10/1999  | Sexual Abuse            | Female | 59  |
| NH            | Beverly Manor              | 02/25/1999    | 03/01/1999  | Sexual Abuse            | Female | 74  |
| NH            | Beverly Manor              | 02/25/1999    | 03/01/1999  | Sexual Abuse            | Male   | 78  |
| NH            | Beverly Manor              | 02/25/1999    | 03/01/1999  | Sexual Abuse            | Male   | 67  |
| NH            | Beverly Manor              | 05/09/1999    | 05/14/1999  | Suspicious Death        | Male   | 79  |
| NH            | Beverly Manor of Lancaster | 11/20/1998    | 11/20/1998  | Sexual Abuse            | Male   | 83  |
| NH            | Bonham Nursing Center      | 04/01/1998    | 04/08/1998  | Sexual Abuse            | Female | 73  |
| NH            | Bonham Nursing Center      | 03/19/1998    | 03/24/1998  | Sexual Abuse            | Female | 86  |
| NH            | Boulevard Nursing Home     | 11/10/1998    | 11/11/1998  | Under 60 AAA            | Female | 74  |
| NH            | Boulevard Nursing Home     | 05/14/1999    | 05/14/1999  | Sexual Abuse            | Female | 93  |
| NH            | Bradford Ecumenical Home   | 11/09/1998    | 11/12/1998  | Sexual Abuse            | Female | 83  |
| NH            | Brethren Community Home-NH | 05/07/1998    | 05/08/1998  | Serious Physical Injury | Female |     |
| NH            | Briarleaf Nursing Home     | 02/16/1998    | 02/16/1998  | Sexual Abuse            | Female | 89  |
| NH            | Camp Hill Care Center      | 04/29/1999    | 05/03/1999  | Sexual Abuse            | Female | 67  |
| NH            | Cedarbrook                 | 04/19/1999    |             | Under 60 AAA            | Female | 45  |
| NH            | Cedarbrook Fountain Hill   | 09/11/1998    | 09/16/1998  | Suspicious Death        | Male   | 76  |

| Facility Type | Facility Name                      | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|------------------------------------|---------------|-------------|-------------------------|--------|-----|
| NH            | Cedarbrook Nursing Home            | 04/15/1999    | 06/30/1999  | Sexual Abuse            | Female | 91  |
| NH            | Cedarbrook Nursing Home            | 05/09/1999    | 05/11/1999  | Sexual Abuse            | Female | 74  |
| NH            | Cedarbrook Nursing Home            | 06/14/1999    | 06/23/1999  | Sexual Abuse            | Female | 84  |
| NH            | Cedarbrook Nursing Home            | 06/11/1999    | 06/23/1999  | Sexual Abuse            | Female | 88  |
| NH            | Chapel Manor                       | 06/11/1998    | 06/11/1998  | Sexual Abuse            | Female | 78  |
| NH            | Chatham Acres                      | 01/11/1999    | 01/11/1999  | Serious Physical Injury | Female | 84  |
| NH            | Cheltenham Nursing & Rehab Center  | 07/05/1999    | 07/08/1999  | Sexual Abuse            | Female | 75  |
| NH            | Cheltenham York Nursing Center     | 05/27/1999    | 05/28/1999  | Serious Physical Injury | Female | 94  |
| NH            | Claremont Nursing & Rehab          | 02/18/1999    | 02/22/1999  | Sexual Abuse            | Female | 70  |
| NH            | Claremont Nursing & Rehab. Ctr.    | 10/01/1998    | 10/01/1998  | Sexual Abuse            | Male   | 31  |
| NH            | Colonial Manor Nursing & Rehab Ctr | 12/24/1997    | 12/24/1997  | Serious Physical Injury | Female | 94  |
| NH            | Conestoga View                     | 03/24/1999    |             | Under 60 AAA            | Female | 54  |
| NH            | Conestoga View                     | 04/01/1999    | 04/01/1999  | Sexual Abuse            | Female | 87  |
| NH            | Conestoga View                     | 03/24/1999    |             | Under 60 AAA            | Male   | 42  |
| NH            | Dauphin Manor                      | 04/11/1998    | 04/11/1998  | Serious Physical Injury | Female | 100 |
| NH            | Easton Nursing                     | 04/13/1998    | 04/15/1998  | Serious Bodily Injury   | Male   | 74  |
| NH            | Easton Nursing Center              | 04/21/1999    | 04/22/1999  | Sexual Abuse            | Female | 74  |

| Facility Type | Facility Name                     | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|-----------------------------------|---------------|-------------|-------------------------|--------|-----|
| NH            | Ellen Memorial Health Care Center | 09/29/1998    | 10/02/1998  | Serious Physical Injury | Male   | 89  |
| NH            | Ellen Memorial Heath Care Center  | 11/14/1998    | 11/16/1998  | Sexual Abuse            | Female | 91  |
| NH            | Fair Acres Geriatric Ctr.         | 09/07/1998    | 09/09/1998  | Serious Physical Injury | Female | 82  |
| NH            | Fair Acres Geriatric Ctr.         | 09/06/1998    | 09/08/1998  | Serious Physical Injury | Female |     |
| NH            | Fair Acres Geriatric Ctr.         | 08/07/1998    | 08/10/1998  | Serious Physical Injury | Female | 89  |
| NH            | Fair Acres Geriatric Ctr.         | 08/21/1998    | 08/24/1998  | Sexual Abuse            | Female | 53  |
| NH            | Fairview Nursing Facility         | 11/13/1998    | 11/13/1998  | Sexual Abuse            | Female | 88  |
| NH            | Frey Village                      | 07/14/1999    | 07/19/1999  | Serious Physical Injury | Female | 88  |
| NH            | Golfview Manor-NH                 | 07/24/1998    | 07/27/1998  | Sexual Abuse            | Female | 97  |
| NH            | Good Shepherd                     | 01/20/1999    |             | Under 60 AAA            | Male   | 40  |
| NH            | Greenleaf Nursing & Conv.         | 09/15/1998    | 09/23/1998  | Sexual Abuse            | Female | 64  |
| NH            | Greenleaf Nursing & Conv.         | 09/15/1998    | 09/23/1998  | Sexual Abuse            | Female | 87  |
| NH            | HCR Manor Care - Bethel Park      | 03/02/1999    | 03/05/1999  | Serious Physical Injury | Female | 88  |
| NH            | HCR Manor Care - Bethel Park      | 03/05/1999    | 03/05/1999  | Serious Physical Injury | Female | 91  |
| NH            | HCR Manor Care Health Services    | 05/18/1999    | 05/28/1999  | Sexual Abuse            | Female | 79  |
| NH            | Heatherbank                       | 10/21/1998    | 10/22/1998  | Serious Physical Injury | Female | 43  |
| NH            | Heatherbank Nsg & Rehab Ctr       | 03/05/1998    | 03/05/1998  | Sexual Abuse            | Female | 82  |



| Facility Type | Facility Name                          | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|--|---------------|-------------|-------------------------|--------|-----|
| NH            | Heatherbank Nsg & Rehab Ctr            | 03/06/1998    | 03/06/1998  | Sexual Abuse            | Female | 92  |
| NH            | Heritage Nursing Home                  | 04/06/1999    |             | Sexual Abuse            | Female | 76  |
| NH            | IHS of Greater Pgh                     | 08/27/1998    | 08/27/1998  | Suspicious Death        | Female | 85  |
| NH            | Jefferson Hills Manor-NH               | 03/11/1998    | 03/11/1998  | Serious Bodily Injury   | Female | 86  |
| NH            | John XXIII                             | 02/02/1999    | 02/18/1999  | Serious Physical Injury | Female | 83  |
| NH            | Kane Hosp.                             | 03/10/1999    |             | Sexual Abuse            | Female | 45  |
| NH            | Kramm Healthcare, Inc                  | 06/19/1998    | 06/23/1998  | Serious Physical Injury | Female | 90  |
| NH            | Kramm Nursing Home                     | 12/15/1998    | 12/28/1998  | Sexual Abuse            | Female | 72  |
| NH            | Lancaster General - Transitional Care  |               | 07/30/1999  | Sexual Abuse            | Female | 26  |
| NH            | Laurel Crest Rehab                     | 01/02/1999    | 02/09/1999  | Suspicious Death        | Female | 81  |
| NH            | Laurel Crest Rehab                     | 01/12/1999    | 02/23/1999  | Suspicious Death        | Male   | 73  |
| NH            | Laurel Crest Rehab & special Care Ctr. | 09/17/1998    | 09/17/1998  | Serious Physical Injury | Female | 81  |
| NH            | Laurel Hill NH                         | 09/29/1998    | 10/02/1998  | Serious Physical Injury | Female | 96  |
| NH            | Lehigh NH & Rehab Ctr                  | 08/06/1998    | 08/31/1998  | Suspicious Death        | Male   | 86  |
| NH            | Lehigh NH/Rehab Ctr.                   | 08/16/1998    | 08/31/1998  | Sexual Abuse            | Female | 81  |
| NH            | Life Quest Nursing Ctr                 | 07/17/1998    | 07/21/1998  | Sexual Abuse            | Female | 75  |
| NH            | Mainline Nursing & Rehab               | 03/31/1998    | 04/15/1998  | Serious Physical Injury | Female | 84  |

| Facility Type | Facility Name                | Incident Date | Report Date | Alleged Abuse              | Sex    | Age |
|---------------|------------------------------|---------------|-------------|----------------------------|--------|-----|
| NH            | Manchester House             | 03/04/1998    | 03/04/1998  | Serious Physical Injury    | Female | 73  |
| NH            | Manor Care                   | 01/28/1998    | 01/28/1998  | Sexual Abuse               | Female | 72  |
| NH            | Manor Care                   | 02/20/1999    | 02/22/1999  | Sexual Abuse               | Female | 70  |
| NH            | Manor Care                   | 04/14/1999    | 04/15/1999  | Sexual Abuse               | Female | 80  |
| NH            | Manor Care                   | 07/22/1998    | 07/31/1998  | Sexual Abuse               | Female | 89  |
| NH            | Manor Care                   | 03/24/1999    | 03/25/1999  | Serious Physical Injury    | Female | 51  |
| NH            | Manor Care Health Services   | 06/07/1999    | 06/08/1999  | Sexual Abuse               | Female | 90  |
| NH            | Manor Care health Services   | 04/01/1998    | 04/03/1998  | Serious Bodily Injury      | Female | 78  |
| NH            | Manor Care Health Services   | 07/12/1999    | 07/16/1999  | Sexual Abuse               | Female | 90  |
| NH            | Manor Care Health Services   | 11/20/1998    | 12/04/1998  | Serious Bodily Injury      | Female | 75  |
| NH            | Manor Care Health Svcs.      | 09/30/1998    | 09/30/1998  | Sexual Abuse               | Male   | 31  |
| NH            | Manor Care Healthcare        | 09/02/1998    | 09/02/1998  | Serious Physical Injury    | Female |     |
| NH            | Manor Care Nursing Home      | 03/02/1998    | 03/02/1998  | Sexual Abuse               | Female | 78  |
| NH            | Manor Care Yardley           | 06/27/1999    | 07/02/1999  | Serious Physical Injury    | Female | 58  |
| NH            | Manor Care Yardley           | 10/02/1998    | 10/02/1998  | Multiple Reportable Abuses | Female | 81  |
| NH            | Maria Joseph Manor           | 06/18/1998    | 06/18/1998  | Suspicious Death           | Female | 80  |
| NH            | Mariner Health West Hills-NH | 03/27/1998    | 05/18/1998  | Serious Physical Injury    | Female | 80  |

| Facility Type | Facility Name                         | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|---------------------------------------|---------------|-------------|-------------------------|--------|-----|
| NH            | McMurray Hills Manor                  | 05/05/1999    | 05/10/1999  | Sexual Abuse            | Female | 74  |
| NH            | Mercy Douglass Human Services         | 01/07/1999    | 01/12/1999  | Sexual Abuse            | Female | 94  |
| NH            | Mercy Health care center              | 05/24/1998    | 05/27/1998  | Serious Physical Injury | Female | 81  |
| NH            | Misericordia Convalescent Home        | 03/20/1998    | 03/20/1998  | Serious Bodily Injury   | Female | 74  |
| NH            | Morans Home                           | 02/11/1999    | 03/12/1999  | Sexual Abuse            | Female | 86  |
| NH            | Moses Taylor Skilled Nursing Facility | 03/30/1999    | 03/31/1999  | Sexual Abuse            | Female | 86  |
| NH            | Mountain View Care Center             | 12/03/1998    | 12/03/1998  | Serious Physical Injury | Female | 98  |
| NH            | Mountain View Care Center             | 12/03/1998    | 12/03/1998  | Serious Physical Injury | Female | 87  |
| NH            | Mt. Macrina Manor                     | 05/26/1999    | 05/26/1999  | Sexual Abuse            | Male   | 75  |
| NH            | Mt. Macrina Manor                     | 05/21/1999    | 05/21/1999  | Sexual Abuse            | Male   | 77  |
| NH            | Mt. Macrina Manor                     | 05/21/1999    | 05/21/1999  | Sexual Abuse            | Male   | 87  |
| NH            | Neshaminy Manor                       | 11/09/1998    | 11/13/1998  | Sexual Abuse            | Male   | 51  |
| NH            | Neshaminy Manor Home                  | 07/29/1998    | 07/29/1998  | Sexual Abuse            | Female | 77  |
| NH            | Northumberland County - Mountain Vie  | 01/14/1999    | 01/22/1999  | Suspicious Death        | Male   | 63  |
| NH            | Orangeville Nursing & Rehab Ctr.      | 04/15/1998    | 04/16/1998  | Sexual Abuse            | Female | 88  |
| NH            | Penn Lutheran Village                 | 07/16/1998    | 07/22/1998  | Sexual Abuse            | Male   | 89  |
| NH            | Philadelphia Nursing Home             | 01/31/1999    | 02/05/1999  | Sexual Abuse            | Male   | 63  |

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| Facility Type | Facility Name                          | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|--|---------------|-------------|-------------------------|--------|-----|
| NH            | Philadelphia Nursing Home              | 07/14/1999    | 07/14/1999  | Sexual Abuse            | Male   | 33  |
| NH            | Phoenixville Manor                     | 12/03/1998    |             | Under 60 AAA            | Male   | 42  |
| NH            | Phoenixville Manor                     | 12/18/1998    | 12/18/1998  | Suspicious Death        | Male   |     |
| NH            | Providence Health Care Center          | 04/21/1999    | 04/23/1999  | Sexual Abuse            | Female | 82  |
| NH            | Quarryville Presbyterian Retirement Co | 07/08/1999    |             | Under 60 AAA            | Female | 46  |
| NH            | Redstone Highlands                     | 01/15/1998    | 01/15/1998  | Serious Physical Injury | Female | 89  |
| NH            | Redstone Highlands                     | 07/09/1998    | 07/13/1998  | Serious Physical Injury | Female | 97  |
| NH            | Riddle Memorial Hospital               | 02/10/1998    | 02/10/1998  | Serious Bodily Injury   | Female | 63  |
| NH            | Ridgecrest Nursing & Rehab             | 11/15/1998    | 11/16/1998  | Serious Physical Injury | Female | 91  |
| NH            | River Street Manor                     | 06/13/1998    | 06/15/1998  | Serious Bodily Injury   | Male   | 75  |
| NH            | Roseview Center                        | 11/04/1998    | 11/05/1998  | Sexual Abuse            | Female | 83  |
| NH            | Slate Belt Nursing Facility, Bangor    | 10/27/1998    | 10/27/1998  | Suspicious Death        | Female | 71  |
| NH            | Spruce Manor                           | 09/05/1998    | 09/08/1998  | Serious Physical Injury | Female | 78  |
| NH            | St. Anne Home                          | 09/30/1998    | 10/05/1998  | Sexual Abuse            | Female | 78  |
| NH            | St. John Neumann's Nursing Home        | 04/12/1998    | 05/11/1998  | Serious Physical Injury | Female | 101 |
| NH            | Sugar Creek Station                    | 06/06/1999    | 06/10/1999  | Serious Physical Injury | Female | 96  |
| NH            | Sugar Creek Station                    | 10/30/1998    | 10/30/1998  | Sexual Abuse            | Female | 76  |

| Facility Type | Facility Name                | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|------------------------------|---------------|-------------|-------------------------|--------|-----|
| NH            | Sugar Creek Station          | 10/30/1998    | 10/30/1998  | Sexual Abuse            | Female | 73  |
| NH            | Sunnyview Home               | 10/03/1998    | 10/08/1998  | Sexual Abuse            | Female | 90  |
| NH            | Sunnyview Home               | 10/30/1998    | 11/17/1998  | Serious Physical Injury | Female | 77  |
| NH            | Sunnyview Home               | 11/03/1998    | 11/17/1998  | Serious Physical Injury | Female | 83  |
| NH            | Susquehanna Center           | 07/07/1998    |             | Under 60 AAA            | Male   | 47  |
| NH            | Sycamore Manor               | 07/08/1998    |             | Under 60 AAA            | Male   | 58  |
| NH            | The Highlands at Wyomissing  | 03/17/1999    | 03/22/1999  | Sexual Abuse            | Female | 78  |
| NH            | Tucker House                 | 06/29/1999    | 07/02/1999  | Sexual Abuse            | Female | 73  |
| NH            | Tucker House II Inc.         | 03/12/1999    | 03/15/1999  | Sexual Abuse            | Female | 73  |
| NH            | Valley Manor Nursing & Rehab | 02/09/1998    | 02/09/1998  | Sexual Abuse            | Female | 85  |
| NH            | Valley Manor Nursing & Rehab | 06/14/1998    | 06/19/1998  | Sexual Abuse            | Male   | 72  |
| NH            | Valley View Nursing Home     | 07/09/1998    | 07/09/1998  | Sexual Abuse            | Female | 46  |
| NH            | Western Reserve Nursing Home | 12/10/1998    | 12/22/1998  | Serious Physical Injury | Male   | 48  |
| NH            | Westmoreland Manor           | 06/04/1998    | 06/08/1998  | Sexual Abuse            | Female | 63  |
| NH            | Westmoreland Manor           | 02/10/1998    | 02/10/1998  | Sexual Abuse            | Female | 51  |
| NH            | Westmoreland Manor           | 01/16/1998    | 01/16/1998  | Sexual Abuse            | Female | 65  |
| NH            | Westmoreland Manor           | 12/16/1997    | 12/16/1997  | Sexual Abuse            | Female | 29  |

Tuesday, August 03, 1999

Page 15 of 18

DC=DOMICILIARY CARE HOME GH=GROUP HOME HH=HOME HEALTH CARE AGENCY NH=NURSING HOME PCH=PERSONAL CARE HOME

| Facility Type | Facility Name                          | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|--|---------------|-------------|-------------------------|--------|-----|
| NH            | White Cliff Nursing Home               | 02/11/1999    | 02/11/1999  | Sexual Abuse            | Female | 86  |
| NH            | York County Nursing Home               | 02/20/1999    | 02/22/1999  | Sexual Abuse            | Female | 65  |
| NH            | York County Nursing Home               | 04/21/1998    | 04/21/1998  | Sexual Abuse            | Female | 86  |
| NH            | York Terrace Nursing Home              | 02/24/1998    | 02/24/1998  | Sexual Abuse            | Female | 88  |
| NH            | Zendt Home                             | 11/24/1998    | 12/09/1998  | Serious Physical Injury | Female | 87  |
| NH            | Zohlman NH                             | 01/12/1998    | 01/12/1998  | Sexual Abuse            | Female | 83  |
| PCH           | Autumn Lane PCH                        | 10/02/1998    |             | Serious Physical Injury | Female |     |
| PCH           | Blair Christian Home                   | 10/24/1998    | 10/26/1998  | Serious Bodily Injury   | Female | 87  |
| PCH           | Blair Christian Home                   | 05/26/1998    | 05/28/1998  | Serious Physical Injury | Female | 86  |
| PCH           | Brunett's Personal Care Home           | 04/07/1999    |             | Under 60 AAA            | Female | 58  |
| PCH           | Brunnet's Personal Care Home           | 11/20/1998    | 12/22/1998  | Sexual Abuse            | Female | 74  |
| PCH           | Caycora Pythian Home                   | 04/30/1998    | 04/30/1998  | Serious Bodily Injury   | Female | 66  |
| PCH           | Comm. Svc Group Home                   | 05/03/1998    | 05/03/1998  | Serious Physical Injury | Male   | 55  |
| PCH           | Eastern Orthodox Foundation            | 04/15/1999    |             | Under 60 AAA            | Male   | 50  |
| PCH           | Harvestview Assisted Living of Derby S | 05/07/1999    | 05/07/1999  | Sexual Abuse            | Male   | 71  |
| PCH           | Holy Family Assisted Living            | 04/25/1999    | 04/27/1999  | Sexual Abuse            | Female | 83  |
| PCH           | Huntington Manor                       | 06/25/1998    | 06/25/1998  | Sexual Abuse            | Male   | 72  |

| Facility Type | Facility Name                    | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|----------------------------------|---------------|-------------|-------------------------|--------|-----|
| PCH           | Jannuzzi PCH                     | 03/05/1998    | 03/05/1998  | Serious Physical Injury | Female | 41  |
| PCH           | Johnson Place                    | 04/23/1999    | 04/30/1999  | Serious Physical Injury | Female | 76  |
| PCH           | Johnson Place Personal Care Home | 07/20/1999    | 07/21/1999  | Serious Physical Injury | Male   | 76  |
| PCH           | McCallen Place                   | 09/14/1998    | 09/16/1998  | Serious Physical Injury | Female | 77  |
| PCH           | McCloud's Personal Care Home     | 11/09/1998    | 12/04/1998  | Sexual Abuse            | Female | 59  |
| PCH           | Mount Airy Commons               | 07/18/1998    | 07/23/1998  | Suspicious Death        | Male   | 65  |
| PCH           | Mount Trexler Manor              | 03/13/1999    | 03/16/1999  | Sexual Abuse            | Female | 19  |
| PCH           | Mountville Pines                 | 11/29/1998    | 12/01/1998  | Serious Bodily Injury   | Female | 68  |
| PCH           | Norwood Estates                  | 05/31/1999    | 06/02/1999  | Suspicious Death        | Female | 88  |
| PCH           | Paxton St. Homes                 | 07/23/1998    | 07/23/1998  | Sexual Abuse            | Female | 58  |
| PCH           | Paxton Street Home               | 05/19/1999    | 05/28/1999  | Sexual Abuse            | Female | 42  |
| PCH           | Personal Touch Assisted Living   | 01/18/1999    | 01/18/1999  | Sexual Abuse            | Female | 51  |
| PCH           | Rebecca's Personal Care Home     | 01/26/1999    |             | Under 60 AAA            | Female | 40  |
| PCH           | Silver Manor                     | 06/03/1999    | 06/07/1999  | Sexual Abuse            | Male   | 25  |
| PCH           | Silver Manor                     | 04/20/1998    | 04/20/1998  | Sexual Abuse            | Male   | 45  |
| PCH           | Tracy Jo's PCBH                  | 01/28/1999    |             | Serious Physical Injury | Female | 86  |
| PCH           | Tracy Jo's PCBH                  | 01/28/1999    |             | Serious Physical Injury | Female | 89  |

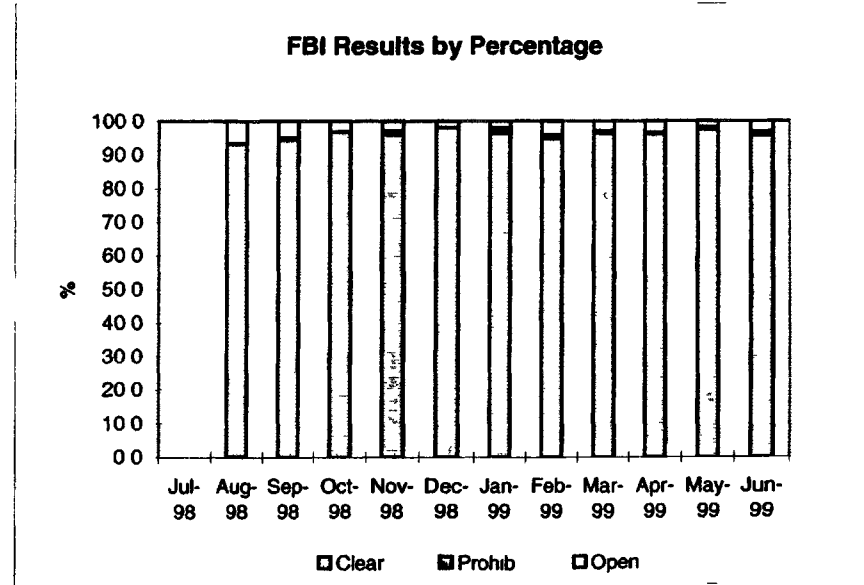
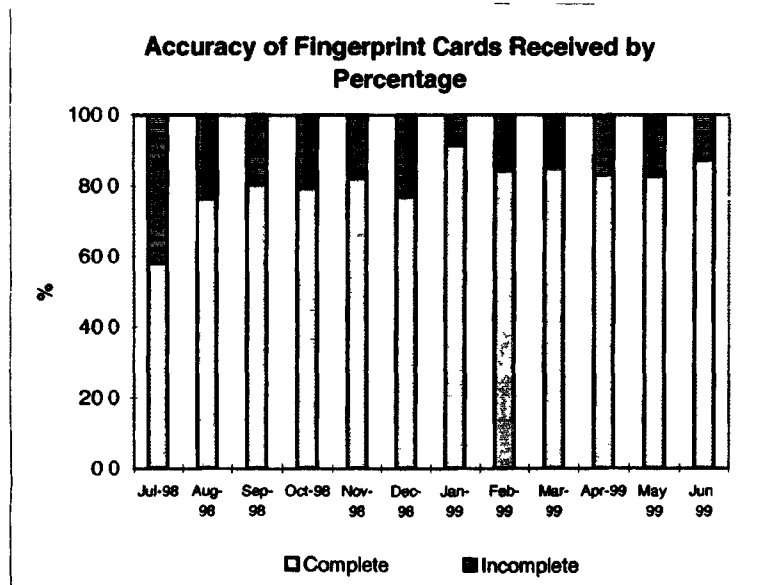
| Facility Type | Facility Name                     | Incident Date | Report Date | Alleged Abuse           | Sex    | Age |
|---------------|-----------------------------------|---------------|-------------|-------------------------|--------|-----|
| PCH           | Tracy Jo's PCBH                   | 01/28/1999    |             | Serious Physical Injury | Female | 85  |
| PCH           | Trexler Park Manor                | 06/16/1999    | 06/23/1999  | Sexual Abuse            | Female | 85  |
| PCH           | United Cerebral Palsy Association | 11/19/1998    | 12/04/1998  | Sexual Abuse            | Male   | 79  |
| PCH           | Wheeler Care Center               | 07/23/1999    | 07/27/1999  | Serious Physical Injury | Male   | 64  |
| PCH           | Woodland Place                    | 06/03/1998    | 06/03/1998  | Sexual Abuse            | Female | 41  |
| PCH           | Wovenhearts                       | 06/16/1998    | 06/16/1998  | Serious Physical Injury | Male   | 66  |
| Unknown       | Brookview Country Manor           | 10/30/1998    |             | Under 60 AAA            | Female | 37  |
| Unknown       | Lakeside at Willow Valley         | 06/14/1998    | 06/14/1998  | Sexual Abuse            | Female | 82  |
| Unknown       | Laurel Highlands                  | 01/25/1999    |             | Suspicious Death        | Female | 60  |
| Unknown       | Laurel Highlands                  | 01/25/1999    |             | Suspicious Death        | Female |     |



## Monthly Report on Activity in the FBI Background Check Unit

| Cards Received by the PA Department of Aging |             |             |             |             |             |             |
|--|-------------|-------------|-------------|-------------|-------------|-------------|
| Time Period                                  | Complete    |             | In-Complete |             | Row Total   | Phone Calls |
|  | #           | %           | #           | %           |             |             |
| Jul-98                                       | 83          | 58.0        | 60          | 42.0        | 143         | 451         |
| Aug-98                                       | 181         | 76.4        | 56          | 23.6        | 237         | 332         |
| Sep-98                                       | 262         | 80.4        | 64          | 19.6        | 326         | 356         |
| Oct-98                                       | 373         | 79.4        | 97          | 20.6        | 470         | 306         |
| Nov-98                                       | 243         | 82.1        | 53          | 17.9        | 296         | 295         |
| Dec-98                                       | 397         | 77.1        | 118         | 22.9        | 515         | 225         |
| Jan-99                                       | 282         | 91.3        | 27          | 8.7         | 309         | 272         |
| Feb-99                                       | 278         | 84.5        | 51          | 15.5        | 329         | 269         |
| Mar-99                                       | 313         | 85.1        | 55          | 14.9        | 368         | 448         |
| Apr-99                                       | 319         | 83.1        | 65          | 16.9        | 384         | 378         |
| May-99                                       | 308         | 82.6        | 65          | 17.4        | 373         | 337         |
| Jun-99                                       | 350         | 87.3        | 51          | 12.7        | 401         | 395         |
| <b>Total YTD</b>                             | <b>3389</b> | <b>81.6</b> | <b>762</b>  | <b>18.4</b> | <b>4151</b> | <b>4064</b> |

| FBI Responses Received by the PA Department of Aging |             |             |                   |            |                  |            |             |
|--|-------------|-------------|-------------------|------------|------------------|------------|-------------|
| Time Period  | Clearances  |             | Prohibitive Hires |            | Open Disposition |            | Row Total   |
|  | #           | %           | #                 | %          | #                | %          |             |
| Jul-98   | 0           | 0.0         | 0                 | 0.0        | 0                | 0.0        | 0           |
| Aug-98   | 14          | 93.3        | 0                 | 0.0        | 1                | 6.7        | 15          |
| Sep-98   | 171         | 94.5        | 1                 | 0.6        | 9                | 5.0        | 181         |
| Oct-98   | 178         | 96.7        | 0                 | 0.0        | 6                | 3.3        | 184         |
| Nov-98   | 366         | 96.1        | 4                 | 1.0        | 11               | 2.9        | 381         |
| Dec-98   | 311         | 98.1        | 0                 | 0.0        | 6                | 1.9        | 317         |
| Jan-99   | 278         | 96.2        | 5                 | 1.7        | 6                | 2.1        | 289         |
| Feb-99   | 267         | 94.7        | 3                 | 1.1        | 12               | 4.3        | 282         |
| Mar-99   | 322         | 96.4        | 2                 | 0.6        | 10               | 3.0        | 334         |
| Apr-99   | 277         | 96.2        | 1                 | 0.3        | 10               | 3.5        | 288         |
| May-99   | 499         | 97.7        | 3                 | 0.6        | 9                | 1.8        | 511         |
| Jun-99   | 303         | 95.9        | 3                 | 0.9        | 10               | 3.2        | 316         |
| <b>Total YTD</b>                                     | <b>2986</b> | <b>96.4</b> | <b>22</b>         | <b>0.7</b> | <b>90</b>        | <b>2.9</b> | <b>3098</b> |



Prepared by  
 FBI Background Check Unit  
 Bureau of Contracts and Management  
 PA Department of Aging

TO: JWOOD AGE400 Wood, Jeff  
DCARROLL AGE400 Carroll, Debra  
GDIAMOND AGE400 Diamond, George

Original: 2077

Mizner

Copies:

Harris  
Jewett  
Markham  
Nanorta  
Sandusky  
Wyatte

FROM: JWOOD AGE400 Wood, Jeff

DATE: APRIL 1, 1999  
SUBJECT: direct contact

Sharon M. Dietrich, Esquire  
FAX 1.215.981.0437

this is in response to your inquiry about the Older Adults Protective Services Act definition of employee and whether 'kitchen/food service' personnel are within the purview of the Act's mandatory "reporting" and "criminal background check"; if the personnel are employees of the facility (as noted in sentence one of the three sentence "employee" definition) whereby the facility has them on payroll with all usual and customary exolumants, then they are "employees"; if the personnel are contract employees of the facility (as noted in sentence two of the three sentence "employee" definition) whereby the facility receives a service from the personnel and whereby the personnel receive some quid pro quo from facility AND thereby the personnel are either in direct contact\* with, or have unsupervised access\* to, facility recipients, then they are "employees"; I trust this explanation is satisfactory given that my Office wants to provide technical assistance or guidance on such issue, but contemporaneously does not want to preclude nor preempt a judicial determination of this issue. jjw 04/01/99

\*it is presumed that kitchen/food service personnel do not have 'contact' with recipients in their ordinary course of performing their duties; that is, FDA is taking the position that direct contact entails a touching or hands-on of a facility recipient by the contract employee . . . say, e.g. a physician, physical therapist, minister or barber is expected to touch or have hands-on a recipient, however an attorney (contract employee), plumber (contract employee), appliance repair (contract employee), painter (contract employee) or kitchen/food service personnel (contract employee) is not expected to touch or have hands-on a recipient in the course of their respective trade, profession and ordinary course of performing their duties, but if such contract employees do touch or have hands-on, or there is a reasonable contemplation that they may/might or if there is a possibility or reasonable contemplation that they may/might have unsupervised access to a recipient, then such personnel are "employees"; such analysis is limited to the issue of Commonwealth regulatory enforcement, and FDA only has regulatory authority in and of facilities that it certifies/licenses (DPW and DOH likewise have administrative oversight of their respective licensees), and such analysis does not insulate a facility from civil and/or criminal liability from private plaintiffs.

Jeffrey J. Wood  
Chief Counsel  
PA Department of Aging (PDa)  
1-717.783.1609

RECEIVED  
2000 JAN 18 PM 4:49  
REVIEW COMMISSION

RECEIVED  
2000 JAN 13 AM 9:26  
REVIEW COMMISSION



COMMONWEALTH OF PENNSYLVANIA  
**DEPARTMENT OF AGING**  
555 Walnut Street - 5<sup>th</sup> Floor  
Harrisburg, Pennsylvania 17101-1919

ORIGINAL: 2077  
MIZNER  
COPIES: Harris  
Jewett  
Markham  
Nanorta  
Sandusky  
Wyatte

Dear Applicant/Employee:

Enclosed are the various forms that will need to be completed in order to obtain a criminal history background check to work in a facility as defined by Act 169 of 1996 as amended by Act 13 of 1997.

An applicant/employee is defined as an individual who is employed by a facility who has direct contact with residents or unsupervised access to their personal living quarters. This term includes contract employees.

If the applicant/employee has been a resident of the Commonwealth of Pennsylvania for 2 or more years prior to application for employment, the applicant will need to obtain a clearance from the Pennsylvania State Police. This clearance is obtained by doing the following:

**REQUEST FOR CRIMINAL RECORD CHECK FORM (SP4-164)**

This form is used to obtain a report from the Pennsylvania State Police criminal history files. Complete Part I of the Form. Follow the instructions printed in each section for proper completion of the form. Failure to follow the instructions will result in a considerable delay in the processing of your clearance. A processing fee of \$10.00 is required. Enclose a money order, cashier's check or certified check made payable to the "Commonwealth of PA". **No Personal Checks Will Be Accepted** Mail the completed application and fee to the address below:

PA State Police Criminal Repository  
1800 Elmerton Ave.  
Harrisburg, PA 17110-9973

When the applicant/employee has not been a resident of the Commonwealth of Pennsylvania for the entire two years (without interruption) immediately preceding the date of application for employment or currently lives out-of-state, in addition to the Pennsylvania State Police Criminal History Check, the applicant/employee will also need to obtain an FBI Criminal History Check. This clearance is obtained by doing the following:

(continued on back of page)

**FBI Background Check Transmittal Form**  
**Applicant Information**

|                                |  |                    |                              |                     |  |  |
|--------------------------------|--|--------------------|------------------------------|---------------------|--|--|
| <b>Last Name:</b>              |  | <b>First Name:</b> |                              | <b>Middle Name:</b> |  |  |
| <b>Social Security Number:</b> |  |                    | <b>Maiden Name:</b>          |                     |  |  |
| <b>Address Line 1:</b>         |  |                    |                              |                     |  |  |
| <b>Address Line 2:</b>         |  |                    |                              |                     |  |  |
| <b>City and State:</b>         |  |                    |                              | <b>Zip Code:</b>    |  |  |
| <b>Phone Number:</b>           |  |                    | <b>Position Applied For:</b> |                     |  |  |
| <b>County of Residence:</b>    |  |                    |                              |                     |  |  |
| <b>Employer Information</b>    |  |                    |                              |                     |  |  |
| <b>Employer's Name:</b>        |  |                    |                              |                     |  |  |
| <b>Address Line 1:</b>         |  |                    |                              |                     |  |  |
| <b>Address Line 2:</b>         |  |                    |                              |                     |  |  |
| <b>County of Residence:</b>    |  |                    |                              |                     |  |  |
| <b>City and State:</b>         |  |                    |                              | <b>Zip Code:</b>    |  |  |
| <b>Phone Number:</b>           |  |                    | <b>Employer's County:</b>    |                     |  |  |

PDACBC-1

**FBI Background Check Transmittal Form**  
**Applicant Information**

|                                |  |                    |                              |                     |  |  |
|--------------------------------|--|--------------------|------------------------------|---------------------|--|--|
| <b>Last Name:</b>              |  | <b>First Name:</b> |                              | <b>Middle Name:</b> |  |  |
| <b>Social Security Number:</b> |  |                    | <b>Maiden Name:</b>          |                     |  |  |
| <b>Address Line 1:</b>         |  |                    |                              |                     |  |  |
| <b>Address Line 2:</b>         |  |                    |                              |                     |  |  |
| <b>City and State:</b>         |  |                    |                              | <b>Zip Code:</b>    |  |  |
| <b>Phone Number:</b>           |  |                    | <b>Position Applied For:</b> |                     |  |  |
| <b>County of Residence:</b>    |  |                    |                              |                     |  |  |
| <b>Employer Information</b>    |  |                    |                              |                     |  |  |
| <b>Employer's Name:</b>        |  |                    |                              |                     |  |  |
| <b>Address Line 1:</b>         |  |                    |                              |                     |  |  |
| <b>Address Line 2:</b>         |  |                    |                              |                     |  |  |
| <b>County of Residence:</b>    |  |                    |                              |                     |  |  |
| <b>City and State:</b>         |  |                    |                              | <b>Zip Code:</b>    |  |  |
| <b>Phone Number:</b>           |  |                    | <b>Employer's County:</b>    |                     |  |  |

PDACBC-1

APPLICANT

8-1 6 4

Brown

Jane

Anne

Jane A Brown

1234 Maple Street, Apt 2C  
Dover, DE 12345-6789

Doe

PA920960Z  
PA DEPT OF AGING  
HARRISBURG PA

04 05 72

F W 5'4" 125 BR BLK Lewes, DE

ABC Nursing Home  
789 Oak Road  
Chester, PA 98765-4321

\* Long Term Care Employment  
Act 1996-169, Sec. 502,(a) (2)

123-45-6789

\*This block needs to  
contain the above text to be  
processed by the FBI.

SAMPLE  
ONLY

**PENNSYLVANIA STATE POLICE  
REQUEST FOR CRIMINAL RECORD CHECK**

**FOR CENTRAL REPOSITORY USE ONLY  
(LEAVE BLANK)**

TYPE OR PRINT LEGIBLY WITH INK

**PART I: TO BE COMPLETED BY REQUESTER**

DATE OF REQUEST:

(INFORMATION WILL BE MAILED TO REQUESTER ONLY)

NAME OF REQUESTER:

ADDRESS:

CITY:

STATE:

ZIP:

AREA CODE:

CONTACT TELEPHONE NUMBER:

|  |  |  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|--|--|

**REQUESTER IDENTIFICATION: (CHECK ONE BLOCK)**

- INDIVIDUAL/NONCRIMINAL JUSTICE AGENCY - ENCLOSE A CERTIFIED CHECK/MONEY ORDER IN THE AMOUNT OF \$10.00 PAYABLE TO: "COMMONWEALTH OF PENNSYLVANIA." THE FEE IS NONREFUNDABLE.
- FEE - EXEMPT NONCRIMINAL JUSTICE AGENCY

**\*\*\*DO NOT SEND CASH OR PERSONAL CHECK\*\*\***

NAME/SUBJECT OF RECORD CHECK: (LAST)

(FIRST)

(MIDDLE)

MAIDEN NAME AND/OR ALIASES

SOCIAL SECURITY NUMBER (SOC):

DATE OF BIRTH (DOB):

SEX:

RACE:

**REASON FOR REQUEST: (CHECK ONE BLOCK)**

- EMPLOYMENT
- FIREARMS PROHIBITION CHALLENGE
- INDIVIDUAL ACCESS AND REVIEW BY SUBJECT OF RECORD CHECK OR LEGAL REPRESENTATIVE (AFFIDAVIT OF LEGAL REPRESENTATIVE ATTACHED)
- OTHER (SPECIFY) \_\_\_\_\_

NOTE: A "NO RECORD" RESPONSE MAY TAKE THREE WEEKS TO PROCESS; A "RECORD" RESPONSE TAKES LONGER THAN A "NO RECORD" RESPONSE.

IF THIS FORM IS NOT LEGIBLE OR NOT PROPERLY COMPLETED, IT WILL BE RETURNED UNPROCESSED TO THE REQUESTER.

**REQUESTER CHECKLIST:**

- DID YOU ENTER THE FULL NAME, DOB, AND SOC?
- DID YOU ENCLOSE THE \$10.00 FEE? (CERTIFIED CHECK/MONEY ORDER)
- \*\*\* DO NOT SEND CASH/PERSONAL CHECK\*\*\***
- DID YOU ENTER YOUR COMPLETE ADDRESS INCLUDING ZIP CODE AND TELEPHONE NUMBER IN THE BLOCKS PROVIDED?

**AFTER COMPLETION MAIL TO:**

**PENNSYLVANIA STATE POLICE CENTRAL REPOSITORY-164  
1800 ELMERTON AVENUE  
HARRISBURG, PENNSYLVANIA 17110-9768  
(717) 783-9973**

**PART II: CENTRAL REPOSITORY RESPONSE**

**\*\*\*DO NOT WRITE BELOW THIS LINE\*\*\***

**INFORMATION DISSEMINATED.**

- NO RECORD       CRIMINAL RECORD ATTACHED

INQUIRY/DISSEMINATED BY:

SID NO:

THE INFORMATION DISSEMINATED BY THE CENTRAL REPOSITORY IS BASED SOLELY ON THE FOLLOWING IDENTIFIERS THAT MATCH THOSE FURNISHED BY THE REQUESTER.

- NAME       SOCIAL SECURITY NUMBER
- DATE OF BIRTH       RACE
- SEX       MAIDEN/ALIAS NAME

CERTIFIED BY:

(DIRECTOR, CENTRAL REPOSITORY)

The response is based on a comparison of data provided by the requester in Part I against information contained in the files of the Pennsylvania State Police Central Repository only. The Pennsylvania State Police response does not preclude the existence of criminal records which might be contained in the repositories of other local, state, or federal criminal justice agencies.

**PENNSYLVANIA STATE POLICE  
REQUEST FOR CRIMINAL RECORD CHECK**

**FOR CENTRAL REPOSITORY USE ONLY  
(LEAVE BLANK)**

TYPE OR PRINT LEGIBLY WITH INK

**PART I: TO BE COMPLETED BY REQUESTER**

DATE OF REQUEST:

(INFORMATION WILL BE MAILED TO REQUESTER ONLY)

5/16/96

**NAME OF REQUESTER:**

Jennifer Ann Smith

**ADDRESS:**

111 Main St., Apt. 4

**CITY:**

New Castle,

**STATE:**

PA

**ZIP:**

16106

**AREA CODE:**

**CONTACT TELEPHONE NUMBER:**

|   |   |   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|---|---|
| 4 | 1 | 2 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|---|

**REQUESTER IDENTIFICATION: (CHECK ONE BLOCK)**

**INDIVIDUAL/NONCRIMINAL JUSTICE AGENCY - ENCLOSE A CERTIFIED CHECK/MONEY ORDER IN THE AMOUNT OF \$10.00 PAYABLE TO "COMMONWEALTH OF PENNSYLVANIA." THE FEE IS NONREFUNDABLE.**

**FEE - EXEMPT NONCRIMINAL JUSTICE AGENCY**

**\*\*\*DO NOT SEND CASH OR PERSONAL CHECK\*\*\***

**NAME/SUBJECT OF RECORD CHECK: (LAST)**

Smith

**(FIRST)**

Jennifer

**(MIDDLE)**

Ann

**MAIDEN NAME AND/OR ALIASES:**

Jennifer Ann Jones

**SOCIAL SECURITY NUMBER (SOC):**

123-45-6789

**DATE OF BIRTH (DOB):**

8/21/63

**SEX:**

F

**RACE:**

W

**REASON FOR REQUEST: (CHECK ONE BLOCK)**

**EMPLOYMENT**

**FIREARMS PROHIBITION CHALLENGE**

**INDIVIDUAL ACCESS AND REVIEW BY SUBJECT OF RECORD CHECK OR LEGAL REPRESENTATIVE (AFFIDAVIT OF LEGAL REPRESENTATIVE ATTACHED)**

**OTHER (SPECIFY) \_\_\_\_\_**

**NOTE:** A "NO RECORD" RESPONSE MAY TAKE THREE WEEKS TO PROCESS; A "RECORD" RESPONSE TAKES LONGER THAN A "NO RECORD" RESPONSE.

**IF THIS FORM IS NOT LEGIBLE OR NOT PROPERLY COMPLETED, IT WILL BE RETURNED UNPROCESSED TO THE REQUESTER.**

**REQUESTER CHECKLIST:**

DID YOU ENTER THE FULL NAME, DOB, AND SOC?

DID YOU ENCLOSE THE \$10.00 FEE? (CERTIFIED CHECK/MONEY ORDER)

**\*\*\* DO NOT SEND CASH/PERSONAL CHECK\*\*\***

DID YOU ENTER YOUR COMPLETE ADDRESS INCLUDING ZIP CODE AND TELEPHONE NUMBER IN THE BLOCKS PROVIDED?

**AFTER COMPLETION MAIL TO:**

**PENNSYLVANIA STATE POLICE CENTRAL REPOSITORY-164  
1800 ELMERTON AVENUE  
HARRISBURG, PENNSYLVANIA 17110-9758  
(717) 783-9973**

**PART II: CENTRAL REPOSITORY RESPONSE**

**\*\*\*DO NOT WRITE BELOW THIS LINE\*\*\***

**INFORMATION DISSEMINATED:**

**NO RECORD**

**CRIMINAL RECORD ATTACHED**

**INQUIRY/DISSEMINATED BY:**

**SID NO:**

**THE INFORMATION DISSEMINATED BY THE CENTRAL REPOSITORY IS BASED SOLELY ON THE FOLLOWING IDENTIFIERS THAT MATCH THOSE FURNISHED BY THE REQUESTER.**

**NAME**

**SOCIAL SECURITY NUMBER**

**DATE OF BIRTH**

**RACE**

**SEX**

**MAIDEN/ALIAS NAME**

**CERTIFIED BY:**

(DIRECTOR, CENTRAL REPOSITORY)

The response is based on a comparison of data provided by the requester in Part I against information contained in the files of the Pennsylvania State Police Central Repository only. The Pennsylvania State Police response does not preclude the existence of criminal records which might be contained in the repositories of other local, state, or federal criminal justice agencies.







COMMONWEALTH OF PENNSYLVANIA  
**DEPARTMENT OF AGING**  
555 Walnut Street - 5<sup>th</sup> Floor  
Harrisburg, Pennsylvania 17101-1919

Dear Applicant/Employee:

Enclosed are the various forms that will need to be completed in order to obtain a criminal history background check to work in a facility as defined by Act 169 of 1996 as amended by Act 13 of 1997.

An applicant/employee is defined as an individual who is employed by a facility who has direct contact with residents or unsupervised access to their personal living quarters. This term includes contract employees.

If the applicant/employee has been a resident of the Commonwealth of Pennsylvania for 2 or more years prior to application for employment, the applicant will need to obtain a clearance from the Pennsylvania State Police. This clearance is obtained by doing the following:

**REQUEST FOR CRIMINAL RECORD CHECK FORM (SP4-164)**

This form is used to obtain a report from the Pennsylvania State Police criminal history files. Complete Part I of the Form. Follow the instructions printed in each section for proper completion of the form. Failure to follow the instructions will result in a considerable delay in the processing of your clearance. A processing fee of \$10.00 is required. Enclose a money order, cashier's check or certified check made payable to the "Commonwealth of PA". **No Personal Checks Will Be Accepted** Mail the completed application and fee to the address below:

PA State Police Criminal Repository  
1800 Elmerton Ave.  
Harrisburg, PA 17110-9973

When the applicant/employee **has not been a resident of the Commonwealth of Pennsylvania for the entire two years (without interruption) immediately preceding the date of application for employment or currently lives out-of-state, in addition to the Pennsylvania State Police Criminal History Check**, the applicant/employee will also need to obtain an FBI Criminal History Check. This clearance is obtained by doing the following:

(continued on back of page)

**FBI Background Check Transmittal Form****Applicant Information**

|                                |  |                              |  |                     |  |
|--------------------------------|--|------------------------------|--|---------------------|--|
| <b>Last Name:</b>              |  | <b>First Name:</b>           |  | <b>Middle Name:</b> |  |
| <b>Social Security Number:</b> |  | <b>Maiden Name:</b>          |  |                     |  |
| <b>Address Line 1:</b>         |  |                              |  |                     |  |
| <b>Address Line 2:</b>         |  |                              |  |                     |  |
| <b>City and State:</b>         |  | <b>Zip Code:</b>             |  |                     |  |
| <b>Phone Number:</b>           |  | <b>Position Applied For:</b> |  |                     |  |
| <b>County of Residence:</b>    |  |                              |  |                     |  |
| <b>Employer Information</b>    |  |                              |  |                     |  |
| <b>Employer's Name:</b>        |  |                              |  |                     |  |
| <b>Address Line 1:</b>         |  |                              |  |                     |  |
| <b>Address Line 2:</b>         |  |                              |  |                     |  |
| <b>County of Residence:</b>    |  |                              |  |                     |  |
| <b>City and State:</b>         |  | <b>Zip Code:</b>             |  |                     |  |
| <b>Phone Number:</b>           |  | <b>Employer's County:</b>    |  |                     |  |

PDACBC-1

**FBI Background Check Transmittal Form****Applicant Information**

|                                |  |                              |  |                     |  |
|--------------------------------|--|------------------------------|--|---------------------|--|
| <b>Last Name:</b>              |  | <b>First Name:</b>           |  | <b>Middle Name:</b> |  |
| <b>Social Security Number:</b> |  | <b>Maiden Name:</b>          |  |                     |  |
| <b>Address Line 1:</b>         |  |                              |  |                     |  |
| <b>Address Line 2:</b>         |  |                              |  |                     |  |
| <b>City and State:</b>         |  | <b>Zip Code:</b>             |  |                     |  |
| <b>Phone Number:</b>           |  | <b>Position Applied For:</b> |  |                     |  |
| <b>County of Residence:</b>    |  |                              |  |                     |  |
| <b>Employer Information</b>    |  |                              |  |                     |  |
| <b>Employer's Name:</b>        |  |                              |  |                     |  |
| <b>Address Line 1:</b>         |  |                              |  |                     |  |
| <b>Address Line 2:</b>         |  |                              |  |                     |  |
| <b>County of Residence:</b>    |  |                              |  |                     |  |
| <b>City and State:</b>         |  | <b>Zip Code:</b>             |  |                     |  |
| <b>Phone Number:</b>           |  | <b>Employer's County:</b>    |  |                     |  |

PDACBC-1

APPLICANT

Brown

Jane

Anne

Jane A. Brown

1234 Maple Street, Apt 2C  
Dover, DE 12345-6789

AKA

Doe

PA920960Z  
PA DEPT OF AGING  
HARRISBURG PA

04 05 72

F W 5'4" 125 BR BLK Lewes, DE

ABC Nursing Home  
789 Oak Road  
Chester, PA 98765-4321

\* Long Term Care Employment  
Act 1996-169, Sec. 502,(a) (2)

123-45-6789

\*This block needs to  
contain the above text to be  
processed by the FBI.

SAMPLE  
ONLY

PENNSYLVANIA STATE POLICE  
REQUEST FOR CRIMINAL RECORD CHECK

FOR CENTRAL REPOSITORY USE ONLY  
(LEAVE BLANK)

TYPE OR PRINT LEGIBLY WITH INK

PART I: TO BE COMPLETED BY REQUESTER

DATE OF REQUEST:

(INFORMATION WILL BE MAILED TO REQUESTER ONLY)

NAME OF REQUESTER:

ADDRESS:

CITY:

STATE:

ZIP:

AREA CODE:

CONTACT TELEPHONE NUMBER:

Grid for area code and telephone number: [ ][ ][ ] [ ][ ][ ][ ][ ] [ ][ ][ ][ ][ ]

REQUESTER IDENTIFICATION: (CHECK ONE BLOCK)

INDIVIDUAL/NONCRIMINAL JUSTICE AGENCY - ENCLOSE A CERTIFIED CHECK/MONEY ORDER IN THE AMOUNT OF \$10.00 PAYABLE TO: "COMMONWEALTH OF PENNSYLVANIA." THE FEE IS NONREFUNDABLE.

FEE - EXEMPT NONCRIMINAL JUSTICE AGENCY

\*\*\*DO NOT SEND CASH OR PERSONAL CHECK\*\*\*

NAME/SUBJECT OF RECORD CHECK: (LAST)

(FIRST)

(MIDDLE)

MAIDEN NAME AND/OR ALIASES:

SOCIAL SECURITY NUMBER (SOC):

DATE OF BIRTH (DOB):

SEX:

RACE:

REASON FOR REQUEST: (CHECK ONE BLOCK)

EMPLOYMENT

FIREARMS PROHIBITION CHALLENGE

INDIVIDUAL ACCESS AND REVIEW BY SUBJECT OF RECORD CHECK OR LEGAL REPRESENTATIVE (AFFIDAVIT OF LEGAL REPRESENTATIVE ATTACHED)

OTHER (SPECIFY) \_\_\_\_\_

NOTE: A "NO RECORD" RESPONSE MAY TAKE THREE WEEKS TO PROCESS; A "RECORD" RESPONSE TAKES LONGER THAN A "NO RECORD" RESPONSE.

IF THIS FORM IS NOT LEGIBLE OR NOT PROPERLY COMPLETED, IT WILL BE RETURNED UNPROCESSED TO THE REQUESTER.

REQUESTER CHECKLIST:

DID YOU ENTER THE FULL NAME, DOB, AND SOC?

DID YOU ENCLOSE THE \$10.00 FEE? (CERTIFIED CHECK/MONEY ORDER)

\*\*\* DO NOT SEND CASH/PERSONAL CHECK\*\*\*

DID YOU ENTER YOUR COMPLETE ADDRESS INCLUDING ZIP CODE AND TELEPHONE NUMBER IN THE BLOCKS PROVIDED?

AFTER COMPLETION MAIL TO:

PENNSYLVANIA STATE POLICE CENTRAL REPOSITORY-164  
1800 ELMERTON AVENUE  
HARRISBURG, PENNSYLVANIA 17110-9768  
(717) 783-9973

PART II: CENTRAL REPOSITORY RESPONSE

\*\*\*DO NOT WRITE BELOW THIS LINE\*\*\*

INFORMATION DISSEMINATED:

NO RECORD

CRIMINAL RECORD ATTACHED

INQUIRY/DISSEMINATED BY:

SID NO:

THE INFORMATION DISSEMINATED BY THE CENTRAL REPOSITORY IS BASED SOLELY ON THE FOLLOWING IDENTIFIERS THAT MATCH THOSE FURNISHED BY THE REQUESTER.

NAME

SOCIAL SECURITY NUMBER

DATE OF BIRTH

RACE

SEX

MAIDEN/ALIAS NAME

CERTIFIED BY:

(DIRECTOR, CENTRAL REPOSITORY)

The response is based on a comparison of data provided by the requester in Part I against information contained in the files of the Pennsylvania State Police Central Repository only. The Pennsylvania State Police response does not preclude the existence of criminal records which might be contained in the repositories of other local, state, or federal criminal justice agencies.

**PENNSYLVANIA STATE POLICE  
REQUEST FOR CRIMINAL RECORD CHECK**

**FOR CENTRAL REPOSITORY USE ONLY  
(LEAVE BLANK)**

TYPE OR PRINT LEGIBLY WITH INK

**PART I: TO BE COMPLETED BY REQUESTER**

DATE OF REQUEST:

(INFORMATION WILL BE MAILED TO REQUESTER ONLY)

5/16/96

NAME OF REQUESTER:

Jennifer Ann Smith

ADDRESS:

111 Main St., Apt. 4

CITY:

New Castle,

STATE:

PA

ZIP:

16106

AREA CODE:

CONTACT TELEPHONE NUMBER:

|   |   |   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|---|---|
| 4 | 1 | 2 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|---|

REQUESTER IDENTIFICATION: (CHECK ONE BLOCK)

INDIVIDUAL/NONCRIMINAL JUSTICE AGENCY - ENCLOSE A CERTIFIED CHECK/MONEY ORDER IN THE AMOUNT OF \$10.00 PAYABLE TO: "COMMONWEALTH OF PENNSYLVANIA." THE FEE IS NONREFUNDABLE.

FEE - EXEMPT NONCRIMINAL JUSTICE AGENCY

**\*\*\*DO NOT SEND CASH OR PERSONAL CHECK\*\*\***

NAME/SUBJECT OF RECORD CHECK: (LAST)

Smith

(FIRST)

Jennifer

(MIDDLE)

Ann

MAIDEN NAME AND/OR ALIASES:

Jennifer Ann Jones

SOCIAL SECURITY NUMBER (SOC):

123-45-6789

DATE OF BIRTH (DOB):

8/21/63

SEX:

F

RACE:

W

REASON FOR REQUEST: (CHECK ONE BLOCK)

- EMPLOYMENT
- FIREARMS PROHIBITION CHALLENGE
- INDIVIDUAL ACCESS AND REVIEW BY SUBJECT OF RECORD CHECK OR LEGAL REPRESENTATIVE (AFFIDAVIT OF LEGAL REPRESENTATIVE ATTACHED)
- OTHER (SPECIFY) \_\_\_\_\_

NOTE: A "NO RECORD" RESPONSE MAY TAKE THREE WEEKS TO PROCESS; A "RECORD" RESPONSE TAKES LONGER THAN A "NO RECORD" RESPONSE.

IF THIS FORM IS NOT LEGIBLE OR NOT PROPERLY COMPLETED, IT WILL BE RETURNED UNPROCESSED TO THE REQUESTER.

REQUESTER CHECKLIST:

- DID YOU ENTER THE FULL NAME, DOB, AND SOC?
- DID YOU ENCLOSE THE \$10.00 FEE? (CERTIFIED CHECK/MONEY ORDER)
- \*\*\* DO NOT SEND CASH/PERSONAL CHECK\*\*\***
- DID YOU ENTER YOUR COMPLETE ADDRESS INCLUDING ZIP CODE AND TELEPHONE NUMBER IN THE BLOCKS PROVIDED?

AFTER COMPLETION MAIL TO:

**PENNSYLVANIA STATE POLICE CENTRAL REPOSITORY-164  
1800 ELMERTON AVENUE  
HARRISBURG, PENNSYLVANIA 17110-9758  
(717) 783-9973**

**PART II: CENTRAL REPOSITORY RESPONSE**

**\*\*\*DO NOT WRITE BELOW THIS LINE\*\*\***

INFORMATION DISSEMINATED:

- NO RECORD
- CRIMINAL RECORD ATTACHED

INQUIRY/DISSEMINATED BY:

SID NO:

THE INFORMATION DISSEMINATED BY THE CENTRAL REPOSITORY IS BASED SOLELY ON THE FOLLOWING IDENTIFIERS THAT MATCH THOSE FURNISHED BY THE REQUESTER.

- NAME
- SOCIAL SECURITY NUMBER
- DATE OF BIRTH
- RACE
- SEX
- MAIDEN/ALIAS NAME

CERTIFIED BY:

(DIRECTOR, CENTRAL REPOSITORY)

The response is based on a comparison of data provided by the requester in Part I against information contained in the files of the Pennsylvania State Police Central Repository only. The Pennsylvania State Police response does not preclude the existence of criminal records which might be contained in the repositories of other local, state, or federal criminal justice agencies.

Original: 2077  
Mizner  
Copies: Harris  
Jewett  
Markham  
Nanorta  
Sandusky  
Wyatte



RECEIVED  
2000 JAN -5 PM 4: 02  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF AGING  
555 Walnut Street - 5<sup>th</sup> Floor  
Harrisburg, Pennsylvania 17101-1919  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

January 5, 2000

Mr. John R. McGinley, Jr.  
Chairman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor – Harristown II  
333 Market Street  
Harrisburg, PA 17120

Dear Mr. McGinley:

Secretary Browdie has asked me to provide you with copies of comments received on the Notice of Proposed Rulemaking, published by the Department in the Pennsylvania Bulletin of November 27, 1999, regarding protective services for older adults. Please find 15 sets of comments enclosed for your review.

The Department is beginning its consideration of these comments, and will look forward to any comments or suggestions you or the members of your Committee may wish to offer. We have also scheduled a meeting with IRRC on January 12, 2000 to discuss the Commission's comments.

Should you have any questions or needs for additional information regarding the proposed amendments, please do not hesitate to let us know. I can be reached by your staff at 3-6207 at their convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert F. Hussar".

Robert F. Hussar  
Regulatory Coordinator

RFH/pr

Enclosures