

NATIONAL ADULT PROTECTIVE SERVICES ASSOCIATION

Pennsylvania Department of Aging

Tuesday, August 30, 2016: 3:15-4:45 PM

A. Title: *Pennsylvania Adult Protective Services and Older Adult Protective Services: Practices and Procedures for Identification and Intervention in cases of Neglect, Abuse and Financial Exploitation.*

B. This presentation, or workshop, will consist of an overview of the practices and procedures involving Pennsylvania Adult Protective Services (APS) and Pennsylvania Older Adult Protective Services (OAPS), with emphasis on identification of neglect, abuse and financial exploitation with intervention measures through civil court actions for necessary emergency involvement, and through the Incapacitated Persons or Guardianship Law and the Power of Attorney or Fiduciary Law, with a focus on financial or fraud scams.

C. Objectives:

- overview of abuse, neglect and exploitation;
- overview of relevant and applicable Pennsylvania Laws;
- methods of intervention to protect and empower;
- methods to prevent.

D. Outline:

Adult Protective Services Act (APSA)

Statutory under 35 P.S. §§10210.101, *et seq.*

<http://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=2010&sessInd=0&smthLwInd=0&act=0070>.

Regulatory under 55 Pa. Code Chapter (to be promulgated)

Older Adult Protective Services Act (OAPSA)

Statutory under 35 P.S. §§10225.101 *et seq*

<http://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=1987&sessInd=0&smthLwInd=0&act=0079>.

Regulatory under 6 Pa. Code Chapter 15

<http://www.pacode.com/secure/data/006/chapter15/chap15toc.html>

Policy Directives – APS-Department of Human Services and OAPS-Department of Aging

Emergency Intervention (35 P.S. §10225.307) and Emergency Guardianship (20 Pa. C.S.A. §5513)

Power of Attorney (20 Pa. C.S.A. §5604(d)) and OAPSA Financial Exploitation

Case Studies

Scams

Abrogation of OAPSA Section 503(a) under Peake

Tyrone Peake, et al. v. The Commonwealth of Pennsylvania, (Pa. Commw. Ct., Dec. 30, 2015, 216 M.D. 2015, Pa. Commw. LEXIS 585)

http://www.pacourts.us/assets/opinions/Commonwealth/out/216MD15_12-30-15.pdf?cb=1

Pennsylvania HB 786 proposed amendment to OAPSA

<http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2015&sInd=0&body=H&type=B&bn=0786>



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

What's the difference between statutory and regulatory law?

As many of us professionals in our Aging Services Network are aware, matters involving our work are governed by statute and regulation. It is, at times, confounding where we may seek an answer only to discover that such answer may be embodied not only in statutory law but also in regulatory law.

We may recall our civics studies from high school where we were instructed in the three branches of government and on the separation of powers. We learned that our legislature makes law, our executive branch applies or enforces the law and our judiciary interprets, when necessary, the law. Given such separation of powers, our legislature proposes a law, known as a Senate Bill or as a House Bill depending on which side of the General Assembly the idea for the law starts, and if the proposed law passes, then it goes to the executive, our Pennsylvania Governor for consideration, and when signed, becomes an Act. The Act, or **statutory law**, becomes a part of our Pennsylvania Statutes (Consolidated or Unconsolidated Statutes), and such laws often direct and assign to a specific agency within the executive branch, e.g. our PDA - Pennsylvania Department of Aging, the duty to establish procedures to implement and apply the statutory law.

In applying the law, or in providing instructions on how to apply the law as directed and assigned to an agency through legislation, the agency writes proposed rulemaking to carry out the intent of the statutory law. The rulemaking goes through a review and adoption process for approval, and then becomes administrative law or **regulatory law**. Our legislature tells an agency what needs to be done (e.g. Older Adult Protective Services Act - 35 P.S. §10225.310, §10225.504 and §10225.708). And, the agency writes regulations (e.g. 6 Pa. Code Chapter 15) as a guide in telling it what it needs to do, or how it needs to do it, in furtherance of the intentions of the legislative statutory law. When there is a perceived discrepancy between the statutory law and the implementing regulation or regulatory law, our judicial branch, or the courts, generally deems the ~~statutory law~~ as controlling.

Imagine receiving that new household appliance, a child's toy or backyard apparatus and reading the words 'some assembly required'. Now imagine putting that appliance, toy or apparatus together without instructions. We've all done it, we know what it should look like and we know how it should work, but only when all else fails in our assembling, then we read the instructions. So it is when our General Assembly creates the statutory law, the executive branch issues implementing regulatory law to instruct on the application of the law, and the judiciary decides, if and when needed, on constitutionality and jurisdictional law issues.

While older Pennsylvanians continue to be our primary concern, their families and communities also remains a focus. It is our responsibility to follow our laws passed by the legislature and signed by the Governor, and to issue regulations and follow such regulatory law instructions to enhance the quality of life of all older adults by empowering diverse communities, the family and the individual.



“rules”, policy statements, manuals, guidelines and etc.

Unlike regulations, **rules, or statements of policy**, [Pennsylvania Department of Aging – e.g. APDs (Aging Program Directives), PDA ATABs (Aging Technical Assistance Bulletins)] do not have the force of law. *Dechert LLP v. Commonwealth*, 922 A.2d 87, N.6 (Pa. Cmwlth. 2007), and most likely may be construed as mere statements of policy as an unpromulgated regulation, *see Eastwood Nursing v. Department of Public*

A “statement of policy” is an announcement to the public of the policy which the agency hopes to implement in future rulemakings or adjudications. *Eastwood Nursing v. Department of Public Welfare*, 910 A.2d 134, 141 (Pa. Cmwlth. 2006).

A “statement of policy” is defined as a governmental agency’s statutory interpretation which a court may accept or reject depending upon how accurately the agency’s interpretation reflects the meaning of the statute. *Eastwood Nursing v. Department of Public Welfare*, 910 A.2d 134, 147 (Pa. Cmwlth. 2006).

A statement of policy is not a regulation if it allows adjustment for individual circumstances through adjudication on a case-by-case basis and discretion in application of the statement of policy is allowed. *Prudential Property and Casualty Insurance Company v. Insurance Department*, 595 A.2d 649 (Pa. Cmwlth. 1991).

A general statement of policy is neither a rule nor a precedent but is merely an announcement to the public of the policy that an agency intends to implement in future rulemakings or adjudications, citing *Pennsylvania Human Relations Commission v. Nomstown Area School District*, 374 A.2d 671, 679 (1977), *Cash America Net of Nevada, LLC v. Com.*, 978 A.2d 1028, 1033 (Pa. Cmwlth. 2009).



35 P.S. §10225.307 Involuntary intervention by emergency court order.

(a) Emergency petition.--Where there was clear and convincing evidence that if protective services are not provided, the person 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 courts of common pleas of each judicial district shall ensure that a judge or district justice 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 a delay until normal court hours would significantly increase the danger the older adult faces.

(b) Limited order.--The court, after finding clear and convincing evidence of the need for an emergency order, shall order only such services as are necessary to remove the conditions creating the established need.

(c) Right to counsel.--In order to protect the rights of an older adult for whom protective services are being ordered, an emergency court order under this section shall provide that the older adult has the right to legal counsel. If the older adult is unable to provide for counsel, such counsel shall be appointed by the court.

(d) Forcible entry.--Where it is necessary to forcibly enter premises after obtaining a court order, a peace officer may do so, accompanied by a representative of the agency.

(e) Health and safety requirements.--The agency shall take reasonable steps to assure that while the person is receiving services under an emergency court order, the health and safety needs of any of the person's dependents are met and that personal property and the dwelling the person occupies are secure.

(f) Exclusion of remedy.--Nothing in this chapter shall be interpreted to deny any older adult access to the emergency medical services or police protection that would be provided to anyone, regardless of age, in similar circumstances.

20 Pa. C.S.A. §5513. Emergency guardian.

Notwithstanding the provisions of section 5511 (relating to petition and hearing, independent evaluation), the court, upon petition and a hearing at which clear and convincing evidence is shown, may appoint an emergency guardian or guardians of the person or estate of a person alleged to be incapacitated, when it appears that the person lacks capacity, is in need of a guardian and a failure to make such appointment will result in irreparable harm to the person or estate of the alleged incapacitated person. The provisions of section 5511, including those relating to counsel, shall be applicable to such proceedings, except when the court has found that it is not feasible in the circumstances. An emergency guardian so appointed for the person or estate of an alleged incapacitated person shall only have and be subject to such powers, duties and liabilities and serve for such time as the court shall direct in its decree. An emergency order appointing an emergency guardian of the person may be in effect for up to 72 hours. If the emergency continues, then the emergency order may be extended for no more than 20 days from the expiration of the initial emergency order. After expiration of the emergency order or any extension, a full guardianship proceeding must be initiated pursuant to section 5511. The court may also appoint an emergency guardian of the person pursuant to this section for an alleged incapacitated person who is present in this Commonwealth but is domiciled outside of this Commonwealth, regardless of whether the alleged incapacitated person has property in this Commonwealth. An emergency order appointing an emergency guardian of the estate shall not exceed 30 days. After 30 days, a full guardianship proceeding must be initiated pursuant to section 5511.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY

PENNSYLVANIA

ORPHAN'S COURT DIVISION

IN RE:

:

: No. _ of 2016

PETITION FOR ACCESS TO PERSON UNDER THE
OLDER ADULT PROTECTIVE SERVICES ACT
(35 P.S. §10225.304)

TO THE HONORABLE, THE JUDGES OF SAID COURT:

NOW COME Petitioners, , an Older Adult Protective Services Investigator, and the Older Adult Protective Services Office of the Pennsylvania Department of Aging, by and through their attorney , to petition this Honorable Court for an order granting access to the , the above-named adult, as provided by the Adult Protective Services Act (OAPSA), 35 P.S. §10225.101 *et seq.* In support of this request, Petitioner alleges the following:

1. The Pennsylvania Department of Aging has established the Older Adult Protective Services Office to provide protective services to older adults who lack the capacity to protect themselves and are at imminent risk of abuse, neglect, exploitation or abandonment must have access to services necessary to protect their health, safety and welfare.

2. Under the authority granted by the OAPSA, it is investigating a report of need concerning , an older adult residing at , PA. The report of need concerning was received on or about , 2016.

3. suffers from the following conditions: Mitochondrial Disease (a neurologic condition that has resulted in progressive cognitive and physical decline), Aphasia, Autonomic Nervous Dysfunction, Neurogenic Bladder, Osteoporosis with Vitamin D deficiency, Hypertension, and Multiple Allergies.

4. is currently being administered the following medications: Tenormin, Lisinopril, Klonopin, Valium, Vitamin D, Zyrtec, Aleve, Fioricet, Pepcid, Risperdal, HCTZ, Diovan, Melatonin, Baby Aspirin, Colace, Dulcolax, Pyridium, Lactulose, COQ10, Senna, Nystatin, Nebulizer, Atrovent Inhaler, and Oxygen.

5. The allegations in the report of need of , 2016 included Caregiver Neglect, and currently care delivered to by his son and an LPN employed through an agency providing in-home health care services.

6. 's physician last saw him in his home on or about , 2016.

7. At the time of the home visit, the physician recommended hospitalization due to vomiting and abdominal distention, mental status and behavioral changes, need for higher level of care, and observed that there has been non-compliance with the medical plan of care for .

8. On or about , 2106, Older Adult Protective Services attempted a home visit by traveling to the residence at , PA.

9. This home visit was unable to be completed, as consumer's son, , would not allow Older Adult Protective Services access to the consumer or the home.

10. At the time of the attempted visit, there was a strong foul odor noted coming from the home.

11. , son, , would not allow Older Adult Protective Services access to the consumer or the home. During this visit, there was a strong foul odor noted coming from the home.

12. Section 304 of the OAPSA (35 P.S. §10225.304(c) and (e)), provides Petitioner with legal authority to access an older adult who is the subject of a report of need in order to (Section 304(e)):

- a. Investigate reports under section 303 and Chapter 7.
- b. Assess needs and develop a service plan for addressing them.
- c. Provide for the delivery of services by the agency or other service provider arranged for under the service plan.

13. 35 P.S. §10225.304(f) provides as follows:

(f) DENIAL OF ACCESS TO PERSONS.— If the agency is denied access to an adult reported to be in need of protective services and access is necessary to complete the investigation or the assessment and service plan or the delivery of needed services in order to prevent further abuse, neglect, exploitation or abandonment of the adult, the agency may petition the court for an order to require the appropriate access when either of the following conditions apply:

(1) The caregiver or a third party has interfered with the completion of the investigation or the assessment and service plan or the delivery of services.

(2) The agency can demonstrate that the adult denies access because of coercion, extortion or justifiable fear of further abuse, neglect, exploitation or abandonment.

14. On , 2016, Older Adult Protective Services Investigator initiated a second home visit to 's residence at , PA, in order to speak with n and to investigate the report of need of , 2016.

15. Older Adult Protective Services Investigator was again refused access to the home to visit with .

16. On being refused access to , Older Adult Protective Services Investigator informed that she would be going to Orphans' Court Motions Court at approximately 8:30 AM on Friday, , 2016 to request a court hearing on his request for an Order granting access to .

17. Older Adult Protective Services desires unfettered and private access to to complete its investigation into the allegations contained in the Report of Need of , 2016.

18. As stated above, Petitioner has been unable to gain access to .

WHEREFORE, Petitioner respectfully requests that this Honorable Court enter an order directing that:

1. Petitioner, or authorized agent, be granted access to the residence at , PA and be granted unfettered and private access to on those occasions deemed necessary by Petitioner.

2. A hearing be set on this Petition.

Respectfully submitted,

JJW, Esquire
DRAFT e.g. document

VERIFICATION

I, , verify that the statements contained in the foregoing Petition are true and correct. I understand that false statements herein are made subject to 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

IN THE COURT OF COMMON PLEAS
COUNTY, PENNSYLVANIA

In re:

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: No.
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ORDER

AND NOW, this day of , 201 pursuant to the Adult Protective Services Act or the Older Adult Protective Services Act (insert citation) and upon review of the attached emergency access and intervention and special relief filed by Pennsylvania Department of Aging, by its representative and agent (insert title), it is the Order of this Court that the Department of Aging by , shall have access to Ms. -----and the authority to consent to medical treatment and selection of treatment and care providers for her, to insure she receives proper medical treatment, pending further Order of this Court. The Department shall request approval of the Court for other decisions necessary for the health and welfare of Ms. -----.

BY THE COURT:

J.

ATTEST:

copies to: Jeff Wood, Esquire
----- via next of kin

IN THE COURT OF COMMON PLEAS
COUNTY, PENNSYLVANIA

In re: -----

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No.

PETITION FOR EMERGENCY INTERVENTION AND SPECIAL RELIEF

AND NOW, comes Petitioner, the Pennsylvania Department of Aging, through its Senior Counsel, Jeff Wood, Esquire, and respectfully request that it be permitted to remove Ms. ----- from her home and make medical decisions and determine treatment for her, based upon the following:

1. Petitioner is Pennsylvania Department of Aging, Older Adult Protective Services Office, by its Senior Counsel, Jeffrey J. Wood, Esquire, 555 Walnut Street, 5th Floor, Harrisburg, PA 17101.
2. Ms. ----- is a woman aged approximately years whose situation is being investigated based on reported allegations of caregiver neglect, abandonment and/or self-neglect.
3. She is living in unsanitary conditions; with inadequate or no utilities; no running water; no operable toilet and possibly no heat or electricity. In the past, the gas company also allegedly reported that there was feces throughout the home and that the place is "uninhabitable".
4. The Older Adult Protective Services worker, , observed the older adult consumer on , 201 . He observed that she has little to no ability to communicate and is only able to yell "back, back" and make incomprehensible noises. Consumer was dirty with menstrual blood and feces all over her clothing. Fingernails are so long that they are curled and approximately six inches in length.

Toenails are so long that they are curled and coming out of shoes and her hair is matted.

5. Home environment is extremely dirty with garbage, feces and foul odor noted. Consumer is highly agitated; flailing her arms and refuses protective services assessment including entry into the trailer. There is no sign electricity in the home at this time. It is clear that the consumer is likely to suffer from medical conditions.

6. Attempts to contact the person who reported the abuse/neglect were unsuccessful and call has not been returned as of this time.

7. Attempts to contact the alleged caregiver/mother were unsuccessful as her home appears to be abandoned and her reported phone number is disconnected. No other known relatives or neighbors. Interview with local business revealed that "a woman" stops by there every so often however unknown when last visit was or who person was that visited.

8. EMS was present at the home this afternoon and reported that they have been there previously however the consumer had not previously presented in this condition.

9. Due to Ms. -----'s dire condition, her need for medical and personal care, and no caregivers available, Pennsylvania Department of Aging must intervene.

10. Pursuant to the Older Adult Protective Services Act (insert cite) Involuntary intervention by emergency court order, a Court can enter an emergency order to provide necessary services where there is clear and convincing evidence that, if older adult protective services are not provided, the older adult is at imminent risk of death, serious injury or serious bodily injury.

11. Because Respondent likely lacks capacity, the Department may be compelled to request emergency guardianship from this honorable court (20 Pa. C.S.A. §5513).

12. Without the involvement of the Court, under the Older Adult Protective Service Act emergency intervention procedures, Ms. -----may not survive. The Act does not require a lack of

capacity for the Court to enter an emergency order for services, but only requires a showing, by clear and convincing evidence, but for the involvement of the Court, Respondent is at imminent risk of death, serious injury or serious bodily injury.

WHEREFORE, the Department respectfully requests this Honorable Court to sign an Order permitting it to continue to direct Respondent's health care pending a hearing.

Respectfully Submitted,

RE: 35 P.S. §10225.307

VERIFICATION

I, , representative and an agent of the Department verify that the statements made in this Petition are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Dated: _____

Draft

[June 2 and 8, 2016]

Older Adults Protective Services Act
and
Power of Attorney Agent Accounting

The purpose of this article is to provide general information, not legal advice, involving intervention in a Principal-Agent fiduciary relationship under Power of Attorney (20 Pa. C.S.A. §§5601 *et seq.*) for financial accounting within the context of the Older Adults Protective Services Act (35 P.S. §§10225.101 *et seq.*).

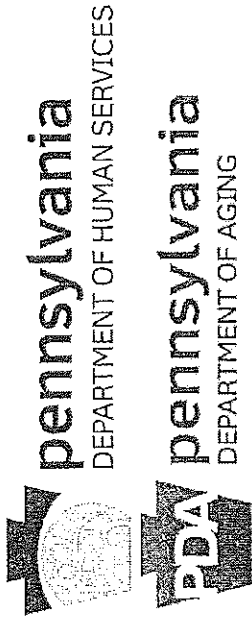
In **Pennsylvania**, any capacitated person who is at least 18 years old may execute a Power of Attorney (20 Pa. C.S.A. §5601). A Power of Attorney is a written document where a Principal, the individual making the power of attorney, designates an Agent to legally act on her/his behalf (20 Pa. C.S.A. §5601). The Principal may make a broad general grant of power to the Agent to conduct a wide range of transactions or limit the grant of power to specific actions or even a single action. The Power of Attorney document, signed by the Principal or where an individual designee executes the Power of Attorney on behalf of and at the direction of the Principal because the Principal is unable to sign, must be witnessed by two individuals neither of whom is the Agent or the Principal or the Principal's designee, and the signatures must be made before a notary public or other person authorized to take acknowledgements (*see* 20 Pa. C.S.A. §5601(b)(3)).

Once a Power of Attorney is executed, the Agent has a fiduciary relationship to the Principal and a legal duty to act in good faith consistently in the Principal's best interest (20 Pa. C.S.A. §5601.3(a)), and to hold records of account for all monies and transactions preformed for the Principal unless the Principal has exercised her/his authority and discretion to modify or to waive the duties of her/his Agent under 20 Pa. C.S.A. §5601.3(b). The Principal has the right to revoke, terminate, or modify the Power of Attorney at any time, but the document is automatically revoked with notice of death or upon disability or incapacity of the Principal if the document is not Durable or upon the filing of a Divorce where the Principal's spouse is the Agent (20 Pa. C.S.A. §5605). Any person who is given instructions by an Agent, under 20 Pa. C.S.A. §5608(a) in accordance with the terms of a Power of Attorney, shall comply with such instructions.

If an Agent has the duty to account for financial transactions for and on behalf of the Principal, and the Agent fails to act consistently in the best interests of the Principal resulting in a Protective Services investigation under the Older

Adults Protective Services Act, the Aging Services Network (the Pennsylvania Department of Aging and the Area Agency on Aging) may use the judiciary to compel an accounting by the fiduciary Agent. Specifically, in cases where (i) the older adult Principal has provided written consent for the disclosure of confidential information but granted Power of Attorney to an Agent who refuses to release the information or (ii) the older adult Principal refuses to allow the Agent to cooperate with the investigation due to incompetence, extortion, coercion, or fear of future retribution, then a Petition may be filed in the County Court of Common Pleas for an order granting access to the financial records of the Principal held by the Agent under 20 Pa. C.S.A. §5604(d), *see* 35 P.S. §10225.304(d) and (h).

Under the Older Adult Protective Services Act, our General Assembly has declared (35 P.S. §10225.102) that older adults who lack the capacity to protect themselves and are at imminent risk of abuse, neglect, financial exploitation or abandonment shall have access to and be provided with services needed to prevent and protect their health, safety and well-being. The Aging Services Network continues its efforts to raise public and professional awareness of elder abuse financial exploitation and remains committed to intervening in the lives of our older Pennsylvanians in appropriate cases while avoiding unnecessary infringement of their civil liberties. Our mission is to enhance the lives of communities, families and older adults – we need you to carry on our mission.



Older Adult and Adult Protective Services

OAPSA & APS



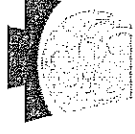
Protective Services Overview



Both APS and OAPSA Acts:

- Provide for the detection, prevention, reduction and elimination of abuse, neglect, exploitation and abandonment
- Require a program of protective services for adults at risk
- Require a uniform statewide reporting and investigative system
- Prescribe penalties for failure to implement
- Voluntary and mandatory reporting requirements
- Utilize least restrictive alternatives and ensure services are provide in the most integrated setting

Individual's Rights



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- Adults have the right to make choices, regarding their lifestyles, relationships, bodies and health, even when those choices present risks to themselves or their property.
- Adults have the right to refuse an assessment
- Adults have the right to refuse some or all protective services.
- Where there is clear and convincing evidence that, if protective services are not provided, the adult is at imminent risk of death, serious injury or serious bodily injury, the agency may petition the court for an emergency order to provide the necessary services.

APS and OAPSA



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Adult Protective Services	Older Adult Protective Services
<ul style="list-style-type: none"> Provides protective services to individuals age 18-59 Legal authority to investigate cases of abuse, neglect or exploitation and abandonment Pennsylvania Department of Human Services (DHS) administers at state level (funding, oversight) Area Agencies on Aging (AAA) complete intake and Liberty Healthcare implements at local level (investigation and services) 	<ul style="list-style-type: none"> Provides protective services to individuals age 60 and over Legal authority to investigate cases of abuse, neglect or exploitation and abandonment Pennsylvania Department of Aging (PDA) administers at state level (funding, oversight) Area Agencies on Aging (AAA) implements at local level (intake, investigation and services)

Eligibility Criteria



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<i>Adult Protective Services</i>	<i>Older Adult Protective Services</i>
<ul style="list-style-type: none"> • A resident of the Commonwealth 	<ul style="list-style-type: none"> • A person within the jurisdiction of the Commonwealth
<ul style="list-style-type: none"> • An adult between 18 and 59 years of age with a physical or mental impairment that substantially limits one or more major life activities 	<ul style="list-style-type: none"> • 60 years of age or older
<ul style="list-style-type: none"> • An adult who needs the assistance of another person to obtain protective services in order to prevent imminent risk to person or property 	<ul style="list-style-type: none"> • An incapacitated older adult who is 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 his person or property.

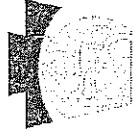
Mandatory Reporters



Adult Protective Services (APS)

- Assisted Living Facility
- Domiciliary Care Home
- Home Health Care Agency
- Intermediate Care Facility for Individuals with Intellectual Disabilities or with Other Related Conditions
- Nursing Facility
- Older Adult Daily Living Center
- Personal Care Home
- Residential Treatment Facility
- An organization or group of people that use public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting

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Older Adult Protective Services (OAPSA)

• Adult Daily Living Centers	• Personal Care Homes	• Assisted Living Residences
• Birth Centers	• Community Homes for Individuals with ID	• Community Residential Rehabilitation Services
• Department of Human Services (DHS) Nursing Facilities	• DHS-licensed and DHS operated residential facilities for adults	• Domiciliary Care Homes
• Family Living Homes	• Home Care Registry*	• Home Health Care Organization or Agency**
• Hospices	• Intermediate Care Facilities for ID (private and state)	• Long Term Care Nursing Facilities
• Long Term Structured Residences	• Personal Care Homes	• State Mental Hospitals

*A Home Care Registry or "Registry" is further defined to include those agencies licensed by the Department of Health any organization or business entity that supplies, arranges or refers independent contractors to provide activities of daily living or instrumental activities of daily living or specialized care in the consumer's place of residence or other independent living environment for which the registry receives a fee, consideration or compensation of any kind.

**Home Health Care Agency is further defined to include those agencies licensed by the Department of Health and any public or private organization which provides care to a care-dependent individual in their place of residence.

Statutory Definitions for Abuse



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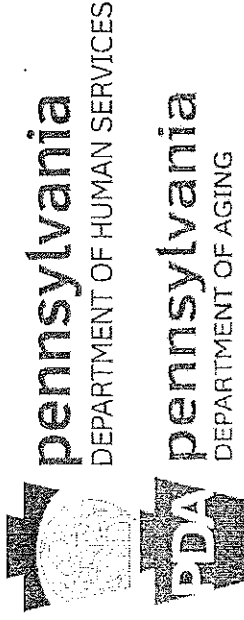
APS & OAPSA Statutory Definition for Abuse:

Definitions are essentially the same and contain the following language with minor adjustments for age:

1. The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.
2. The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.
3. Sexual harassment, rape or abuse as defined in the act of October 7, 1976 (P.L. 1090 No. 218), known as the Protection from Abuse Act.

No adult shall 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.

Statutory Definition for Neglect



APS & OAPSA Statutory Definition for Neglect:

Definitions are essentially the same and contain the following language with minor adjustments for age.

1. The failure to provide for oneself or the failure of a caregiver to provide goods care or services essential to avoid a clear and serious threat to the physical or mental health of an adult.
2. The term does not include environmental factors that are beyond the control of an adult or the caregiver, including, but not limited to, inadequate housing, furnishings, income, clothing or medical care.

Statutory Definition for Exploitation



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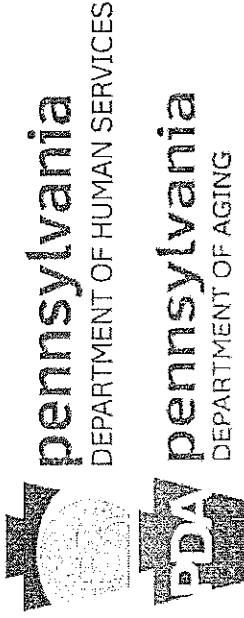
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APS & OAPSA Statutory Definition for Exploitation:

Definitions are essentially the same and contain the following language with minor adjustments for age:

- An act or course of conduct by a caregiver or other person against an adult or an adult's resources, without the informed consent of the 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.

Statutory Definition for Abandonment



<i>Adult Protective Services</i>	<i>Older Adult Protective Services</i>
<p>Abandonment</p> <ul style="list-style-type: none"> • The desertion of an adult by a caregiver 	<p>Abandonment</p> <ul style="list-style-type: none"> • The desertion of an older adult by a caretaker.
<p>Caregiver:</p> <ul style="list-style-type: none"> • An individual or institution that has assumed the responsibility for the provision of care needed to maintain the physical or mental health of an 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 this act to impose responsibility on any individual if the responsibility would not otherwise exist in law. 	<p>Caretaker:</p> <p>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 this act to impose responsibility on any individual if such responsibility would not otherwise exist in law.</p>

Statutory Definition for Serious Bodily Injury



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APS & OAPSA Statutory Definition for Serious Bodily Injury

Serious bodily injury:

An Injury that:

1. creates a substantial risk of death; or
2. causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ

Statutory Definition for Serious Injury



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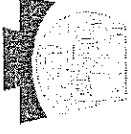


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<i>Adult Protective Services</i>	<i>Older Adult Protective Services</i>
<p>Serious Injury:</p> <p>An injury that:</p> <ol style="list-style-type: none"> 1. causes a person severe pain, or 2. significantly impairs a person's physical or <u>mental</u> functioning, either temporarily or permanently 	<p>Serious Physical Injury:</p> <p>An injury that</p> <ol style="list-style-type: none"> 1. causes a person severe pain, or 2. significantly impairs a person's physical functioning, either temporarily or permanently

Statutory Definition for Sexual Abuse



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Adult Protective Services

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

Older Adult Protective Services

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

Sexual Harassment



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APS & OAPSA Sexual Harassment

- Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- Sexual harassment is "abuse" that requires reporting to the Protective Services Hotline; however, it is not sexual abuse which has additional reporting requirements.

OAPSA/APS Process



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Reporter contacts Protective Services Hotline (1-800-490-8505) to report an allegation of suspected abuse, neglect, exploitation or abandonment.



Mandated Reporters must also contact law enforcement and PDA/DHS for cases of suspicious death, serious injury, serious bodily injury or sexual abuse.



Protective Services Hotline is answered by local Area Agency on Aging (AAA) who completes a Report of Need (RON) and documents the report in the Social Assistance Management System (SAMS)

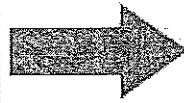
OAPSA/APS Process



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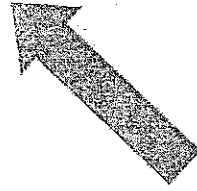
If the individual is 18-59 years of age the AAA notifies Liberty Healthcare that the RON is in SAMS.



Liberty Healthcare Intake Staff evaluate information in the RON to determine if individual meets eligibility criteria and classifies the case as either "Priority, Non-priority, or No Need"

- ☐ ☒
- ☒ ☒
- ☒ ☐

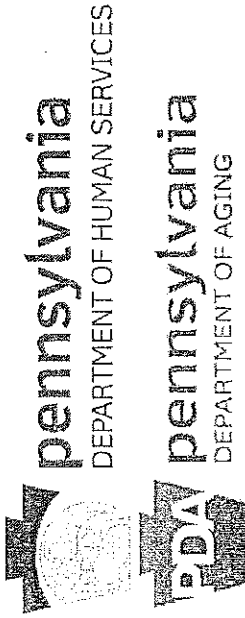
Liberty Intake staff also notify all appropriate licensing agencies of the Report of Need



Cases determined to be "No Need" are reviewed by an APS Supervisor and DHS and may be referred for other services as needed



OAPSA/APS Process



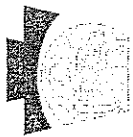
If the individual is 60 years of age or older, the AAA does not notify Liberty Healthcare.

AAA PS staff also notify all appropriate licensing agencies of the Report of Need

AAA PS staff evaluate information in the RON to determine if individual meets eligibility criteria and classifies the case as either "Emergency," "Priority," "Non-priority, or "No Need"

Cases determined to be "No Need" may be referred for other services as needed

OAPSA/APS Process



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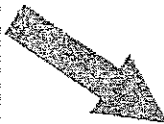


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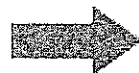


All APS cases classified as "Priority" or "Non-priority" are assigned to an APS worker (Liberty Healthcare) for investigation.

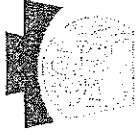
All OAPSA cases classified as "Emergency," "Priority," or "Non-priority" are assigned to an OAPSA worker (AAA) for investigation.



PS Caseworker initiates investigation within required timeframes, determines if individual is at risk and in need of protective services, and mitigates risk if necessary.



OAPSA/APS Process



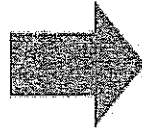
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OAPSA/APS may provide or arrange for services intended to ensure the individual's immediate safety and well-being.



OAPSA/APS Protective services must be provided in the least restrictive and in the most integrated setting.

An adult and older adult can only receive protective services voluntarily. In no event can protective services be provided to an individual who refuses consent or who, having consented, withdraws the consent, unless the services are ordered by a court.

Report of Need Categorization



Adult Protective Services	Older Adult Protective Services
<u>Emergency:</u> N/A	<u>Emergency:</u> Requiring immediate response.
<u>Priority:</u> The investigation shall be initiated immediately for a priority report. Contractually, Liberty has 24 hours to initiate the investigation.	<u>Priority:</u> Requiring response no later than 24 hours.
<u>Non-Priority:</u> These investigations must be initiated within 72 hours.	<u>Non-Priority:</u> Requiring response no later than 72 hours.
<u>No Need:</u> the person meets either of the following criteria: a. has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health; or b. is not at imminent risk or danger to his person or property	<u>No Need:</u> Requiring referral for other resources



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Signs and Symptoms of Abuse, Exploitation, Neglect and Abandonment



Signs and Symptoms: Behavioral



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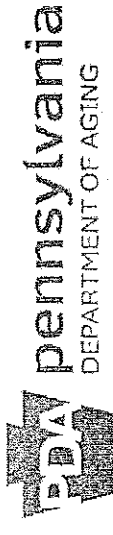


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Behaviors of adult:

- Adult says they have been victimized
- Has symptoms of depression
- Denies problem despite evidence
- Has stress-related illnesses
- Is confused about medication and medication management
- Resists taking medications, being bathed, eating or allowing caregiver to provide care
- Has poor personal hygiene, incontinence

Signs and Symptoms: Behavioral



Behaviors of adult:

- Protects abuser
- Remains silent or waits for abuser to answer questions
- Refuses visits or services
- Minimizes or denies abuse
- Has symptoms of depression: appears hopeless, exhibits suicidal ideation
- Is anxious about own performance; fears displeasing caregiver
- Is dependent on alcohol
- Distrusts others
- Appears emotionally numb, withdrawn, detached

Signs and Symptoms: Behavioral



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Behavior of caregiver

- Threatens or intimidates adult
- Destroys property
- Speaks for adult, dominates interview, refuses to let adult be interviewed alone
- Has poor self control, impulsivity
- States that adult is incompetent, sick, or crazy
- Overreacts, is defensive
- Has psychiatric or substance abuse history
- Isolates the adult

Signs and Symptoms: Financial



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- Significant withdrawals from the adult's accounts
- Sudden changes in the adult's financial status
- Personal items missing
- Suspicious changes in wills, power of attorney, titles,
- Addition of names to the adult's bank card
- Unpaid bills or lack of medical care, although the adult has enough money to pay for them
- Financial activity the adult couldn't have done, such as an ATM withdrawal
- Unnecessary services, goods, or subscriptions

Signs and Symptoms: Physical



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- Unexplained signs of injury, such as bruises, welts, or scars, especially if they appear symmetrically on two sides of the body
- Broken bones, sprains, or dislocations
- Report of drug overdose or apparent failure to take medication regularly (a prescription has more remaining than it should)
- Broken eyeglasses or frames
- Repeated incident reports
- Signs of being restrained, such as rope marks on wrists
- Caregiver's refusal to allow you to see the adult alone

Signs and Symptoms: Sexual



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- Bruising on inner thighs
- Difficulty in walking or standing
- Pain/itching in genital areas
- Torn, stained or bloody undergarments or bedding
- Unexplained vaginal/anal irritation, injury and/or redness
- Unexplained vaginal/anal bleeding
- Unexplained sexually transmitted infections/diseases
- Inappropriate sex-role relationship between victim and alleged perpetrator
- Inappropriate, unusual or aggressive sexual behavior

Signs and Symptoms: Caregiver Neglect



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- Unusual weight loss, malnutrition, dehydration
- Unsupervised (wandering, left alone without supervision)
- Repeated refusals of care (without follow-up/reporting)
- Untreated physical problems, such as bed sores
- Unsanitary living conditions: dirt, bugs, soiled bedding and clothes
- Falls/injuries and care/service plan not followed
- Poor hygiene (no bathing, oral care, hair washed, etc.)
- Unsuitable clothing or covering for the weather
- Unsafe living conditions

Signs of self-neglect?



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A significant proportion of protective services cases involve self-neglect and can include:

- Refusals (medications, bathing, activities, meals, etc.)
- Poor grooming and appearance (soiled or ragged clothing, dirty nails and skin)
- Isolation, lack of social support
- Disorientation, incoherence
- Alcohol or drug dependence

Profile of an Abuser



While there is no typical profile of an abuser, the following are some behavioral signs that may indicate problems:

- Abusing alcohol or other drugs
- Controlling
- Isolating individual from family and friends
- Emotional/ financial dependency on elder, inability to be self-sufficient
- Threatening to leave or send individual to a nursing home
- Appearing to be indifferent to individual, seeming apathetic or hostile
- Minimizing an individual's injuries, blaming victim or others for the abuse, neglect, or exploitation
- Threatening to harm an individual's pet
- Calling individual names
- Previous criminal history
- Mental illness

Who are the abusers?



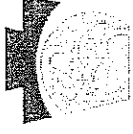
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- Hard as it is to believe, the great majority of abusers are family members, most often an adult child or spouse.
- In licensed facilities, employees and temporary staff who have direct contact with residents are the most frequent perpetrators.
- Other offenders may include other family and old friends, newly developed “friends” who intentionally prey on individuals, and service providers in positions of trust.

Reasons for Abuse in Facilities



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Negligent hiring practices

- Poor training
- Background check incomplete
- Lack of ongoing continuing education



Too few staff, high turnover

Inadequate supervision

Reliance on staff who lack compassion
or empathy for older people and adults with disabilities

Factors that may increase vulnerability



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- Social isolation/loneliness (lack of social support networks)
- Mental impairment (may increase dependence on abuser)
- Personal problems of abuser (emotionally or financially dependent on the victim; history of mental illness; hostility; alcohol or drug abuse)

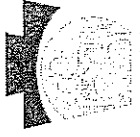
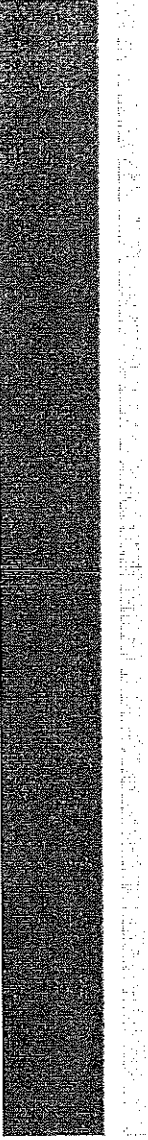


Things you may notice...

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Watch out for any unusual behavior.

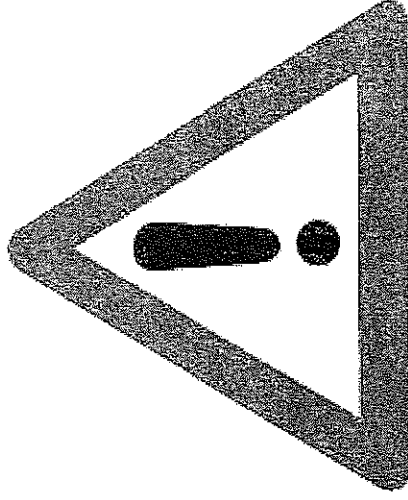
Withdrawn suddenly behaves differently anxious
clingy depressed aggressive problems sleeping
eating disorders wets the bed soils clothes takes
risks changes in eating habits obsessive behavior
nightmares drugs alcohol self-harm thoughts about
suicide



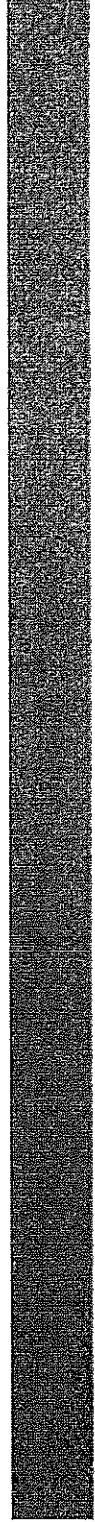
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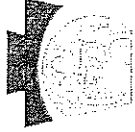
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NEXT SLIDES CONTAIN GRAPHIC PICTURES



Condemned Home



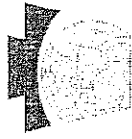
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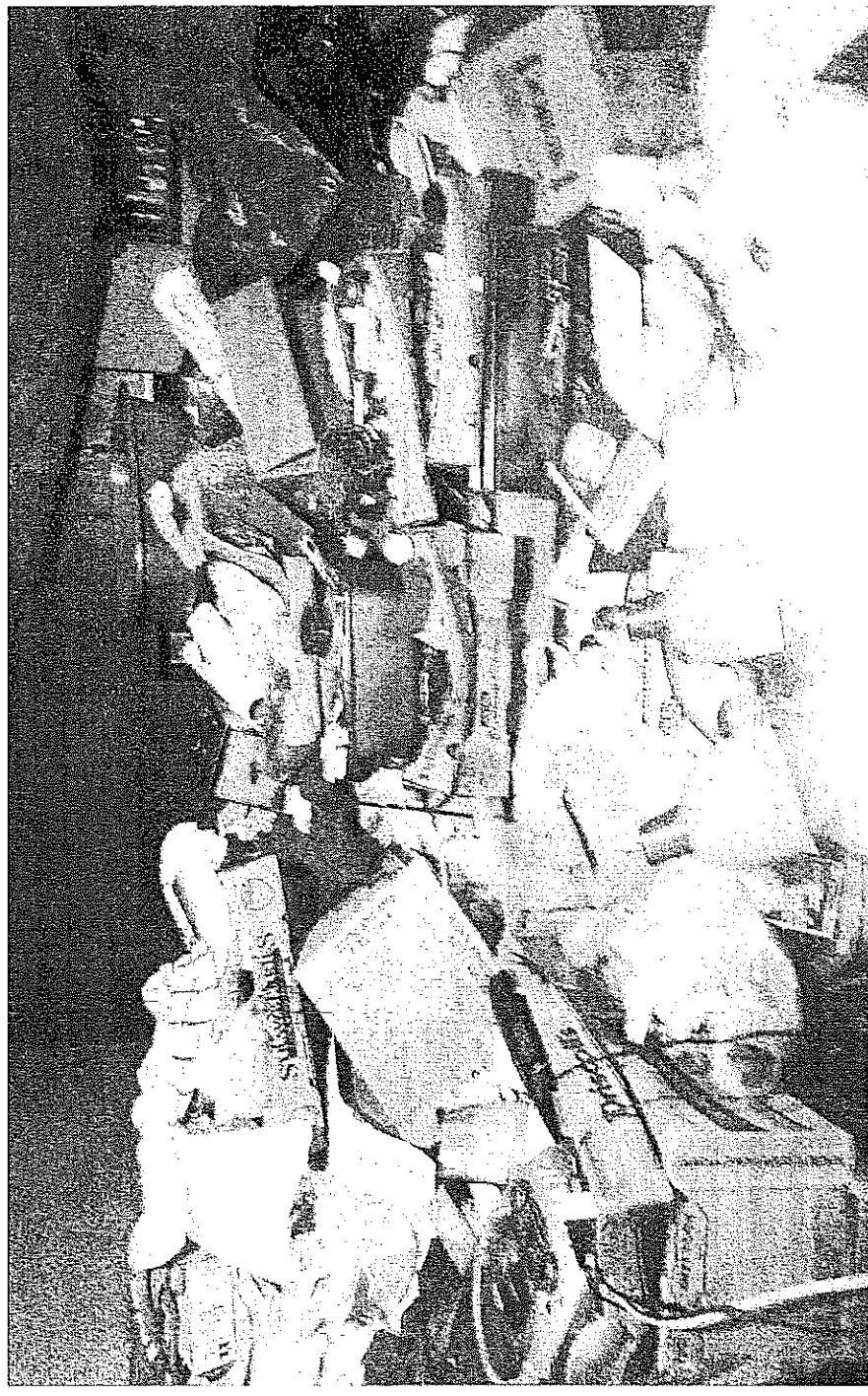
Hoarding



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Hoarding



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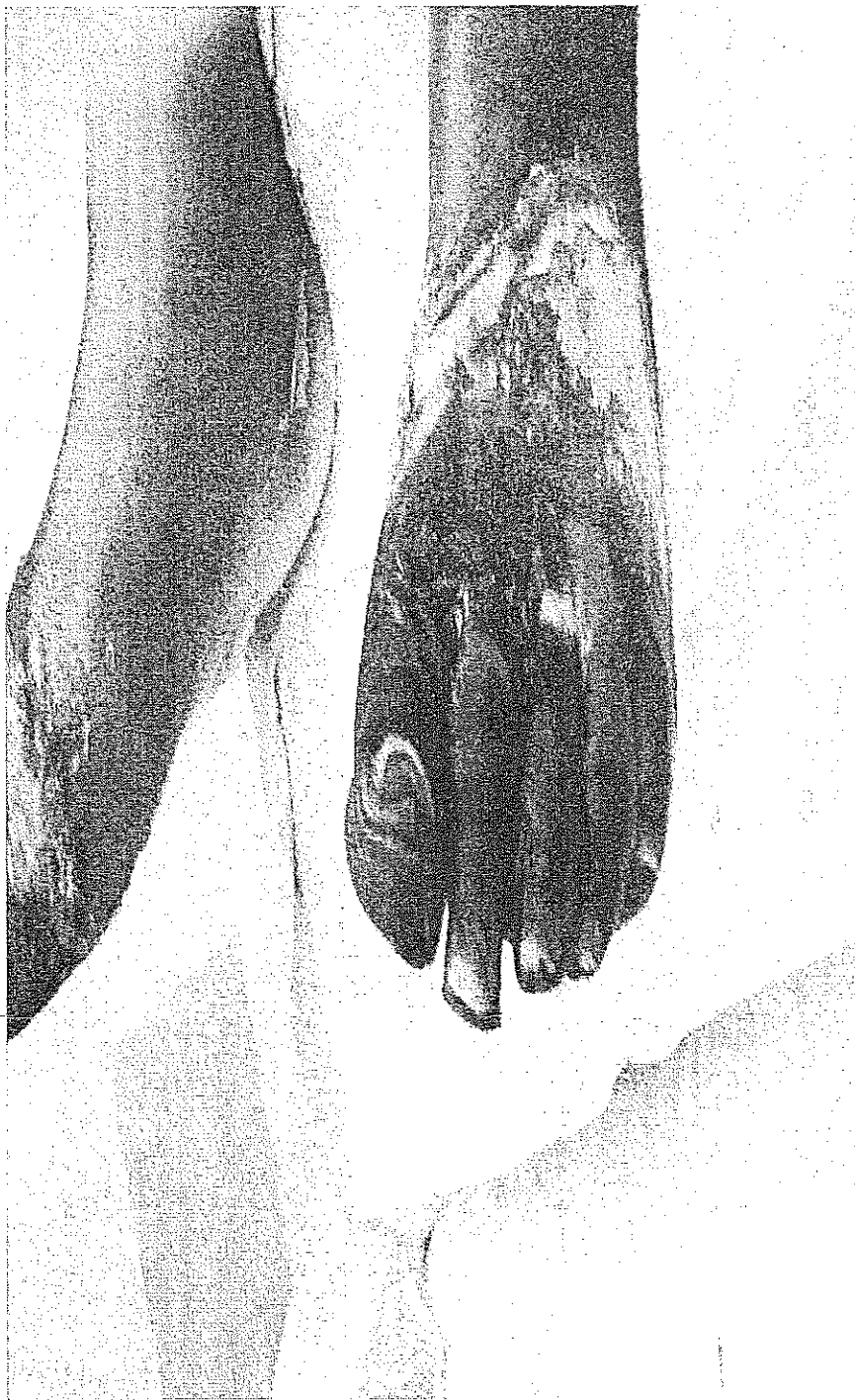
Photos Prior to Double Amputation



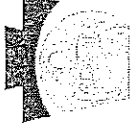
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Decubitus Ulcer



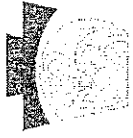
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Decubitus Ulcer



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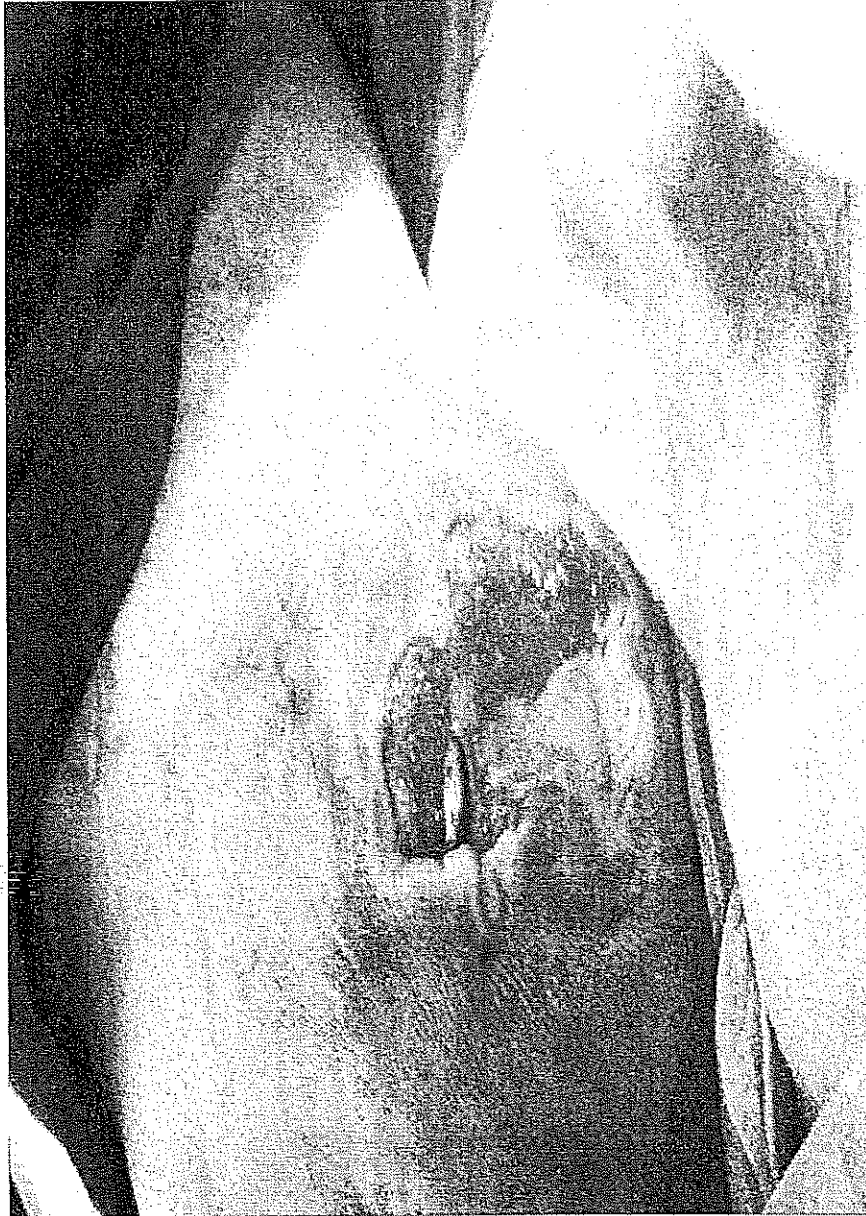
Paid Caregiver Neglect



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Neglect



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Caregiver Neglect



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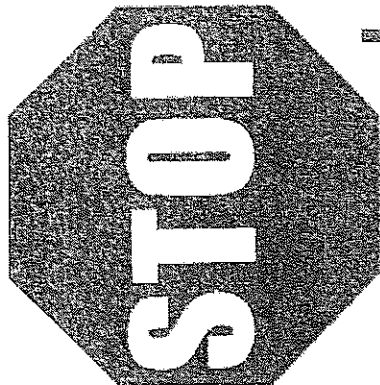
How to Report



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HOW TO REPORT

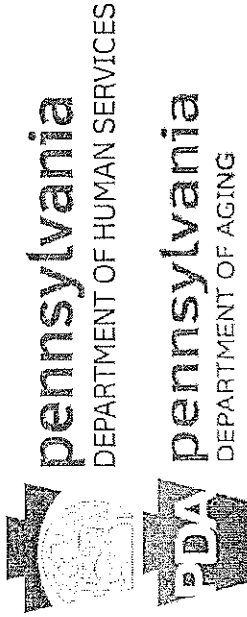
1-800-490-8505

Peake Decision



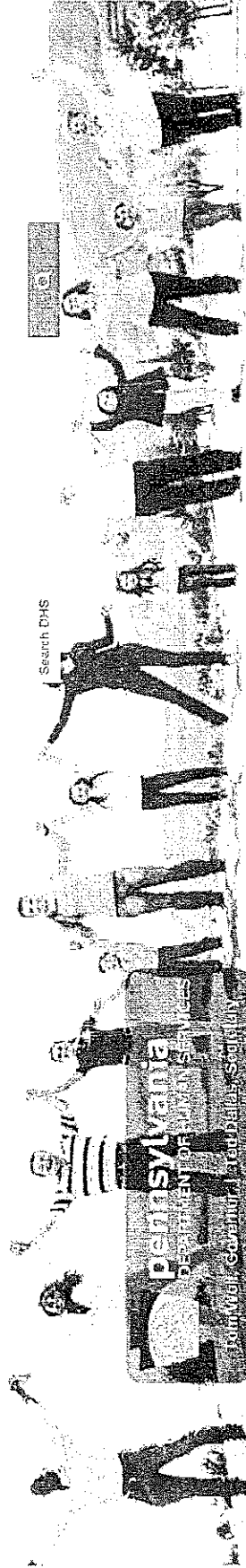
- 12/15 -- The Commonwealth Court held in *Peake v. Commonwealth* that the "lifetime employment ban" of the Older Adults Protective Services Act OAPSA violates due process guarantees under the Pennsylvania Constitution and is therefore not enforceable. The Court also held that the "Interim Policy" (Nixon policy -- pertaining to the employment of individuals with certain criminal convictions caring for older adults) is invalid.
- Please note that criminal history background checks are still required for all applicants.
- Facilities should consult with an attorney prior to making an employment decision
- This guidance focused on the consideration of factors such as:
 - The nature of the crime
 - The facts surrounding the conviction
 - The time elapsed since the conviction
 - The evidence of the individual's rehabilitation
 - The nature and requirements of the job and the performance of individualized risk assessments.
- Further questions 717-265-7887.

www.dhs.pa.gov



Human Services Provider Directory
http://www.dhs.pa.gov/hspdir/

Citizens Providers Partners Publications About DHS



Top Issues

- Community HealthChoices
- KeepKidsSafe.pa.gov
- LJHEAP - Energy Assistance
- 1095-B Tax Form
- SNAP Work Requirements (ABAWDS)

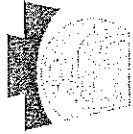
i Priorities

- Increase Access to High-Quality Services
- Serve More People in the Community
- Focus on Employment
- Improve Customer Service
- Modernize Program Integrity

Most Viewed

- HealthChoices
- Provider Enrollment Electronic Portal
- PA Child Abuse History Clearance(CY-113)
- Bulk/in Search
- W/A Fee Schedule

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Citizens

Report Abuse



Report Abuse

CHILD ABUSE:

To report child abuse call 1-800-932-0313.

If you are a mandated reporter go to www.compass.state.pa.us/cwis. To learn more about protecting Pennsylvania's children from abuse and neglect go to www.KeepKidsSafe.pa.gov

Related Topics

Adult Protective Services



ADULTS WITH DISABILITIES ABUSE:

To report abuse for adults with disabilities call the 24-hour, statewide Protective Services Hotline at 1-800-490-8505.

To learn more about reporting abuse, neglect, exploitation or abandonment, [click here](#).



Elder Abuse:

To report elder abuse, call the 24-hour statewide Protective Services Hotline at 1-800-490-8505. [Learn more about reporting elder abuse.](#)

www.dhs.pa.gov



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To report the need for protective services, call the 24-hour, statewide Protective Services Hotline at:

1-800-490-8505

The hotline is to be used for reports only. Questions should be directed to the APS Division at RA-PWAPSQuestions@pa.gov or call 717-736-7116.

Common Signs of Abuse May Include:

- Bruises or Broken Bones
- Weight Loss
- Memory Loss
- Personality Changes
- Social Isolation
- Changes in Banking Habits
- Giving Away Assets such as money, property, etc.

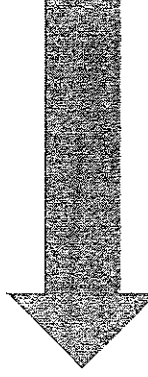
Webinar and Training Opportunities. Click below for registration information

- [Adult Protective Services Webinar Opportunities](#)

Information for Mandatory Reporters:

- [Who is a Mandatory Reporter?](#)
- [Mandatory Reporter Informational Guidance](#)
- [Act 70 Mandatory Reporter Form](#)
- [Mandatory Reporter Form Instructions](#)
- [Webinar for Mandatory Reporters](#)
- [Mandatory Reporter Webinar PowerPoint](#)
- [Report of Need \(RON\) completed by the Area Agency on Aging \(AAA\)](#)

If you have questions about the APS program, please see our [Frequently Asked Questions \(FAQ\)](#).



Frequently Asked Questions



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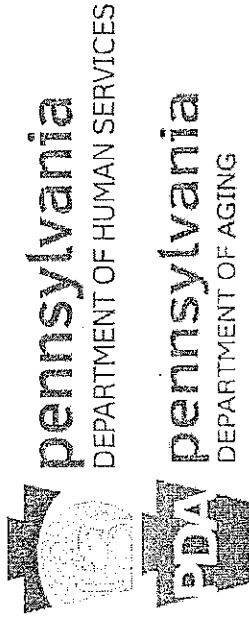


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Frequently Asked Questions

The Protective Services Process	1
Who are Mandatory Reporters? What are their Reporting Responsibilities? ..	4
APS Procedures	9
Consumer Rights	11
Contact Information	12

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TOM WOLF, GOVERNOR

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Enter Search Term

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News
[2016 Direct Care Worker](#)

Professionals & Providers
Adoptive Care Licensing
Adopt Policy & Procedure Manual
Adopt Provider Directory

www.againg.pa.gov



Department of Aging > Aging Services > Protections & Rights > Report Elder Abuse

REPORT ELDER ABUSE

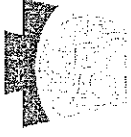
24 HOUR HOTLINE - 1-800-490-8505

Abuse reports can be made on behalf of an older adult whether the person lives in their home or in a care facility such as a nursing facility, personal care home, hospital, etc. The reporters may remain anonymous and have legal protection from retaliation, discrimination and civil or criminal prosecution.

COMMON SIGNS AND/OR SYMPTOMS OF ABUSE MAY INCLUDE:

- Isolation
- Weight Loss
- Bruises or Broken Bones
- Increased Confusion
- Unusual Withdrawals From Any Account
- Signing Over One's Home to Another

Questions About APS?



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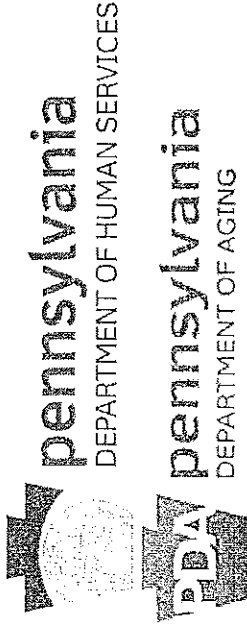
- Questions or requests for additional information regarding the Adult Protective Services program can be sent to the following email address:

RA-PWAPSQuestions@pa.gov

- If you do not have access to email, please call:

717-736-7116

Liberty Healthcare APS Statewide Contacts



Liberty Emergency After Hours Number : (888) 243-6561

Statewide Program Director

Kirk Golden
kirkg@libertyhealth.com
(724) 774-6751

Regional Program Manager - West

Cinda Watkins
cwatkins@libertyhealth.com
(267) 264-8652

Regional Program Manager - Central

Sheila Caperelli
scaperelli@libertyhealth.com
(267) 264-8761

Regional Program Manager - East

Carlotta Alston
calston@libertyhealth.com
(267) 264-8719

Protective Services Supervisor - West

Dennis McCune
dmccune@libertyhealth.com
(267) 418-6304

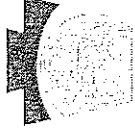
Protective Services Supervisor - Central

Jeff Paulinellie
jpaulinellie@libertyhealth.com
(267) 418-6436

Protective Services Supervisor - East

Cory Haines
chaines@libertyhealth.com
(267) 262-4698

Questions About OAPSA?



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- Questions or requests for additional information regarding the Older Adult Protective Services program can be sent to the following email address:

RA-protect_svcs_ta@pa.gov

- If you do not have access to email, please call:

717-783-8975



NAPSA 'scams'

Profiles of Elder Abuse Victims and Scammers

A recent study by the American Association of Retired Persons (AARP) highlighted characteristics of people older than 50 that make them easy targets for financial abuse. In general, they: expect honesty in the marketplace, are less likely to take action when defrauded, and are less knowledgeable about their rights in an increasingly complex marketplace. And as people over 50 are more likely to be home than their younger neighbors, they are often within easy reach of devious telemarketers and home solicitors.

Scammers target elders that they perceive to be vulnerable -- those that are isolated, lonely, physically or mentally disabled, unfamiliar with handling their own finances, or have recently lost a spouse.

The scam artists often pose as trustworthy helpers. They can be strangers, such as telemarketers and tradespeople, or have a relationship with the targeted victim, such as friends, family members, doctors, lawyers, accountants, and paid or volunteer caregivers. Abusers who are family members often have money troubles that may be made worse by unemployment, gambling, or substance abuse problems.

Elder financial abuse scammers can be tough to catch. Many scammers have paperwork that appears to give them legal authority to act -- including powers of attorney, authorizing signature cards, and vehicle pink slips. Some work at a bank or other financial institution and have intricate ways of hiding their tracks by manipulating electronic records and such.

Common Financial Scams

Financial scams perpetrated against older people include a broad range of conduct -- from outright taking of money or property to forging a signature on a legal document, such as a will or deed, to getting paid for care, products, or services and then not providing them.

Keep an eye out for these common scams:

Telemarketing or mail fraud. The U.S. Department of Justice estimates that dishonest telemarketers take in an estimated \$40 billion each year, bilking one in six American consumers -- and the AARP claims that about 80% of them are 50 or older. Scammers use the phone to conduct investment and credit card fraud, lottery scams, and identity theft. Scammers also use the phone to sell seniors goods that either never arrive or are worthless junk.

Getting unauthorized access to funds. In "Sweetheart Scams," alleged suitors woo older people, convincing them that love and care are their motivations for being included on bank accounts or property deeds; the suitors usually disappear along with the property.

Charging excessive amounts of money. Smooth-talking scammers first convince seniors that they need some goods or services, then seriously overcharge them -- often hiding the high cost in extravagant schemes involving interest and installment payments. This tactic is often used for products that many older people might find essential to their quality of life, such as hearing aids and safety alert devices.

Selling bogus items. Among the most egregious of false sales ploys is dubbed "Rock in a Box." In them, a senior is sweet-talked into buying an item, such as a new color television, at a bargain price, that comes in a box that's suspiciously sealed. What the box actually contains is a well-padded rock.

Getting money or property through undue influence or fraud. Many seniors have been duped into parting with their homes or other property because a scammer convinces them it is for their own good. In one infamous case, three officials from the Detroit-based Guardian Inc. were found guilty of embezzlement and fraud after selling a client's house for \$500 -- to the mother of a company officer. The company also collected excessive fees from its wards, sometimes as high as 70 percent of their Social Security checks.

Fraudulent legal documents. Many scammers cloak their actions in legal authority, procuring a power of attorney or will or other legal document giving them access to a senior's property. They get seniors to sign these documents by lying to, intimidating, or threatening the seniors.

Making pigeon drops. In a typical pigeon drop, two suspects approach an older person -- often in a retail shopping area or near an ATM machine -- and claim they have just found a package or wallet containing a large amount of money. One of the suspects volunteers to check with a "boss" offsite to get advice on what to do with the found money, then reports that it came from an illegal source such as gambling or narcotics.

The scammers offer to split the money -- but only after the older person shows "good faith" by producing money of his or her own. When the scammers send the senior to the "boss" to get the promised share of the money, the senior discovers that there is no boss and the suspects have disappeared.

Faking an injury scenario. In this situation, a scammer claims to have a connection to law enforcement and tells an elder that a child or other close family member has been seriously injured or is in jail. The scammer then convinces the senior to give him or her money for medical treatment or bail.

Offering false prizes. A good example of this is the "You have won the lottery" scam operating out of Canada. In this scam, thousands of older people were bilked into believing they became wealthy overnight, but had to wire money in "fees and taxes"

before they could collect the grand prize. In a joint crackdown, the U.S. Attorney General and the Solicitor General of Canada estimated the take from this mass-marketing fraud to be about \$1 billion a year.

In another version of this scam, con artists tell an elder that he or she has just won a huge cash prize, but needs to send in some money -- usually in money orders -- to free it up from customs officials.

Doing unsolicited home repair work. Typically working in teams of two or more, scammers scour neighborhoods with a high concentration of older residents, or even track recent widows and widowers through obituaries and death notices, then appear on their doorsteps claiming to spot something in need of fixing -- a hole in the roof or clogged drainpipe, for example.

The scammers demand payment up front, and then often claim that their initial investigation reveals a more serious problem, with a more expensive solution. The "work" they do is unlicensed and often shoddy, such as applying paint to a roof to make it appear as if it has been tangibly fixed.

In a twist on this scam, one alleged worker might distract the elder while another enters the house to steal money and other valuables.

Caveat: Look out for certain factors that may indicate that a loved one is a likely target of financial abuse. Of course, no single sign is conclusive proof, but staying aware will help you avoid or limit the fallout if there are any problems.

- Unusual or large withdrawals or transfers from bank accounts, or large credit card charges that the older person can't explain.
- Checks that are missing or include suspicious signatures.
- An individual who suddenly forms a close relationship with the older person, getting easy access to his or her home, money, and other property.
- Newly executed documents, such as a will or power of attorney, that the older person doesn't seem to understand.
- Changes in account beneficiaries or authorized signers.
- A large number of unpaid bills.
- Missing property.
- Entry forms and prizes from contests, and payments made for "free" vacations or other merchandise.
- Untreated physical or mental problems, including a dramatic change in mood or disposition, or other evidence of substandard care.
- Sudden social isolation.



Financial scams targeting seniors have become so prevalent that they're now considered "the crime of the 21st century."

Scams also often go unreported or can be difficult to prosecute, so they're considered a "low-risk" crime. However, they're devastating to many older adults and can leave them in a very vulnerable position with little time to recoup their losses.

It's not just wealthy seniors who are targeted. Low-income older adults are also at risk of financial abuse. And it's not always strangers who perpetrate these crimes. Over 90% of all reported elder abuse is committed by an older person's own family members, most often their adult children, followed by grandchildren, nieces and nephews, and others.

. **potential scams:**

1. Medicare/health insurance scams

Every U.S. citizen or permanent resident over age 65 qualifies for Medicare, so there is rarely any need for a scam artist to research what private health insurance company older people have in order to scam them out of some money.

In these types of scams, perpetrators may pose as a Medicare representative to get older people to give them their personal information, or they will provide bogus services for elderly people at makeshift mobile clinics, then use the personal information they provide to bill Medicare and pocket the money.

2. Counterfeit prescription drugs

Most commonly, counterfeit drug scams operate on the Internet, where seniors increasingly go to find better prices on specialized medications.

The danger is that besides paying money for something that will not help a person's medical condition, victims may purchase unsafe substances that can inflict even more harm. This scam can be as hard on the body as it is on the wallet.

3. Funeral & cemetery scams

The FBI warns about two types of funeral and cemetery fraud perpetrated on seniors.

In one approach, scammers read obituaries and call or attend the funeral service of a complete stranger to take advantage of the grieving widow or widower. Claiming the deceased had an outstanding debt with them, scammers will try to extort money from relatives to settle the fake debts.

Another tactic of disreputable funeral homes is to capitalize on family members' unfamiliarity with the considerable cost of funeral services to add unnecessary charges to the bill. In one common scam of this type, funeral directors will insist that a casket, usually one of the most expensive parts of funeral services, is necessary even when

performing a direct cremation, which can be accomplished with a cardboard casket rather than an expensive display or burial casket.

4. Fraudulent anti-aging products

In a society bombarded with images of the young and beautiful, it's not surprising that some older people feel the need to conceal their age in order to participate more fully in social circles and the workplace. After all, 60 is the new 40, right?

It is in this spirit that many older Americans seek out new treatments and medications to maintain a youthful appearance, putting them at risk of scammers. Whether it's fake Botox like the one in Arizona that netted its distributors (who were convicted and jailed in 2006) \$1.5 million in barely a year, or completely bogus homeopathic remedies that do absolutely nothing, there is money in the anti-aging business.

Botox scams are particularly unsettling, as renegade labs creating versions of the real thing may still be working with the root ingredient, botulism neurotoxin, which is one of the most toxic substances known to science. A bad batch can have health consequences far beyond wrinkles or drooping neck muscles.

5. Telemarketing/phone scams

Perhaps the most common scheme is when scammers use fake telemarketing calls to prey on older people, who as a group make twice as many purchases over the phone than the national average. While the image of the lonely senior citizen with nobody to talk to may have something to do with this, it is far more likely that older people are more familiar with shopping over the phone, and therefore might not be fully aware of the risk.

With no face-to-face interaction, and no paper trail, these scams are incredibly hard to trace. Also, once a successful deal has been made, the buyer's name is then shared with similar schemers looking for easy targets, sometimes defrauding the same person repeatedly.

Examples of telemarketing fraud include:

The pigeon drop

The con artist tells the individual that he/she has found a large sum of money and is willing to split it if the person will make a "good faith" payment by withdrawing funds from his/her bank account. Often, a second con artist is involved, posing as a lawyer, banker, or some other trustworthy stranger.

The fake accident ploy

The con artist gets the victim to wire or send money on the pretext that the person's child or another relative is in the hospital and needs the money.

Charity scams

Money is solicited for fake charities. This often occurs subsequent to natural disasters.

6. Internet fraud

While using the Internet is a great skill at any age, the slower speed of adoption among some older people makes them easier targets for automated Internet scams that are ubiquitous on the web and email programs. Pop-up browser windows simulating virus-scanning software will fool victims into either downloading a fake anti-virus program (at a substantial cost) or an actual virus that will open up whatever information is on the user's computer to scammers.

Their unfamiliarity with the less visible aspects of browsing the web (firewalls and built-in virus protection, for example) make seniors especially susceptible to such traps. One example includes:

Email/phishing scams

A senior receives email messages that appear to be from a legitimate company or institution, asking them to "update" or "verify" their personal information. An older adult receives emails that appear to be from the IRS about a tax refund.

7. Investment schemes

Because many seniors find themselves planning for retirement and managing their savings once they finish working, a number of investment schemes have been targeted at seniors looking to safeguard their cash for their later years. From pyramid schemes like Bernie Madoff's (which counted a number of senior citizens among its victims) to fables of a Nigerian prince looking for a partner to claim inheritance money to complex financial products that many economists don't even understand, investment schemes have long been a successful way to take advantage of older people.

8. Homeowner/reverse mortgage scams

Scammers like to take advantage of the fact that many people above a certain age own their homes, a valuable asset that increases the potential dollar value of a certain scam.

A particularly elaborate property tax scam in the State of California saw fraudsters sending personalized letters to different properties apparently on behalf of the County Assessor's Office. The letter, made to look official but displaying only public information, would identify the property's assessed value and offer the homeowner, for a fee of course, to arrange for a reassessment of the property's value and therefore the tax burden associated with it.

Closely related, the reverse mortgage scam has mushroomed in recent years. With legitimate reverse mortgages increasing in frequency more than 1,300% between 1999 and 2008, scammers are taking advantage of this new popularity. As opposed to official refinancing schemes, however, unsecured reverse mortgages can lead property owners to lose their homes when the perpetrators offer money or a free house somewhere else in exchange for the title to the property.

9. Sweepstakes and lottery scams

This simple scam is one that many are familiar with, and it capitalizes on the notion that "there's no such thing as a free lunch." Here, scammers inform their mark that they have

won a lottery or sweepstakes of some kind and need to make some sort of payment to unlock the supposed prize. Often, seniors will be sent a check that they can deposit in their bank account, knowing that while it shows up in their account immediately, it will take a few days before the (fake) check is rejected. During that time, the criminals will quickly collect money for supposed fees or taxes on the prize, which they pocket while the victim has the "prize money" removed from his or her account as soon as the check bounces.

10. The grandparent scam

The grandparent scam is so simple and so devious because it uses one of older adults' most reliable assets, their hearts.

Scammers will place a call to an older person and when the mark picks up, they will say something along the lines of: "Hi Grandma, do you know who this is?" When the unsuspecting grandparent guesses the name of the grandchild the scammer most sounds like, the scammer has established a fake identity without having done a lick of background research.

Once "in," the fake grandchild will usually ask for money to solve some unexpected financial problem (overdue rent, payment for car repairs, etc.), to be paid via Western Union or MoneyGram, which don't always require identification to collect. At the same time, the scam artist will beg the grandparent "please don't tell my parents, they would kill me."

While the sums from such a scam are likely to be in the hundreds, the very fact that no research is needed makes this a scam that can be perpetrated over and over at very little cost to the scammer.

NATIONAL ADULT PROTECTIVE SERVICES ASSOCIATION

Pennsylvania Department of Aging
Tuesday, August 30, 2016: 3:15-4:45 PM

A. Title: *Pennsylvania Adult Protective Services and Older Adult Protective Services: Practices and Procedures for Identification and Intervention in cases of Neglect, Abuse and Financial Exploitation.*

B. This presentation, or workshop, will consist of an overview of the practices and procedures involving Pennsylvania Adult Protective Services (APS) and Pennsylvania Older Adult Protective Services (OAPS), with emphasis on identification of neglect, abuse and financial exploitation with intervention measures through civil court actions for necessary emergency involvement, and through the Incapacitated Persons or Guardianship Law and the Power of Attorney or Fiduciary Law, with a focus on financial or fraud scams.

C. Objectives:

- overview of abuse, neglect and exploitation;
- overview of relevant and applicable Pennsylvania Laws;
- methods of intervention to protect and empower;
- methods to prevent.

D. Outline:

Adult Protective Services Act (APSA)

Statutory under 35 P.S. §§10210.101, *et seq.*

<http://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=2010&sessInd=0&smthLwInd=0&act=0070>.

Regulatory under 55 Pa. Code Chapter (to be promulgated)

Older Adult Protective Services Act (OAPSA)

Statutory under 35 P.S. §§10225.101 *et seq*

<http://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=1987&sessInd=0&smthLwInd=0&act=0079>.

Regulatory under 6 Pa. Code Chapter 15

<http://www.pacode.com/secure/data/006/chapter15/chap15toc.html>

Policy Directives – APS-Department of Human Services and OAPS-Department of Aging

Emergency Intervention (35 P.S. §10225.307) and Emergency Guardianship (20 Pa. C.S.A. §5513)

Power of Attorney (20 Pa. C.S.A. §5604(d)) and OAPSA Financial Exploitation

Case Studies

Scams

Abrogation of OAPSA Section 503(a) under *Peake*

Tyrone Peake, et al. v. The Commonwealth of Pennsylvania, (Pa. Commw. Ct., Dec. 30, 2015, 216 M.D. 2015, Pa. Commw. LEXIS 585)

http://www.pacourts.us/assets/opinions/Commonwealth/out/216MD15_12-30-15.pdf?cb=1

Pennsylvania HB 786 proposed amendment to OAPSA

<http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2015&sInd=0&body=H&type=B&bn=0786>