

Adult Protective Services

Abuse Investigations and Interventions

Scope of Adult Protective Services

- The intent for abuse investigators and APS workers is to provide protection and intervention for vulnerable adults who are unable to protect themselves from harm and neglect.



Advocating for Self-Determination

SELF DETERMINATION



- The over-arching ethical value in adult protective services is the obligation to balance the duty to protect vulnerable adults with the duty to protect their rights to self-determination.

Mandatory Reporters

For a current and complete list of public or private officials who are mandatory reporters please refer to [Oregon Revised Statute 419B.005](#)

Sometimes, you're the only protection they have.



- All facility employees are mandatory reporters and must immediately report abuse and suspected abuse to the investigative authority.

Licensee Reporting

- The licensee must immediately notify the investigative authority of any incident of abuse or suspected abuse, including events overheard or witnessed by observation.
- The local law enforcement agency must be called when the suspected abuse is believed to be a crime (e.g., rape, murder, assault, burglary, kidnapping, theft of controlled substances).



	24 hours a day, 7 days a week.
Children under the age of 18	X
Elderly, age 65 and over	X
Adults with Developmental Disabilities	X
Adults with Mental Illness	X
Residents in Nursing Facilities, any age	X

How to Report Abuse

1-855-503-SAFE (7233)



Confidential

- The identity of the individual reporting the suspected abuse shall be confidential and may be disclosed only with the consent of that individual, by judicial process (including administrative hearing), or as required to perform the investigation by the Department or a law enforcement agency.



Retaliation is Prohibited



- The licensee may not retaliate against any resident after the resident or someone acting on the resident's behalf has filed a complaint in any manner, including, but not limited to:
 - Increasing or threatening to increase charges;
 - Decreasing or threatening to decrease services;
 - Withholding rights or privileges;
 - Taking or threatening to take any action to coerce or compel the resident to leave the facility; or
 - Threatening to harass or abuse a resident in any manner.

Jurisdiction

- County & state investigators have the authority to investigate allegations of abuse and neglect within the following programs:
- Aging and People with Physical Disabilities (APD)
- Intellectual & Developmental Disabilities (I/DD)
- Mental Health (MH)
- Rules and definitions of abuse vary between the three programs (APD, I/DD, MH)

Types of Abuse

- Physical Abuse
- Neglect
- Abandonment
- Verbal/Emotional
- Financial Exploitation
- Sexual
- Involuntary Seclusion
- Wrongful Restraint

Physical Abuse

- **APD:** The use of physical force that may result in bodily injury, physical pain, or impairment; or any physical injury to an adult caused by other than accidental means.
- **DD:** Any physical injury to an adult caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.
- Willful infliction of physical pain or injury upon an adult.

Neglect APD



- Failure to provide the basic care, or services necessary to maintain the health and safety of an adult.
 - Failure may be active or passive.
 - Failure creating a risk of serious harm or results in physical harm, significant emotional harm or unreasonable discomfort, or serious loss of personal dignity.

Neglect DD

“Neglect” means:

- (a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of a person with a developmental disability that may result in physical harm or significant emotional harm to the person;
- (b) The failure of a caregiver to make a reasonable effort to protect a person with a developmental disability from abuse; or
- (c) Withholding of services necessary to maintain the health and well-being of an adult that leads to physical harm of an adult.

Financial Exploitation APD



- Wrongfully taking money, property, or the assets of an adult.
- Misappropriating or misusing the money of an adult.
- Failing to use the income or assets of the adult for the benefit of the adult.

Financial DD

- “Financial exploitation” means:
 - (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of a person with a developmental disability.
 - (b) Alarming a person with a developmental disability by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.
 - (c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by a person with a developmental disability.
 - (d) Failing to use the income or assets of a person with a developmental disability effectively for the support and maintenance of the person.

Verbal Abuse APD

- Threatening significant physical harm or threatening or causing significant emotional harm to an adult through the use of derogatory or inappropriate names, insults, verbal assaults, harassment, threats, or intimidation.



Verbal DD

“Verbal abuse” means to threaten significant physical or emotional harm to a person with a developmental disability through the use of:

- (a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or
- (b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

Sexual Abuse APD

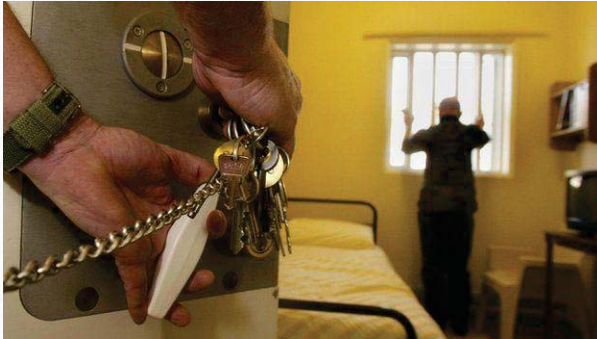
- Sexual contact with a non-consenting adult or with an adult considered incapable of consenting to a sexual act.
- Verbal or physical harassment of a sexual nature.
- Any sexual contact between an employee of a facility and an adult residing in the facility, unless the two are spouses.



Sexual Abuse DD

- “Sexual abuse” means:
- Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;
- Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;
- Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;
- Any sexual contact between a person with a developmental disability and a relative of the person with a developmental disability other than a spouse; or
- Any sexual contact that is achieved through force, trickery, threat or coercion.
- “Sexual abuse” does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

Involuntary Seclusion APD



- Involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult.
 - Involuntary seclusion may include:
 - Confinement or restriction of an adult to his or her room or a specific area; or
 - Placing restrictions on an adult's ability to associate, interact, or communicate with other individuals.

Involuntary Seclusion DD

- Involuntary seclusion of a person with a developmental disability for the convenience of the caregiver or to discipline the person.

Wrongful Use of a Restraint APD

- A wrongful use of a physical or chemical restraint includes situations where:
 - A licensed health professional has not conducted a thorough assessment before implementing a licensed physician's prescription for restraint;
 - Less restrictive alternatives have not been evaluated before the use of the restraint; or
 - The restraint is used for convenience or discipline.



Wrongful Restraint DD

- A wrongful use of a physical or chemical restraint upon a person with a developmental disability, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

Wrongful Use of a Restraint



Investigative Process

- Basic investigative processes in licensed facilities across all three programs are similar in scope
 - Identify the alleged victim, the alleged perpetrator(s)/accused person and any person who may have information related to the allegation
 - Protective Services & Safety Planning is required (DD – service coordinator, APD – APS workers)
 - Conduct interviews
 - Gather and evaluate all related documentation and evidence

Investigation Process (continued)

- Evaluation of the information collected during an abuse investigation is fair, objective, thorough and unbiased.
- The investigator will reach a finding (Substantiated/Not Substantiated/Inconclusive) based on a preponderance (majority) of evidence
- Notifications of the findings will be sent to the relevant parties.

Private Interviews



- Department, local licensing authority, investigative authority, and CMS staff have authority to interview the licensee, resident manager, other caregivers, and the residents. Interviews must be confidential and conducted privately.

Access

- The Department, the local licensing authority, the investigative authority, and the Centers for Medicare and Medicaid Services (CMS) have authority and must have full access to examine and copy facility and resident records, including, but not limited to, Residency Agreements, and resident account records, as applicable.



APS Report



- APD Facility reports are to be completed within 60 business days.
- DD reports are to be completed within 55 days.

Notice of Findings

- Upon a determination of substantiated abuse or a rule violation, the Department or licensing authority must provide written notification of its findings to the licensee.



Petition for Reconsideration

- If you disagree with the conclusion and finding of the investigation, you may request a review of the case or file a Petition for Reconsideration.
- This review process varies by program (DD, APD, MH).

Questions?

