



SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES  
Adult Services

# South Carolina Department of Social Services

**Adult Protective Services**

**Policy Manual**

**Ethical Framework**

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Adult Protective Services Policy and Procedure Manual**

**APS Program Policy - Ethical Framework**

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## **APS Program Policy: Ethical Framework**

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## **APS Program Policy: Ethical Framework**

### **1.1 Program Purpose**

The intent of the APS Program is to provide intervention and protection for Vulnerable Adults who cannot provide care or protection for themselves in a manner that ensures attention will be given to the Adult's right to self-determination, lifestyle and culture. These services must be provided in the least restrictive environment appropriate for the Vulnerable Adult as determined by the Adult's level of care and safety.

#### **1.1.1 Responsibility**

The Adult Protective Services (APS) Program is part of the Adult Advocacy Division of the South Carolina Department of Social Services (DSS). The APS Program has the responsibility to investigate reports of maltreatment and provide protective services to vulnerable adults who are eighteen (18) years of age or older, resides within the community setting and is experiencing abuse, neglect or exploitation.

#### **1.1.2 Statutory Authority**

The Omnibus Adult Protection Act provides the APS Program the authority to investigate or cause to be investigated **noncriminal** reports of alleged abuse, neglect, and exploitation of Vulnerable Adults occurring in settings other than those facilities for which the Long Term Care Ombudsman Program is responsible for the investigation pursuant to SECTION 43-35-15(C) of the South Carolina Code of Laws.

### **1.2 Code of Ethics**

South Carolina has adapted their Code of Ethics from the National Adult Protective Services Association (NAPSA) Code of Ethics.

#### **1.2.1 APS Value Statements**

Every action taken by APS must balance the duty to protect the safety of the vulnerable adult with the adult's right to self-determination.

Vulnerable adults who are victims of maltreatment should be treated with dignity and respect.

#### **1.2.2 APS Principles**

- Whenever possible, a vulnerable adult's right to self-determination should be preserved.
- Vulnerable adults have the right to be free from abuse, neglect and financial exploitation and reside in the least restrictive environment possible.
- Adults have the right to make decisions that may not be considered "normal" as long as these decisions do not harm others.
- Adults have the right to accept or refuse services.

#### **1.2.3 APS Practice Guidelines**

**APS staff commitment to adults include:**

- Recognize that the interests of the adult are the first concern of any intervention.
- Avoid imposing personal values on adults or their family.
- Treat adults in a caring and respectful fashion.
- Keep the adult's personal information confidential outside of normal APS practice.
- Recognize individual differences such as cultural, historical and personal values.
- Honor the right of adults to receive information about their choices and options in a form or manner they can understand.

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- To the best of one's ability, involve the adult as much as possible in developing the service plan, allowing adults the opportunity to ask questions.
- In instances where vulnerable adults are receiving services involuntarily, APS staff should provide information about the nature and extent of services and the extent of the adults' right to refuse service.
- In the absence of a vulnerable adult's expressed wishes, support casework actions that are in the adult's best interest.
- When in question, APS staff should seek guidance from a professional in order to assess vulnerable adults' capacity to refuse services.
- Use the least restrictive services first whenever possible—community-based services rather than institutionally-based services.
- Use and engage family and community support first as long as this is in the best interest of the adult.
- Maintain clear and appropriate professional boundaries.
- Do not use derogatory language in written, verbal, or electronic communications to or about adults.
- Provide adequate and appropriate intervention to the extent possible.
- APS staff should always ask permission to have physical contact, view or take pictures of the adult's body.

**APS staff commitment to the APS Program include:**

- Treat coworkers and community partners with respect and avoid unwarranted negative criticism.
- Ensure that documentation in electronic and paper records is accurate and reflects the services provided.
- APS staff should not permit their private conduct to interfere with their ability to fulfill their professional responsibilities.
- APS staff are expected to provide professional services in disasters and/or emergencies to the greatest extent possible.
- Understand that the commitment to vulnerable adults may extend beyond normal business hours.
- Understand that commitment and compassion to vulnerable adults is required of an APS staff person.

### **1.3 Definitions**

The following terms are commonly used in APS and are operationally defined in this section.

#### **1.3.1 Adult Protective Services**

Adult Protective Services (APS) is one of the programs under the Adult Advocacy Division. The mission of APS is to protect Vulnerable Adults from abuse, neglect and exploitation by investigating and providing temporary assistance until risk is minimized and services are secured.

#### **1.3.2 Caregiver**

A caregiver is a person who provides care to a Vulnerable Adult, with or without compensation, on a temporary, permanent, full or part-time basis. This individual may include but is not limited to: a relative, household member, day care personnel, adult foster home sponsor, and personnel of a public or private institution or facility.

#### **1.3.3 Community Setting**

A community setting is a private residence or any non-institutional setting not investigated by the Long Term Ombudsman Office.

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**1.3.4 Facility**

A facility is a nursing care facility, community residential care facility, a psychiatric hospital, or any residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.

**1.3.5 Level of Care**

The appropriate Level of Care (LOC) is determined by the Vulnerable Adult's primary care physician, medical provider or Community Long Term Care (CLTC). CLTC will complete a thorough assessment on the Vulnerable Adult to determine the LOC. The two levels of nursing home care are defined as:

**Skilled Nursing Care** - is health care given when a person needs skilled nursing staff, a registered nurse (RN) or a licensed practical nurse (LPN) to manage, observe, and evaluate care. Skilled nursing care requires the involvement of skilled nursing staff in order to be given safely and effectively.

**Intermediate Care** - is provided by skilled professionals such as registered or licensed practical nurses, and therapists, under the supervision of a physician. Medicare Part A does not cover intermediate care in nursing homes.

**1.3.6 Maltreatment Type**

**Abuse – Physical Abuse** involves intentionally inflicting or allowing to be inflicted physical injury on a Vulnerable Adult by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery as defined in S.C. Code of Laws, SECTION 43-35-10(8), use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment. A therapeutic procedure prescribed by a licensed physician or other qualified professional or that is part of a written plan of care by a licensed physician or other qualified professional is **not** considered physical abuse. Physical abuse **does not** include altercations or acts of assault between Vulnerable Adults. **Psychological Abuse** means deliberately subjecting a Vulnerable Adult to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.

**Neglect** - The failure or omission of a caregiver or fiduciary to provide the care, goods, or services that are necessary to maintain the health or safety of a Vulnerable Adult including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services. An adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including (A) obtaining essential food, clothing, shelter, and medical care; (B) obtaining goods and services necessary to maintain physical health, or general safety; or (C) managing one's own financial affairs. Self-Neglect must involve great bodily injury resulting in a substantial risk of death. This means that without intervention it is PROBABLE, not POSSIBLE, that death or great bodily harm will occur. Probable means something is likely to happen. Possible means something *could* happen. The APS worker must weigh how likely great bodily injury or death will occur. If great bodily injury or death is possible but not probable, this would not be considered self-neglect.

**Exploitation** – (1) causing or requiring a Vulnerable Adult to engage in activity or labor which is improper, unlawful, or against the reasonable and rational wishes of the Vulnerable Adult. Exploitation **does not** include requiring a Vulnerable Adult to participate in an activity or labor which is a part of a written plan of care or which is prescribed or authorized by a licensed physician attending the patient; (2) an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or

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conservatorship of a Vulnerable Adult by a person for the profit or advantage of that person or another person; or (3) causing a Vulnerable Adult to purchase goods or services for the profit or advantage of the seller or another person through: (i) undue influence, (ii) harassment, (iii) duress, (iv) force, (v) coercion, or (vi) swindling by overreaching, cheating, or defrauding the Vulnerable Adult through cunning arts or devices that delude the vulnerable adult and cause him to lose money or other property.

**1.3.7 Occupational Licensing Board**

This is a health professional licensing board which is a state agency that license and regulates health care providers and includes, but is not limited to, the Board of Long Term Health Care Administrators, State Board of Nursing for South Carolina, State Board of Medical Examiners, State Board of Social Work Examiners, and the State Board of Dentistry.

**1.3.8 Vulnerable Adult**

A Vulnerable Adult is a person eighteen (18) years or older who has a physical or mental impairment which **substantially impairs** the person from adequately providing for his/her own care or protection. This can include impairments due to advanced aging, organic brain damage, and physical, mental, or emotional disabilities.

**Disability** - a physical or mental impairment that **substantially impairs** the adult's ability to protect themselves. This can include mobility, basic reasoning and/or problem solving skills. A disability alone does not make a person vulnerable.

**1.4 Dual Relationships**

Dual Relationships exist when there is more than one relationship between APS staff and the vulnerable adult they are serving.

When an APS report is received on a DSS employee or immediate family member of a DSS employee, the Intake Practitioner will complete the normal Intake process using the APS Intake Tool. The Regional Director in that area will be notified immediately. The Intake staff will complete the administrative security process to ensure that the DSS employee does not have access to the case record in CAPSS.

**1.5 Qualifications and Training Requirements for Staff**

All APS staff must meet qualification and training requirements applicable to their position. APS Case Managers, Supervisors and Area Managers must all have a minimum of a bachelor's degree. Relevant experience and advanced degrees are commiserate with position. APS staff must receive basic certification upon hiring and receive a score of 85% or higher. APS Intake Practitioners must receive intake certification upon hiring and receive a score of 85% or higher.

**1.6 Mandatory Reporting**

Certain individuals are listed in S.C. Code of Law, SECTION 43-35-25(A) as being required to report when they have reason to believe abuse, neglect, self-neglect or exploitation of a Vulnerable Adult has occurred or is likely to occur. Those specified in the law are:

- Physician, nurse, dentist, optometrist, medical examiner, coroner, other medical, mental health or allied health professional, Christian Science practitioner, religious healer, school teacher, counselor, psychologist, mental health or intellectual disability specialist, social or public assistance worker, caregiver, staff or volunteer of an adult day care center or of a facility, or law enforcement officer having reason to believe that a Vulnerable Adult has been abused, neglected, or exploited shall report the incident.

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- Any other person who has actual knowledge that a Vulnerable Adult has been abused, neglected, or exploited shall report the incident in accordance with this section.
- Any other person who has reason to believe that a Vulnerable Adult has been or may be abused, neglected, or exploited may report the incident.

A person required to report is personally responsible for making the report; however, a state agency may make a report on behalf of an agency employee if the reporting procedure is approved by SLED or the investigative entity in writing.

**1.6.1 Guidance for reporting**

APS staff will follow the guidance set forth under SC Code of Laws, SECTION 43-35-25(A) when accepting a report. This guidance states that mandated reporters must file a report to APS in writing or orally within 24 hours of an incident occurring in a community setting. If APS receives a report which is not within its investigative jurisdiction, the report will be forwarded to the appropriate entity no later than the next business day. Provided that a report has met the requirements of SC Code of Laws, SECTION 43-35-25(A), nothing precludes a person from also reporting the incident directly to law enforcement.

**1.6.2 Penalty for Failing to Report**

APS staff are considered mandated reporters as defined in SC Code of Laws, Section 43-35-25(A) and are required to report when they have actual knowledge that abuse, neglect, or exploitation has occurred. Staff who knowingly and willfully fails to report actual knowledge of abuse, neglect, or exploitation could be prosecuted, face criminal action, and disciplinary action as determined necessary by the appropriate licensing board.

**1.7 Immunity for APS Staff**

A person acting in good faith who reports pursuant to S.C. Code of Laws, SECTION 43-35-75(A) or who participates in an investigation or judicial proceeding resulting from a report is immune from civil and criminal liability which may otherwise result by reason of this action. In a civil or criminal proceeding, good faith is a rebuttable presumption.