

Adult Protective Services Overview

Kelly Greaves
Assistant Director



APS Mission

In Vermont Adult Protective Services (APS) is the primary unit of state government responsible for investigating allegations of abuse, neglect and exploitation of vulnerable adults under Title 33 of Vermont Statutes.

Where is APS Located?

- Agency of Human Services (AHS)
 - Department of Aging and Independent Living (DAIL)
 - Division of Licensing and Protection (DLP)
 - Adult Protective Services (APS)

What APS Does

- APS Investigates Allegation of maltreatment towards a vulnerable adult and makes recommendation for registry placement for caregivers.
- APS does not need the vulnerable adult's permission or cooperation in an investigation.
- APS can never force a vulnerable adult to speak with or cooperate in an investigation.

Assessments

- APS can decide to assign an intake for assessment or an investigation.
- The purpose of an assessment is to provide a victim centered approach to minimize the risk of future harm, engage community partners to enhance supports, while maintaining the natural supports to include the alleged perpetrator when appropriate.

Investigations

- Investigations are detailed processes, examining evidence, interviewing parties, and collaborating with other agencies. We aim to uncover the truth and ensure for the vulnerable adult's safety through a comprehensive investigation process.

Definitions Given in Statute

- Our work is guided by definitions provided in statute. These definitions are critical as they drive our screening and field work decisions. Understanding these definitions will help clarify why APS may take certain actions and ensures consistency and legal compliance in our work.

Who are Vulnerable Adults?

A Vulnerable Adult is someone 18 years or older at the time of the incident and...

- A resident of a long-term care facility, or
- A resident of a psychiatric hospital or a patient in a psychiatric unit of a hospital, or
- Was receiving personal care services for more than one month, or
- Cannot provide for their ADL's or IADL's without assistance, or has been determined clinically eligible for Long-Term Care Medicaid waiver services, or
- Because of a disability or infirmity, has an impaired ability to protect themselves from Abuse, Neglect, or Exploitation

➤ Title 33 § 6902

ADLs and IADLs

ADLs (Activities of Daily Living)

Dressing and undressing, bathing, personal hygiene, bed mobility, toilet use, transferring, mobility in and around the home, and eating

IADLs (Instrumental Activities of Daily Living)

Meal preparation, medication management, phone use, money management, household maintenance, housekeeping, laundry, shopping, transportation, and care of adaptive equipment



Scenario 1

Is Kara Vulnerable?

- Kara is 24 years old with a diagnosis of Autism.
- Kara has a case manager with the local designated agency and sees a therapist once a month.
- Kara doesn't drive but is able to take the bus to her work experience and to medical appointments.
- Kara lives with her parents at the family home.



Scenario 2

Is Adam vulnerable?

- Adam is an 82-year-old male.
- Adam is on Social Security and is able to manage his own finances.
- Adam continues to drive himself to the grocery store and all medical appointments.
- Adam receives no services in the home.
- Adam loves to cook and work in the garden.

What is Abuse?

- Any medical treatment that purposely, knowingly, recklessly, or negligently places the life, health, or welfare of a vulnerable adult in jeopardy or is likely to result in impairment of health to the vulnerable adult.
- Any conduct committed purposely, knowingly, or recklessly that is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to a vulnerable adult or places the life, health, or welfare of a vulnerable adult in jeopardy or is likely to result in impairment of health to the vulnerable adult

Abuse Continued

- Confinement, seclusion, restraint, or interference with the freedom of movement of a vulnerable adult, unless necessary to ensure the health and safety of the vulnerable adult or others
- Any sexual activity or acts of sexual nature with a vulnerable adult by a caregiver
- Any sexual activity or acts of sexual nature with a vulnerable adult when the vulnerable adult does not consent or when the individual knows or should know that the vulnerable adult is incapable of resisting or consenting to sexual activity due to age, disability, or fear of retribution or hardship

Abuse Continued

- Purposely or recklessly subjecting a vulnerable adult to behavior that a reasonable person would expect to result in serious emotional or psychological distress, including intimidation, fear, humiliation, degradation, agitation, or disorientation.
- Administration or threatened administration of a drug, or substance for a purpose other than legitimate and lawful medical or therapeutic treatment.

Abuse Continued

- Wrongful denial or withholding of necessary medication, care, durable medical equipment, or treatment.
- Use of deception, force, threat, undue influence, harassment, duress, or fraud to induce a vulnerable adult to request or consent to receive or refuse treatment.



Scenario 3

Are Sam's actions abusive?

- Ruth lives in a skilled nursing facility. The facility is short staffed.
- Sam is Ruth's LNA. Ruth has a diagnosis of dementia, Ruth is escalated and yelling at Sam, Sam gets frustrated and blocks Ruth door so Ruth can not get out of her room .
- Sam needs to care for another resident so walks away from Ruth and goes down the hall to another resident's room.
- Eventually Ruth gives up and lays on her bed and falls asleep.



Scenario 4

Are Vivian's actions abusive?

- Art has been married to Vivian for 56 years. Art has been diagnosed with dementia and needs a lot of supervision and queuing for all aspects of his life.
- Art has had multiple visits to the emergency room due to unexplained injuries.
- Art told his nurse that Vivian gets frustrated with Art and hits him. Art states he is not afraid of Vivian.

What is Neglect?

Purposeful, knowing, or reckless failure or omission by a caregiver that has resulted in, or could be expected to result in physical or psychological harm, including a failure or omission to:

- Provide care or arrange for goods or services necessary to maintain the health and safety of a vulnerable adult
- Make a reasonable effort to protect a vulnerable adult from Abuse, Neglect, or Exploitation
- Carry out a plan of care, unless the caregiver is acting in pursuant to the wishes of the vulnerable adult
- Report significant changes in health to a physician, nurse, or supervisor

May be a single act or repeated conduct.

Who are Caregivers?

- A worker or employee in a facility or program that provides care to an adult who is an elder or has a disability and who has assumed the responsibility voluntarily, by contract, or by an order of the court, or
- A person with a designated responsibility for providing care to a person that is required because of the person's age or disability

Care

- Means subsistence, medical services, personal care services, mental health services, or rehabilitative services and includes assistance with ADLs and IADLs



Scenario 5

Are John's actions neglectful?

- EMS arrived at Melissa's home to find her laying on the floor of her bedroom.
- Melissa presented with an altered mental status, covered in urine and fecal matter, had bruising to her face, and appeared to have a fractured femur.
- Melissa's son, John, who lives in the home stated, "I have been working long hours and had not checked on mom for a couple of days. When I arrived home today, I could hear her crying".
- It is believed that Melissa has been on the floor for about two days.



Scenario 6

Are Jessica's actions neglectful?

- The reporter works for the local AAA and is Damien's Case Manager.
- Damien had appointed his daughter Jessica to be his Financial Power of Attorney.
- Damien was a successful contractor, and the reporter believes is worth a substantial amount to money.
- Damien needs increased care due to a stroke. The reporter has communicated this need with Jessica multiple times. Jessica continues to make excuses as to why she can't hire additional staff.
- Damien fell and was transported to the hospital due injuries he sustained while attempting to use the bathroom independently.

What is Exploitation?

- Willfully or knowingly using, withholding transferring, or disposing of funds or property of a vulnerable adult without or in excess of legal authority to the detriment of the vulnerable adult.
- Purposeful unauthorized access, sharing, or use of identifying information, image, or likeness, personal accounts, or documents of a vulnerable adult without or in excess of legal authority to the detriment of the vulnerable adult or for the wrongful profit or advantage of another.

Exploitation Cont.

- Breach of duty by a guardian, agent, or other fiduciary to the detriment of a vulnerable adult.
- Acquiring or attempting to acquire possession or control of or an interest in funds or property of a vulnerable adult through the use of deception, force, threat, undue influence, harassment, duress, or fraud

Exploitation Cont.

- Refusing to return or surrender possession or control of an interest in funds or property of a vulnerable adult upon the request of a vulnerable adult or the vulnerable adult's representative.
- Knowingly failing to use a vulnerable adult's income and assets for the necessities required for that vulnerable adult's support and maintenance
- Influencing or persuading a vulnerable adult to perform services with substandard compensation for the profit or advantage of another



Scenario 7

Are Phil's actions exploitation?

- Ralph is in a skilled nursing facility. Ralph's son, Phil has been added to Ralph's bank account.
- Ralph has a patient share of \$1200 per month. Ralph owes the facility \$3600.
- The facility has sent bills and called Phil but have not received a response.



Scenario 8

Are Amy's actions exploitation?

- Amy volunteers to do Alice's grocery shopping. Alice is not able to get out of her home so is appreciative of Amy for doing this.
- Alice will give Amy her debit card to pay for Alice's groceries.
- Each shopping trip Amy will add a six pack of soda without Alice's knowledge or approval.
- Amy feels this is reasonable as Amy is going out of her way to make sure Alice has groceries.

Self-Neglect

An adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including (i) obtaining essential food, clothing, shelter, and medical care; (ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or (iii) managing one's own financial affairs. The term "self-neglect" excludes individuals who make a conscious and voluntary choice not to provide for certain basic needs as a matter of lifestyle, personal preference, or religious belief and who understand the consequences of their decision.

APS lacks statutory authority to act on allegations of self-neglect. Intakes that are received regarding a vulnerable adult that is self-neglecting will be referred to Area Agency on Aging or AHS Field Services Directors.

Right to Refuse APS Intervention

- At-risk adults have the right to make lifestyle choices that others may see as objectionable or even dangerous. Such as:
 - Refusing medical treatment or medication
 - Choosing to abuse alcohol or drugs
 - Living in a dirty or cluttered home
 - Continuing to live with the perpetrator
- APS respects these choices and can only intervene with the individual's cooperation.

Collaboration

- APS collaborates with various partners, including law enforcement, healthcare providers, and community organizations to provide a holistic response to abuse, neglect, and exploitation. These partnerships enhance our ability to protect and support vulnerable adults.

What criteria does APS use to determine if the intake is screened in for assessment vs. investigation?

- Severity of the alleged maltreatment
- Relationship between the alleged victim and alleged perpetrator
- Known history
- The detail and specificity of information provided by the reporter
- Scam-originating out of state.

APS Does Not Do

- There are many limitations on what APS can do. It is not intended to, nor do we have the authority to interfere with individual lifestyle choices or consequences of those choices.
- APS does not have the authority to remove someone from their home.
- APS does not investigate level of care allegations.

Who are Mandatory Reporters?

- All employees, contractors, volunteers, or grantees who directly provide health care, law enforcement, caregiving, counseling, education, or social services to adults who know of information of abuse, neglect, or exploitation of a vulnerable adult or have reason to suspect that any vulnerable adult has been abused, neglected or exploited shall report within two business days.
- If an individual listed above is a direct witness to evidence of abuse, neglect, or exploitation the individual shall report or be party to a report that is made on behalf of multiple reporters.

****If you are not sure if you are a mandated reporter, ask your supervisor.**

When Must a Mandatory Reporter Make a Report?

Within 2 business days of...

- Suspecting that a vulnerable adult is being Abused, Neglected, or Exploited
- Receiving information that a vulnerable adult is being Abused, Neglected, or Exploited
 - Even if the Mandatory Reporter doesn't suspect this information is accurate

NOTE: The information presented today is NOT legal advice and should not substitute for your organization's legal counsel regarding your reporting requirements.

Reporting “Do’s” and “Don'ts”

- Call 911 immediately for any life-threatening emergency, prior to contacting APS.
- Do not wait to call APS pending the completion of an in-house investigation, or until you gather additional facts. If you suspect abuse, neglect, or exploitation of a vulnerable adult, file a report.
- Once an in-house investigation has been completed provide APS with a copy.

Recommended Ways to Report

*** Preferred ***

Website: apsintake.my.vermont.gov/APSReport/s/

Or...

- Voice Call: (800) 564-1612, please leave details (leaving a voicemail does not constitute filing a report. This does not fulfil your requirement as a mandated reporter. If you are a mandated reporter, you will be asked to follow up your report in writing.
- Email: aps@vermont.gov

What information should a reporter provide?

- Your name and contact information (anonymous is not an option for Mandatory Reporters)
- If you know the name and contact information of the person being harmed
- Why you feel the person is a vulnerable adult
- How the person is being harmed
- If you know who is harming the person

➤ Title 33 § 6904

What information should a reporter provide? (continued)

If you know the following, include it in your report:

- The name and address of anyone responsible for the care of the person being harmed
- The names and contact information of other witnesses or people with information
- Any other information you feel would be helpful

Who should file the report?

Mandatory reporters must either report or be a party to a report if a direct witness of abuse, neglect, or exploitation

Mandatory reporters who know of abuse, neglect, or exploitation of a vulnerable adult shall report unless they have reason to believe that a report has already been filed.

- With that said... if you have unique knowledge of the situation, file a report

****WHEN IN DOUBT, REPORT!****

Is the reporter information confidential?

The identity of a person who makes a report shall be kept confidential unless:

1. The person making the report consents to disclosure
2. A judicial proceeding results from the report
3. A court, after hearing, finds probable cause to believe the report was not made in good faith and orders the Department to disclose the person's identity; or
4. Mandatory reporter's information may be shared with other investigative bodies as necessary to conduct the investigation.

What happens if you don't report?

If a Mandatory Reporter fails to report:

- APS wants to work with reporters, if we find out that a mandatory reporter failed to report we will send a letter reminding them of their requirement and provide contact information for questions.
- If the Mandatory Reporter is also a Caregiver, APS may also investigate for Neglect that could result in placement on the Adult Abuse Registry

➤ Title 33 § 6913(b)

4 Phases in the Life of A Report

- Intake (gathering information from reporter)
 - APS intake staff may contact you to get more information
- Screening (determine if field assignment is appropriate)
 - This is where those definitions really play a role
 - You will get notice of the screening decision
- Field Assignment (This includes implementing protective services)
 - Expect field staff to contact you for information. Be prepared to provide additional documentation regarding the victim's vulnerability and any documents you may have that support the allegation
 - Field staff will have a face to face with victim within 10 business days
 - Field staff will conduct other interviews as appropriate
 - Field staff will work with the victim to implement protective measures
- Appeals

Why might a report not be assigned to the field?

- Incident previously investigated
- Alleged victim does not meet statutory definition of vulnerable adult.
- Allegations do not meet statutory definition of abuse, neglect or exploitation.
- Report is incomplete as received, and diligent attempts to reach the reporter were unsuccessful.
- Report concerns self-neglecting adult.
- The alleged perpetrator lacks decisional capacity.
- Level of care complaint

What can you do if you disagree?

- If APS decides not to assign for field assignment after you filed a report, you can request a review by the DAIL Commissioner



Adult Abuse Registry

- APS maintains the Vermont Adult Abuse Registry, which provides a confidential listing of caregivers who have been substantiated for abuse, neglect or exploitation of a vulnerable adult.
- The registry may be accessed by current or prospective employers whose employees or volunteers serve vulnerable adults and/or children.

Conclusion

- APS is dedicated to protecting vulnerable adults through investigation, intervention, and education. Our mission is guided by statutory definitions and commitment to ensuring the safety and well-being of those we serve. Thank you for your attention and support in this important work.

What if you have questions?

- Questions, contact Kelly Greaves, APS Assistant Director at Kelly.Greaves@vermont.gov or John Gordon, APS Director at John.Gordon@vermont.gov
- If you want to contact an APS investigator and ask them “hypothetical” questions about a situation and whether you should report, please **DON'T**
 - APS Investigators do not accept reports... contacting them will not meet mandatory reporting requirements