



APPENDIX B
**ADMINISTRATIVE
RULES**

ADMINISTRATIVE CODE

PART ADULT PROTECTION AND ADVOCACY SERVICES SECTION 270.200 PURPOSE AND PROGRAM MODEL

Section 270.200 Purpose and Program Model

- a) This Subpart describes the organization of the Adult Protective Services Program administered by and through the Illinois Department on Aging.
- b) The Adult Protective Services Program is modeled on the following principles:
 - 1) advocacy intervention by APS provider agencies;
 - 2) the right to self-determination by the alleged victim to:
 - A) decide where and how he or she will live;
 - B) choose whether to accept social services or other community assistance; and
 - C) make decisions different from those a reasonable adult would make that are not harmful to others.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.205 ADULT PROTECTIVE SERVICES PROGRAM

Section 270.205 Adult Protective Services Program

The Adult Protective Services Program is designed to respond to eligible adults who are victims of abuse, neglect, financial exploitation, or self-neglect. The services and activities of the program are:

- a) Intake of reports of abuse, neglect, financial exploitation, or self-neglect;
- b) Assessment;
- c) Case work;
- d) Follow-up;
- e) Early intervention services;
- f) Multi-disciplinary teams;
- g) Fatality review teams; and
- h) Public awareness/education.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.210 DEFINITIONS**

Section 270.210 Definitions

"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]

"Abuser" means a person who abuses, neglects, or financially exploits an eligible adult. [320 ILCS 20/2(a-5)]

"Act" means the Adult Protective Services Act [320 ILCS 20].

"Adult Protective Services Hotline" means the 24-hour toll-free statewide telephone number that can be called to report suspected cases of abuse, neglect, financial exploitation, or self-neglect of eligible adults.

"Adult protective services provider agency", "APS provider agency" or "designated agency" means any public or nonprofit agency, appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect.

"Adult with disabilities" means a person age 18 through 59 who resides in a domestic living situation and whose disability (see definition of "Disability") impairs his or her ability to seek or obtain protection from abuse, neglect or financial exploitation. [320 ILCS 20/2(a-6)]

"Allegation" means a charge or a claim of abuse, neglect, financial exploitation, or self-neglect.

"Alleged abuser" means a person who is reported as abusing, neglecting or financially exploiting an adult with disabilities or older person.

"Alleged victim" means an adult with disabilities or older person who is reported as being abused, neglected or financially exploited, or who is neglecting himself or herself.

"APS" means adult protective services.

"Assessment" means the process of obtaining and documenting information about the case to determine if there is reason to believe abuse, neglect, financial exploitation, or self-neglect is occurring (or has occurred), and to ascertain the level of risk to the eligible adult of future abuse or harm.

"Capacity to consent" to an assessment or services means an individual reasonably appears to be either:

able to receive and evaluate information related to the assessment or services; or

able to communicate in any manner decisions related to the assessment of the reported incident or services. (See 320 ILCS 20/9(d-5).)

"Caregiver" means a person who either, as a result of a family relationship, voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living. [320 ILCS 20/2(a-7)]

"Case work" is the development and implementation of a service plan for the client, which minimally includes: the identification of the needs, problems, limitations and capacities of the client; interventions to protect the health, welfare and safety of the client; assisting the client in obtaining needed services; and respecting the self-determination and independence of the client.

"Case worker" means an employee of an APS provider agency who is authorized to receive and assess reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect, and to develop and implement a service plan for a client.

"Clear and convincing" is the standard of proof that must be met to reach a "verified" substantiation decision in the Adult Protective Services Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a substantial certainty that the abuse, neglect, or financial exploitation is occurring or has occurred.

"Client" is an eligible adult who is receiving services from the APS provider agency.

"Combined service area" means a designated service area, within a planning and service area where a single APS provider agency is responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the APS provider agencies involved. The APS provider agency shall respond to reports in accordance with the time frame outlined in Section 270.240.

"Confinement" means restraining or isolating an individual for other than bona fide medical reasons.

"Department" means the Department on Aging of the State of Illinois. [320 ILCS 20/2(b)]

"Director" means the Director of the Department. [320 ILCS 20/2(c)]

"Disability" means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under

the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-129], or dementia as defined under the Alzheimer's Disease Assistance Act [410 ILCS 405/3(a-5)]. [320 ILCS 20/2(c-5)]

"Domestic living situation" means a residence where the eligible adult, at the time of the report, lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:

A licensed facility as defined in Section 1-113 of the Nursing Home Care Act [210 ILCS 45/1-113];

A facility licensed under the ID/DD Community Care Act [210 ILCS 47];

A facility licensed under the MC/DD Act [210 ILCS 46];

A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49];

A "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40];

A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

A "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act [210 ILCS 9]; and

A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5]. [320 ILCS 20/2(d)]

"Early Intervention Services" are the services purchased by APS provider agencies to provide temporary short term or emergency services necessary to secure the health, welfare and/or safety of a client when other existing resources are unavailable.

"Eligible adult" means either an adult with disabilities age 18 through 59 or a person age 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself. [320 ILCS 20/2(e)]

"Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the APS provider agency has reason to believe the eligible adult is unable to consent to services that would alleviate that risk. [320 ILCS 20/2(f)]

"Emotional abuse" means verbal assaults, threats of maltreatment, harassment, or intimidation.

"Fatality Review Team" means a regional interagency review team established pursuant to Section 15 of the Act.

"Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult. [320 ILCS 20/2(f-1)]

"Follow-up" means the monitoring of substantiated cases of abuse, neglect, financial exploitation, or self-neglect for clients of the program.

"Guardian" means a person appointed by a court of competent jurisdiction, who is legally responsible for the care of a person who has been adjudicated by the court to be incompetent to manage his or her own affairs and/or property.

"Initial interview" means the preliminary contact made by an APS provider agency to determine the level of risk to an alleged victim, the need for early intervention services in order to assure safety and welfare or otherwise reduce risk to the alleged victim, and his or her decisional capacity to consent to an assessment and/or services.

"Intake" means the point at which trained staff of the Illinois Department on Aging's Adult Protective Services Hotline and Senior HelpLine, a regional administrative agency, or APS provider agency receives a report of alleged or suspected abuse, neglect, financial exploitation or self-neglect and relays the report to a case worker for further assessment.

"Intervention" means an action initiated by the APS case worker or the APS provider agency to provide medical, social, economic, legal, housing, law enforcement, or other protective, emergency or supportive services to, or on behalf of, the eligible adult.

"Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

a professional or professional's delegate while engaged in:

social services;

law enforcement;

education;

the care of an eligible adult or eligible adults; or

any of the occupations required to be licensed under the Clinical Psychologist Licensing Act [225 ILCS 15], the Clinical Social Work and Social Work Practice Act [225 ILCS 20], the Illinois Dental Practice Act [225 ILCS 25], the Dietitian Nutritionist Practice Act [225 ILCS 30], the Marriage and Family Therapy Licensing Act [225 ILCS 55], the Medical Practice Act of 1987 [225 ILCS 60], the Naprapathic Practice Act [225 ILCS 63], the Nurse Practice Act [225 ILCS 65], the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70], the Illinois Occupational Therapy Practice Act [225 ILCS 75], the Illinois Optometric Practice Act of 1987 [225 ILCS 80], the Pharmacy Practice Act [225 ILCS 85], the Illinois Physical Therapy Act [225 ILCS 90], the Physician Assistant Practice Act of 1987 [225 ILCS 95], the Podiatric Medical Practice Act of 1987 [225 ILCS 100], the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act [225 ILCS 107], the Respiratory Care Practice Act [225 ILCS 106], the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115], and the Illinois Public Accounting Act [225 ILCS 450];

an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services;

an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

an administrator, employee, or person providing services in or through an unlicensed community-based facility;

any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and APS provider agencies, and the Office of State Long Term Care Ombudsman; provided that attorneys contracted or employed by the Area Agencies and their senior legal services providers and licensed to practice in Illinois are not mandated to report abuse, although they may voluntarily do so;

any employee of the State of Illinois not otherwise specified in this definition who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

a person who performs the duties of a coroner or medical examiner; or

a person who performs the duties of a paramedic or an emergency medical technician. [320 ILCS 20/2(f-5)]

"Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in the Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. [320 ILCS 20/2(g)]

"Passive neglect" means the failure by a caregiver to provide an eligible adult with the necessities of life including, but not limited to, food, clothing, shelter, or medical care, because of failure to understand the eligible adult's needs, lack of awareness of services to help meet needs, or a lack of capacity to care for the eligible adult.

"Physical abuse" means the causing of physical pain or injury to an eligible adult.

"Preponderance of the evidence" is the standard of proof that, must be met to reach a "some indication" substantiation decision in the Adult Protective Services Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a reasonable certainty that more likely than not the abuse, neglect, financial exploitation, or self-neglect is occurring or has occurred.

"Procurement" means the method and documentation issued by the regional administrative agency or the Department to allow potential APS provider agencies to submit qualifications for purposes of designation as an APS provider agency.

"Provider agency" means any public or nonprofit agency in a planning and service area that is selected by the Department or appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. A provider agency may provide services in more than one planning and service area when appointed by the regional administrative agency with prior approval by the Department. [320 ILCS 20/2(h)]

"Regional administrative agency" means any public or nonprofit agency in a planning and service area that provides regional oversight and performs functions as set forth in Section 3(b) of the Act. [320 ILCS 20/2(i)]

"Report taker" means the trained staff of the Department's Adult Protective Services Hotline and Senior HelpLine, regional administrative agencies or APS provider agencies that performs intake of alleged or suspected abuse, neglect, financial exploitation or self-neglect.

"Reporter" means the person who calls, visits or otherwise communicates to an authorized intake agency allegations or suspicions that an eligible adult has been or is being abused, neglected, or financially exploited, or is neglecting himself or herself.

"Senior HelpLine" means the Department's toll-free statewide number that can be called to report suspected cases of abuse, neglect, financial exploitation, or self-neglect to obtain additional information about services available to eligible adults.

"Self-determination" means the right of an eligible adult with decisional capacity to:

decide where and how he or she will live;

choose whether to accept program services or other community assistance;
and

make decisions different from those a reasonable adult would make,
including "bad" decisions, that are not harmful to others.

"Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety. [320 ILCS 20/2(i-5)]

"Services" means medical, social, economic, legal, housing, law enforcement, or other protective, early, emergency or supportive action provided to, or on behalf of, the eligible adult.

"Sexual abuse" means any sexual activity with an eligible adult who is unable to understand, unwilling to consent, threatened, or physically forced to engage in such sexual activity.

"Shared service area" means the designated area within a planning and service area where two or more APS provider agencies are responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the APS provider agencies involved. The APS provider agencies shall respond to reports in accordance with the time frame outlined in Section 270.240.

"State Triad" is a statewide, unincorporated, voluntary association of law enforcement, senior citizens and community groups, organized around the issue of senior safety, crime against the elderly, and financial exploitation of the elderly. The State Triad Council was created under the aegis of the National Association of Triads, Inc., 1450 Duke Street, Alexandria VA 22314.

"Substantiation" is the process by which an APS provider agency determines, after a review of all available information, that abuse, neglect, financial exploitation, or self-neglect of an eligible adult has occurred.

"Substantiated case" means a reported case of alleged or suspected abuse, neglect, financial exploitation or self-neglect in which an APS provider agency, after

assessment, determines that there is reason to believe abuse, neglect, financial exploitation, or self-neglect has occurred. [320 ILCS 20/2(j)]

"Suspicious death" means an instance in which an APS provider agency reasonably believes that the death of an individual may be the result of abuse or neglect.

"Verified" means a determination that there is "clear and convincing evidence" that the specific injury or harm alleged was the result of abuse, neglect, or financial exploitation. [320 ILCS 20/2(k)]

"Victim" means an eligible adult who is the subject of a substantiated report of abuse, neglect, financial exploitation, or self-neglect.

"Willful deprivation" is the deliberate denial to an eligible adult of required medication, medical care, shelter, food, therapeutic devices, or other physical assistance, thereby exposing that person to the risk of physical, mental, or emotional harm. Willful deprivation shall not include the discontinuation of medical care or treatment when the eligible adult has expressed a desire to forego such medical care or treatment.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.215 ORGANIZATIONAL STANDARDS AND RESPONSIBILITIES:
DEPARTMENT ON AGING**

Section 270.215 Organizational Standards and Responsibilities: Department on Aging

Contingent upon adequate funding, *the Department shall establish, design and manage a protective services program of response and services for eligible adults who have been, or are alleged to be, victims of abuse, neglect, financial exploitation, or self-neglect. The Department shall contract with or fund, or contract with and fund, regional administrative agencies, APS provider agencies, or both, for the provision of those functions, and, contingent on adequate funding, with attorneys or legal services provider agencies for the provision of legal assistance pursuant to the Act. For self-neglect, the program shall include, but is not limited to, the following services for eligible adults who have been removed from their residences for the purpose of cleanup or repairs: temporary housing; counseling; and caseworker services to try to ensure that the conditions necessitating the removal do not reoccur.* [320 ILCS 20/3(a)] The Department will have the overall responsibility for designing, managing and monitoring the Adult Protective Services Program in accordance with the following:

- a) *The Department shall designate an Area Agency on Aging as the regional administrative agency.*
 - 1) *In the event the Area Agency on Aging in that planning and service area is deemed by the Department to be unwilling or unable to provide those functions, the Department may serve as the regional administrative agency; or*
 - 2) *The Department may designate another qualified entity to serve as the regional administrative agency; any such designation shall be subject to terms set forth by the Department.* [320 ILCS 20/2(i)]
- b) The Department will approve the designation and withdrawal of designation recommendations of the regional administrative agencies for APS provider agencies.
 - 1) The Department reserves the right to provide recommendations, reject recommendations, or direct action of a regional administrative agency in the designation of APS provider agencies; however, the Department will not do so unreasonably. Any such action by the Department will be authorized in circumstances where there is a State or federal contracting prohibition with the proposed provider agency, an actual or unmitigated conflict of interest, a provider agency does not meet minimum qualifications, or any similar

circumstances which would prevent the Department from entering into or continuing a contractual agreement with the provider agency.

- 2) The Department will enter into the contract with the designated APS provider agency.
 - 3) A designation is deemed withdrawn in the event of a contract termination.
- c) The Department will maintain a list of all APS provider agency and regional administrative agency staff who have successfully completed Department sponsored certification training and are employed in the program.
- d) The Department's Adult Protective Services Hotline will receive reports of abuse, neglect, financial exploitation, or self-neglect and relay those reports to the appropriate APS provider agency within the timelines established in Section 270.240(f).
- e) *The Department shall also be responsible for coordination of efforts and promotion activities to increase awareness of, response to, and prevention of abuse, neglect, financial exploitation, or self-neglect with other agencies, councils, and like entities. [320 ILCS 20/3.5(b) and (c)]*
- 1) The Department will provide technical assistance, policy clarifications and/or interpretations to regional administrative agencies on adherence to the rules, standards, and procedures established for the program.
 - 2) *The Department shall establish and coordinate a training program on the unique nature of APS cases with other agencies and councils, including the Office of the Attorney General, the State Police, the State Triad, the Illinois Criminal Justice Information Authority, Department of Healthcare and Family Services, Department of Public Health, Department of Human Services, the Family Violence Coordinating Council, and other similar violence and law enforcement agencies. [320 ILCS 20/3.5(f)]*
 - 3) The Department will provide training to APS provider agency staff who will assess reports of abuse, neglect, financial exploitation, or self-neglect, or who will supervise staff performing the assessment function. Regional administrative agency staff working in the program will also be trained by the Department.
 - 4) The Department will develop and implement public awareness efforts designed to publicize the purposes and mode of operation of the program through public service announcements, posters, and brochures.
- f) *The Department shall file with the Governor and the General Assembly, within 270 days after the end of each fiscal year, a report concerning its implementation of the Act during such fiscal year, together with any recommendations for future implementation. [320 ILCS 20/11]*
- g) The Department will reimburse APS provider agencies under contract at a uniform rate established by the Department. A separate rate will be established for each of the following case activities completed by the APS provider agency: assessment, case work, and follow-up.

- h) If a designated APS provider agency terminates its contract to provide services, the Department, in coordination with the regional administrative agency, will use best efforts to ensure that services are available without interruption to eligible adults within the terminated APS provider agency's service area.
- i) The Department will solicit *financial institutions for the purpose of making information available to the general public warning of financial exploitation of eligible adults and related financial fraud or abuse, including such information and warning available through signage or other written materials provided by the Department on the premises of such financial institutions, provided that the manner of displaying or distributing such information is subject to the sole discretion of each financial institution.* [320 ILCS 20/3.5(g)]
- j) The Department will coordinate *efforts with utility and electric companies to send notices in utility bills to explain to persons 60 years of age or older their rights regarding telemarketing and home repair fraud.* [320 ILCS 20/3.5(h)]
- k) Designated regional administrative agencies and APS provider agencies are agents of the Illinois Department on Aging.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

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**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.220 ORGANIZATIONAL STANDARDS AND RESPONSIBILITIES:
REGIONAL ADMINISTRATIVE AGENCIES**

Section 270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies

- a) *Each regional administrative agency in turn shall procure and recommend the designation of APS provider agencies within its planning and service area with prior approval by the Department on Aging and:*
 - 1) *monitor the use of services;*
 - 2) *provide technical assistance to the APS provider agencies, including APS program training and any instructional materials required by the Department; and*
 - 3) *be involved in program development activities. [320 ILCS 20/3(b)]*
- b) A procurement shall be issued by the regional administrative agency at least every six years, except as provided in subsection (e).
- c) The procurement for APS providers shall include a solicitation and evaluation of potential APS provider agencies.
 - 1) Qualified potential APS provider agencies shall be scored by the regional administrative agency. The highest scoring potential APS provider agency shall be recommended as the designated APS provider agency for the applicable planning and service area or subarea of the planning and service area.
 - 2) The Department will approve or take other action regarding the recommendation for designation in accordance with Section 270.215(b).
- d) The RAA may make a recommendation for withdrawal of the designation of an APS provider agency to the Department for approval, which shall not be unreasonably withheld. If the procurement fails to produce an APS provider agency for the service area that demonstrates adequate qualifications for designation, the regional administrative agency shall propose for designation a conditionally qualified provider agency for a limited term and until such time that a subsequent procurement results in an APS provider agency for the service area.

- e) If the designation of an APS provider agency has been terminated, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis until such time that a subsequent procurement results in an acceptable APS provider agency for the service area.
- f) A regional administrative agency may elect, for its planning and service area, to designate APS provider agencies, from those agencies designated in accordance with subsections (a) through (e), for the purpose of providing either a combined or shared service area response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury. Each regional administrative agency shall follow the steps outlined in subsections (a) through (e) for assuring services for non-business hours for a combined or shared service area.
- g) The regional administrative agency shall not serve as a legal guardian, an agent under the Illinois Power of Attorney Act [755 ILCS 45], or a representative payee for any client in the program. The Department may allow a waiver only if the APS provider agency has documented evidence that no other qualified person or entity exists to serve in the foregoing capacities on behalf of a client of the program and the regional administrative agency is willing and qualified to take on those responsibilities.
- h) The regional administrative agency shall retain and purge all books, records and other documents relevant to the operation of the program as directed by the Department in accordance with the State Records Act [5 ILCS 160], unless other State laws or federal laws or regulations apply (e.g., when records contain information subject to the federal Health Insurance Portability and Accountability Act (HIPAA)).

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

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Section 270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies

- a) *Each regional administrative agency in turn shall procure and recommend the designation of APS provider agencies within its planning and service area with prior approval by the Department on Aging and:*
 - 1) *monitor the use of services;*
 - 2) *provide technical assistance to the APS provider agencies, including APS program training and any instructional materials required by the Department; and*
 - 3) *be involved in program development activities. [320 ILCS 20/3(b)]*
- b) A procurement shall be issued by the regional administrative agency at least every six years, except as provided in subsection (e).
- c) The procurement for APS providers shall include a solicitation and evaluation of potential APS provider agencies.
 - 1) Qualified potential APS provider agencies shall be scored by the regional administrative agency. The highest scoring potential APS provider agency shall be recommended as the designated APS provider agency for the applicable planning and service area or subarea of the planning and service area.
 - 2) The Department will approve or take other action regarding the recommendation for designation in accordance with Section 270.215(b).
- d) The RAA may make a recommendation for withdrawal of the designation of an APS provider agency to the Department for approval, which shall not be unreasonably withheld. If the procurement fails to produce an APS provider agency for the service area that demonstrates adequate qualifications for designation, the regional administrative agency shall propose for designation a conditionally qualified provider agency for a limited term and until such time that a subsequent procurement results in an APS provider agency for the service area.

- e) If the designation of an APS provider agency has been terminated, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis until such time that a subsequent procurement results in an acceptable APS provider agency for the service area.
- f) A regional administrative agency may elect, for its planning and service area, to designate APS provider agencies, from those agencies designated in accordance with subsections (a) through (e), for the purpose of providing either a combined or shared service area response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury. Each regional administrative agency shall follow the steps outlined in subsections (a) through (e) for assuring services for non-business hours for a combined or shared service area.
- g) The regional administrative agency shall not serve as a legal guardian, an agent under the Illinois Power of Attorney Act [755 ILCS 45], or a representative payee for any client in the program. The Department may allow a waiver only if the APS provider agency has documented evidence that no other qualified person or entity exists to serve in the foregoing capacities on behalf of a client of the program and the regional administrative agency is willing and qualified to take on those responsibilities.
- h) The regional administrative agency shall retain and purge all books, records and other documents relevant to the operation of the program as directed by the Department in accordance with the State Records Act [5 ILCS 160], unless other State laws or federal laws or regulations apply (e.g., when records contain information subject to the federal Health Insurance Portability and Accountability Act (HIPAA)).

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

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ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.225 ORGANIZATIONAL STANDARDS AND RESPONSIBILITIES:
ADULT PROTECTIVE SERVICES PROVIDER AGENCIES**

Section 270.225 Organizational Standards and Responsibilities: Adult Protective Services Provider Agencies

- a) In accordance with Section 270.220, the designated APS provider agency shall enter into a written contract with the Department to provide services.
- b) The APS provider agency shall provide these services to an adult with disabilities or a person aged 60 or older in accordance with the Act and this Part.
- c) The APS provider agency shall be open for business and available to receive reports of abuse, neglect, financial exploitation, or self-neglect not less than 246 working days per calendar year under the following conditions:
 - 1) The APS provider agency shall not be closed for more than four consecutive days, unless an alternative method of receiving reports is approved by and on file with the regional administrative agency and the Department.
 - 2) If a recorded message is activated during business hours, there has to be an option to talk directly to a report taker at that time, rather than leaving a message on voice mail.
 - 3) A report taker has to be available at least seven hours each working day.
- d) The APS provider agency will not serve as a legal guardian or an agent under the Illinois Power of Attorney Act for any client in the program.
- e) The APS provider agency shall retain all books, records and other documents relevant to the operation of the program as directed by the Department. The APS provider agency has to insure that records are purged per Department standards.
- f) A contract to provide adult protective services may be terminated by the APS provider agency in accordance with the termination clause in the contract. The APS provider agency will assist in the transition to a replacement APS provider agency for the specific geographic area.
- g) Pursuant to the terms of their contract, APS provider agencies shall maintain sufficient staff to perform all duties and responsibilities of the program for which an agreement to perform is in effect.

- h) APS supervisors have to be involved in guiding and directing abuse, neglect, financial exploitation, or self-neglect cases and share responsibility in the case workers' decisions and actions in those cases.
- i) Qualifications
 - 1) APS supervisors shall have:
 - A) Education
 - i) a Master's Degree in health, social sciences, social work, health care administration, gerontology, disability studies, criminal justice or public administration, and one year experience in health or human services; or
 - ii) a Registered Nursing license, or a Bachelor of Science in Nursing (B.S.N.) or a Bachelor of Arts (B.A.)/Bachelor of Science (B.S.) in health, social sciences, social work, health care administration, gerontology, or criminal justice and three years' experience in health or human services, including either one year of supervisory experience or one year of experience in aging, adults with disabilities or domestic violence programs or services;
 - B) Department sponsored APS case worker certification and on-line forms training;
 - C) Department sponsored Phase II certification training within six months after the APS case worker certification, to be placed on the Department's list of APS Case Workers;
 - D) Department sponsored APS supervisor's certification training;
 - E) Fourteen hours of participation by actual attendance at in-service training and/or webinars on abuse of eligible adults, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year. For partial years of employment, training shall be prorated to equal approximately 45 minutes for each full month of employment. Participation by actual attendance at regional, State or national conferences on abuse of older adults and adults with disabilities and rights of older adults and adults with disabilities, self-neglect, and domestic violence qualify as in-service training. Participation should be documented and included in the employee's personnel file; and
 - F) Eleven hours of qualifying recertification every three years, which must be documented in the employee's personnel file.
 - 2) APS case workers shall have:
 - A) Education

- i) Master's Degree in health, social services, social work, health care administration, gerontology, disability studies, criminal justice or public administration;
 - ii) a Registered Nursing license, or a B.S.N. or a B.A./B.S. in health, social sciences, social work, health care administration, gerontology, or criminal justice and one year experience in health or human services; or
 - iii) a Practical Nursing license, with two years' experience in health or human services;
- B) Department sponsored APS case worker certification and on-line forms training;
- C) Department sponsored Phase II certification training within six months after the APS case worker certification, to be listed on the Department's list of APS Case Workers;
- D) Twelve hours of participation by actual attendance at in-service training and/or webinars on abuse of eligible adults, rights of older adults and adults with disabilities, self-neglect, and domestic violence subjects within a calendar year. For partial years of employment, training shall be prorated to equal approximately 45 minutes for each full month of employment. Participation by actual attendance at regional, State or national conferences on abuse of older adults and adults with disabilities and rights of older adults and adults with disabilities, self-neglect, and domestic violence qualify as in-service training. Participation should be documented and included in the employee's personnel file; and
- E) Eleven hours of qualifying recertification every three years, which must be documented in the employee's personnel file.
- j) The Department will suspend or remove from the Department's list of APS Case Workers any case worker or supervisor who fails or refuses to perform the duties of a case worker or supervisor in accordance with this Part.
- k) The APS provider agency must return to the Department, within 15 days, any identification card of a case worker or supervisor who separates from employment.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.226 PUBLIC AWARENESS AND EDUCATION

Section 270.226 Public Awareness and Education

The regional administrative agencies and APS provider agencies may assist the Department by providing public awareness and education on the issues of abuse, neglect, financial exploitation, and self-neglect. The regional administrative agencies and APS provider agencies shall include the following information when producing any public education materials:

- a) identification as part of the Adult Protective Services Program;
- b) voice and teletypewriter (TTY) phone numbers for the Department on Aging's toll-free 24-hour Adult Protective Services Hotline; and
- c) a nondiscrimination clause in accordance with State and federal requirements.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

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**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.230 ABUSE REPORTING**

Section 270.230 Abuse Reporting

- a) *If any mandated reporter has reason to believe that an eligible adult, who because of disability or other condition or impairment is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under the Act or to the Department. [320 ILCS 20/4(a-5)]*
- b) *Whenever a mandated reporter is required to report under the Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, or agency, he or she shall make a report to an agency designated to receive such reports under the Act or to the Department in accordance with the provisions of the Act and may also notify the person in charge of the institution, facility, or agency or his or her designated agent that the report has been made. [320 ILCS 20/4(a-5)]*
- c) *Under no circumstances shall any person in charge of such institution, facility, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under the Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by the Act. [320 ILCS 20/4(a-5)]*
- d) *The identity of a person making a report of alleged or suspected abuse or neglect under the Act may be disclosed by the Department or other agency provided for in the Act only with such person's written consent or by court order, but is otherwise confidential. [320 ILCS 20/4(c)]*
- e) *Any mandated reporter who makes a report or any person who investigates a report under the Act shall testify fully in any judicial or administrative proceeding resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult subject of the report under the Act and the person making or investigating the report. [320 ILCS 20/4.2]*

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.235 IMMUNITY

Section 270.235 Immunity

- a) *Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under the Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability for such actions.*
- b) *Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under the Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services.*
- c) *For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, financial exploitation or self-neglect shall be presumed. [320 ILCS 20/4(b)]*
- d) *The Department on Aging and its employees and agents shall have immunity, except for intentional willful and wanton misconduct, from any liability, civil, criminal, or otherwise, for reporting information to and maintaining the Adult Protective Service Registry established under Section 7.5 of the Act. [320 ILCS 20/7.5(k)]*

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.240 INTAKE OF ABUSE, NEGLECT, FINANCIAL EXPLOITATION, OR
SELF-NEGLECT REPORTS**

Section 270.240 Intake of Abuse, Neglect, Financial Exploitation, or Self-Neglect Reports

- a) The following agencies and hotlines are authorized to receive reports of abuse, neglect, financial exploitation, or self-neglect:
 - 1) the Department on Aging's toll-free 24-hour Adult Protective Services Hotline;
 - 2) the Department on Aging's Senior HelpLine;
 - 3) regional administrative agencies; and
 - 4) APS provider agencies.

- b) An APS provider agency receiving a report of abuse, neglect, financial exploitation, or self-neglect will assign a priority to the report in accordance with the following:
 - 1) Priority 1 reports are reports of abuse, neglect, or self-neglect in which the alleged victim is reported as being in serious physical harm or in immediate danger of death or serious physical harm. Priority 1 reports include, but are not limited to, the following:
 - A) physical abuse or self-neglect causing injuries such as fractures, head injuries, internal injuries, or burns, when the injury is of a serious nature, such as to require medical treatment;
 - B) threats of serious injury or death;
 - C) passive neglect or willful deprivation involving a lack of basic physical necessities severe enough to result in freezing, serious heat stress or starvation;
 - D) immediate medical attention is needed to treat conditions that could result in irreversible physical damages such as unconsciousness, acute pain, or severe respiratory distress;
 - E) alleged sexual abuse that has occurred in the last 72 hours;

- F) threats of sexual abuse where the alleged abuser has access to the alleged victim; and
 - G) punishment by the alleged abuser, such as locking the alleged victim in the closet.
- 2) Priority 2 reports are reports of abuse, neglect, financial exploitation, or self-neglect in which the alleged victim is reported as being abused, neglected, or exploited, or is self-neglecting, and the report taker has reason to believe that the consequences are less serious than Priority 1 reports. Priority 2 reports include, but are not limited to, the following:
- A) physical abuse or self-neglect involving scratches or bruises;
 - B) verbal threats of physical harm;
 - C) passive neglect or willful deprivation involving inadequate attention to physical needs, such as insufficient food or medicine;
 - D) unreasonable confinement; and
 - E) probability of liquidation or depletion of an alleged victim's income and assets.
- 3) Priority 3 reports are reports of abuse, neglect, or financial exploitation in which the alleged victim is reported as the target of emotional abuse by a caregiver or the alleged victim's financial resources are being misused or withheld and the report taker has reason to believe that there is no immediate threat of harm to the alleged victim.
- c) If a report includes allegations or conditions of more than one priority, the report taker that has received the report assigns it to the higher priority.
- d) An agency that is not an APS provider agency shall forward the reports of abuse, neglect, financial exploitation, or self-neglect to the appropriate APS provider agency within two hours.
- e) The APS provider agency is directed to respond to reports of abuse, neglect, financial exploitation, or self-neglect within the time frames indicated in subsection (f), including making a good faith attempt to conduct a face-to-face visit with the alleged victim.
- f) The applicable time frames for each priority are: for Priority 1 reports, 24 hours from the receipt of the report; Priority 2 reports, 72 hours from the receipt of the report; and for Priority 3 reports, seven calendar days from the receipt of the report.
- g) The following exceptions shall apply and extend the time frames specified for that priority:
- 1) The alleged victim of the Priority 1 report has been admitted to the hospital, in which case the response time for a face-to-face visit is extended from 24 hours to the following work day.

- 2) The report is a Priority 2 or Priority 3 report, the APS case worker is likely to be in danger, and a police officer or another appropriate individual is called to investigate or escort the worker. An appropriate escort may be, but is not limited to, a mental health professional, health professional, or significant relative. The response time for a face-to-face visit is then extended until such a time as the police officer or appropriate escort is available, not to exceed three days beyond the response time established for that priority.
- 3) The alleged victim does not wish or consent to a face-to-face visit within the time frame.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.241 REPORTING A SUSPICIOUS DEATH

Section 270.241 Reporting a Suspicious Death

- a) When a report taker receives a report of a suspicious death, he or she shall promptly forward the report to the appropriate APS provider agency. The APS provider agency shall then immediately report the matter to both the appropriate law enforcement agency and the coroner or medical examiner.

- b) Between 30 and 45 days after reporting a suspicious death, *the APS provider agency again shall contact the law enforcement agency and coroner or medical examiner to determine whether any further action was taken.*
 - 1) *Upon request by an APS provider agency, a law enforcement agency and coroner or medical examiner shall supply a summary of its action in response to a reported death of an alleged victim.*
 - 2) *A copy of the report shall be maintained and all subsequent follow-up with the law enforcement agency and coroner or medical examiner shall be documented in the case record of the alleged victim.*
 - 3) *If the law enforcement agency, coroner, or medical examiner determines the reported death was caused by abuse or neglect by a caregiver, the law enforcement agency, coroner, or medical examiner shall inform the Department, and the Department shall report the caregiver's identity on the Adult Protective Service Registry as described in Section 7.5 of this Act.*
[320 ILCS 20/3(c-5)]

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.245 ACCESS TO ALLEGED VICTIMS AND RELEVANT RECORDS

Section 270.245 Access to Alleged Victims and Relevant Records

- a) *The designated APS provider agencies shall have access to alleged victims who are reported to be victims of abuse, neglect, financial exploitation, or self-neglect in order to assess the validity of the report, assess other needs of the alleged victim, and provide services in accordance with the Act. [320 ILCS 20/13(a)]*
- 1) A representative of the Department or a designated APS provider agency that is actively involved in an abuse, neglect, financial exploitation, or self-neglect investigation under the Act shall be allowed access to the financial records, mental and physical health records, and other relevant evaluative records of the eligible adult that are in the possession of any individual, financial institution, health care provider, mental health provider, educational facility, or other facility if necessary to complete the investigation mandated by the Act.
 - 2) The provider or facility shall provide these records to the representative upon receipt of a written request and certification from the Department or designated APS provider agency that an investigation is being conducted under the Act and the records are pertinent to the investigation.
 - 3) Any records received by the representative, the confidentiality of which is protected by another law or rule, shall be maintained as confidential, except that the records may be used as necessary for any administrative or legal proceeding.
- b) When the case worker is unable to access the alleged victim due to interference by another, the case worker shall seek the assistance of law enforcement. If the report is a Priority 1, the APS case worker shall immediately seek police assistance in accessing the alleged victim. If the report is a Priority 2 or a Priority 3, the APS case worker shall make at least one additional attempt, and up to four additional attempts, to gain access to the residence prior to seeking police assistance.
- c) *When access to an eligible adult is denied, including the refusal to provide requested records, the Office of the Attorney General, the Department, or the APS provider agency may petition the court for an order to require appropriate access where:*

- 1) *a caregiver or third party has interfered with the assessment or service plan, or*
 - 2) *the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or financial exploitation. [320 ILCS 20/13(b)]*
- d) If the initial face-to-face visit indicates that the alleged victim does not meet the eligibility criterion for the program, the APS provider agency will terminate the assessment, document this finding in the case record, and refer the person to other appropriate services or agencies.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

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**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.250 MINIMUM ASSESSMENT AND CLASSIFICATION STANDARDS**

Section 270.250 Minimum Assessment and Classification Standards

- a) *An APS provider agency designated to receive reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect under the Act shall conduct a face-to-face assessment with respect to such report. The assessment shall include, but not be limited to, a visit to the residence of the alleged victim who is the subject of the report and may include interviews or consultation with service agencies or individuals who may have knowledge of the alleged victim's circumstances. [320 ILCS 20/5(a)]*
- b) A decision on the merits of each report must be made according to the following:
 - 1) **Verified:** When clear and convincing evidence results in a determination that the specific injury or harm alleged was the result of abuse, neglect or financial exploitation.
 - 2) **Some Indication:** When the preponderance of the evidence suggests some indication that abuse, neglect, financial exploitation, or self-neglect has occurred.
 - 3) **No Indication:** When there is a lack of credible evidence indicating that abuse, neglect, financial exploitation, or self-neglect has occurred.
 - 4) **Unable to Verify:** This determination is used when the report does not meet the eligibility criteria of the program, the APS provider agency is unable to locate the alleged victim, the APS provider agency staff has been unable to gain access to the alleged victim, or the alleged victim refuses the assessment.
- c) Each report has to be either substantiated, unsubstantiated or unable to substantiate, as follows:
 - 1) **Substantiated:** When one or more of the alleged types of abuse, neglect, financial exploitation, or self-neglect was classified as either "verified" or "some indication".
 - 2) **Unsubstantiated:** When all of the alleged types of abuse, neglect, financial exploitation, or self-neglect were determined to lack credible evidence that indicated abuse, neglect, financial exploitation, or self-neglect.

- 3) Unable to substantiate: When the APS provider agency lacked jurisdiction; was unable to locate the alleged victim; was unable to access the alleged victim; the alleged victim was ineligible for services; the alleged victim refused to cooperate; or the alleged victim was deceased.
- d) If, after the assessment, the APS provider agency determines that the case is substantiated and the victim has consented to services, it shall develop a service care plan for the eligible adult.
- e) The APS provider agency shall prepare a confidential case record to document each report of abuse, neglect, financial exploitation, or self-neglect to include the following information when available and applicable to the case:
 - 1) essential client information, such as name, address, age and phone number;
 - 2) descriptions of the reported, suspected or alleged abuse, neglect, financial exploitation, or self-neglect;
 - 3) investigative reports;
 - 4) injury location charts;
 - 5) records of financial transactions;
 - 6) summaries of conversations and communications with the eligible adult, the alleged or suspected abuser, and other sources of information;
 - 7) information relating to the mental competency of the eligible adult;
 - 8) information on the assessment of the eligible adult, including medical or psychiatric reports;
 - 9) summaries of the substantiation decision;
 - 10) summaries of services or interventions offered or arranged;
 - 11) reports on the termination, resolution or closure of the case;
 - 12) referrals to law enforcement, coroners or medical examiners;
 - 13) notification to the probate court of a substantiated finding of abuse, neglect, or financial exploitation by a guardian; and
 - 14) suspicious death reports and any follow-up documentation.
- f) An APS provider agency shall prepare a final investigative report, upon the completion or closure of an investigation, in all cases of reported abuse, neglect, financial exploitation, or self-neglect of an eligible adult, whether or not there is a substantiated finding.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.255 ABUSE, NEGLECT AND FINANCIAL EXPLOITATION CASE WORK,
FOLLOW-UP, REFERRALS AND CASE CLOSURE

Section 270.255 Abuse, Neglect and Financial Exploitation Case Work, Follow-Up, Referrals and Case Closure

a) Case Work

APS provider agencies shall assist, to the extent possible, eligible adults who need agency services to allow them to continue to function independently. [320 ILCS 20/3(c)]

- 1) If, after the assessment, the APS provider agency determines that the case is substantiated, it shall develop a case plan for the eligible adult, when he or she consents to services.
 - A) *In developing a case plan, the APS provider agency may consult with any other appropriate professional and/or provider of services, such as advocacy, care coordination, counseling, education, emergency aid, financial, housing, law enforcement, legal, long term care, managed care, medical, nutrition, personal assistance, relocation, respite, social supports through charitable and community assistance, disability agencies, private means, or public benefit programs to meet identified needs for the purpose of stabilizing the abusive situation and reducing the risk of further harm, and such professionals and/or providers shall be immune from civil or criminal liability on account of those acts. [320 ILCS 20/5(a)]*
 - B) *The case plan shall include alternative suggested or recommended services that are appropriate to the needs of the eligible adult and that involve the least restriction of the eligible adult's activities commensurate with his or her needs. [320 ILCS 20/5(a)]*
 - i) The case worker shall use his or her professional judgment in advocating in the best interest, safety and welfare of the eligible adult.
 - ii) The eligible adult's interest in living in the most independent setting with the least restrictive alternatives for legal, medical and social services come before those of any other family or community members.
 - iii) The case worker shall involve the eligible adult, and his or her family members for support, if possible, in the development of the intervention, and explain, in a direct manner, the situation, the range of available options for services, and the consequences of failing to cooperate or refusing to

accept services, so the eligible adult can exercise his or her maximum decision-making ability.

- C) The APS provider agencies shall establish working relationships with disability agencies for purposes of mutual training, referral and service response.
- 2) *Only those services to which consent is given in accordance with Section 9 of the Act shall be provided, contingent upon the availability of those services.* [320 ILCS 20/5(a)]
- b) Follow-up
All services provided to an eligible adult shall be reviewed by the APS provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified, except that, upon review, the Department may grant a waiver to extend the service care plan for up to one additional year. [320 ILCS 20/7]
- c) Referral
An APS provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. [320 ILCS 20/5(b)]
- d) The "evidence of crimes" referred to in subsection (c) includes:
- 1) death that may have been the result of abuse or neglect;
 - 2) brain damage;
 - 3) loss or substantial impairment of a bodily function or organ;
 - 4) bone fracture;
 - 5) extensive burns;
 - 6) substantial disfigurement;
 - 7) sexual assault or aggravated sexual assault;
 - 8) serious bodily injury as the result of a pattern of repetitive actions;
 - 9) extensive swelling or bruising, depending on such factors as the eligible adult's physical condition, circumstances under which the injury occurred, and the number and location of bruises;
 - 10) serious symptoms resulting from the use of medications or chemical restraints, or the withholding of life sustaining medications (e.g., insulin);
 - 11) evidence of severe neglect, such as unreasonable decubiti;
 - 12) other activity that would place the eligible adult in imminent danger of death or serious bodily injury; or
 - 13) any felonious criminal activity directed at the eligible adult that the case worker directly observes.

- e) *When an APS provider agency has reason to believe that the death of an eligible adult that occurs during the course of assessment, case work, or follow-up may be the result of abuse or neglect, the agency shall promptly report the matter to both the appropriate law enforcement agency and coroner or medical examiner and make subsequent contact with them in accordance with the time frame set forth in Section 270.241(b). [320 ILCS 20/3(c-5)]*
- f) Upon request by an APS provider agency, law enforcement agencies, coroners and medical examiners shall supply a summary of their action in response to a reported death of an eligible adult. The APS provider agency shall maintain a copy of the reports, and all follow-up with law enforcement, coroners and medical examiners shall be documented in the case record of the eligible adult.
- g) In all cases in which there is a substantiated finding of abuse, neglect or financial exploitation by a guardian, the APS provider agency shall, within 30 days after the finding, notify the probate court with jurisdiction over the guardianship.
- h) **Case Closure**
An APS provider agency shall close a case when:
 - 1) the alleged victim refuses services;
 - 2) the alleged victim is deceased; however, an APS provider agency will still be subject to the requirements of subsections (c) and (e);
 - 3) the alleged victim has entered a long term care facility and resided there for 60 days; provided the Department may waive the 60-day limitation in cases in which the APS provider agency submits evidence that the waiver is necessary to protect the safety and well-being of the client;
 - 4) the alleged victim has moved out of the area; provided, if the alleged victim remains at risk and the APS provider agency is aware of the new location, the APS provider agency shall refer the case to the APS provider agency in the location of the new residence for case work and follow-up services;
 - 5) the victim is no longer at risk of abuse, neglect, financial exploitation, or self-neglect;
 - 6) the victim has received uninterrupted follow-up services for 12 months, which shall be considered an administrative closure;
 - 7) the report is not substantiated; or
 - 8) the alleged victim is determined to be ineligible for services.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

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**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.260 AUTHORITY TO CONSENT AND COURT PETITIONS**

Section 270.260 Authority to Consent and Court Petitions

- a) The APS provider agency shall conduct an initial interview of the alleged victim to determine:
 - 1) the level of risk to the alleged victim;
 - 2) the need for early intervention services in order to assure safety and welfare or otherwise reduce risk to the alleged victim; and
 - 3) the alleged victim's decisional capacity to consent to an assessment and/or services.

- b) If it reasonably appears to the APS provider agency at the initial interview that the alleged victim has decisional capacity, the APS provider agency will conduct an assessment of the reported incident of suspected abuse, neglect, financial exploitation or self-neglect in accordance with Section 270.250, put Early Intervention Services in place as needed under Section 270.265, and provide other services as appropriate in completing case work, follow-up, referral to law enforcement, and case closure under Section 270.255.
 - 1) *If the alleged victim consents to services being provided according to the case plan, such services shall be arranged to meet the adult's needs, based upon the availability of resources to provide such services.*
 - 2) *If an adult withdraws his or her consent for an assessment of the reported incident or withdraws his or her consent for services and refuses to accept such services, the services shall not be provided. [320 ILCS 20/9(a)]*

- c) *An alleged victim "lacks the capacity to consent" if qualified staff of an agency designated under the Act reasonably determine, that he or she appears either unable to receive and evaluate information related to the assessment or services or unable to communicate in any manner decisions related to the assessment of the reported incident or services. [320 ILCS 20/9(d-5)]*

- d) If it reasonably appears to the APS provider agency at the initial interview that the alleged victim lacks decisional capacity, and there is no threat of ongoing harm or another emergency that exists, the APS provider agency will continue to intervene

in order to determine if the alleged victim has a guardian or agent under an advance directive with authority to act on his or her behalf for consenting to an assessment and/or services.

- 1) Upon consent by the guardian or agent under an advance directive, services will be provided according to the case plan and shall be arranged to meet the alleged victim's needs, based upon the availability of resources to provide those services.
- 2) If the alleged victim either does not have a guardian or agent or the guardian or agent lacks authority to act, the APS provider agency shall have authority to:
 - A) contact an immediate family member, other relative, close personal friend of the alleged victim, or other person identified by the alleged victim as being involved with his or her care, to petition the court for that individual's appointment as a guardian in accordance with *Article XIa of the Probate Act of 1975 [755 ILCS 5/Art. XIa] for the purpose of consenting to an assessment of the reported incident and services, together with an order for an evaluation of the alleged victim's decisional capacity and his or her physical, psychological, and medical condition; or*
 - B) seek the *appointment of a temporary guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to an assessment of the reported incident and services, together with an order for an evaluation of the alleged victim's decisional capacity and his or her physical, psychological and medical condition. [320 ILCS 20/9(b)]*
- 3) If the APS provider agency seeks the appointment of a guardian pursuant to Article XIa of the Probate Act of 1975, the APS provider agency, through its attorney, shall notify the nearest relatives of the disabled person not less than 14 days prior to the scheduled hearing, as provided by Sections 11a-8 and 11a-10(f) of the Probate Act of 1975.
- 4) *If a guardian or agent is the suspected abuser and he or she withdraws consent for the assessment of the reported incident, or refuses to allow services to be provided to the alleged victim, the APS provider agency, or the Office of the Attorney General may request a court order seeking appropriate remedies, and may, in addition request removal of the guardian and appointment of a successor guardian or request removal of the agent and appointment of a guardian. [320 ILCS 20/9(c)]*
- e) If it reasonably appears to the APS provider agency at the initial interview that the alleged victim lacks decisional capacity, and there is ongoing harm, a threat of ongoing harm or another *emergency that exists, the APS provider agency may:*
 - 1) take appropriate action necessary to ameliorate the risk by consulting with any other appropriate professional and/or provider of services, through charitable and community assistance, disability agencies, private means, or public benefit programs, to meet identified needs, stabilize the abusive

situation and reduce the risk of further harm, such as:

- A) seeking assistance of law enforcement to gain access to the alleged victim;
 - B) obtaining emergency medical care;
 - C) petitioning for Orders of Protection, Restraining Orders, or orders freezing assets;
 - D) purchasing early intervention services under Section 270.265; and
 - E) applying for appointment of a representative payee; and/or
- 2) *request an ex parte order from the circuit court of the county in which the petitioner or respondent resides or in which the alleged abuse, neglect, financial exploitation or self-neglect occurred, authorizing an assessment of a report of alleged or suspected abuse, neglect, financial exploitation or self-neglect or the provision of necessary services, or both, including relief available under the Illinois Domestic Violence Act of 1986 [750 ILCS 60]. [320 ILCS 20/9(d)]*
- f) *Within 15 days after the entry of the ex parte emergency order, the order shall expire, or, if the need for assessment of the reported incident or services continues, the APS provider agency shall petition for the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such assessment or services or to protect the alleged victim from further harm. [320 ILCS 20/9(e)]*
- g) *In accordance with subsections (d) and (e), if the APS provider agency has substantiated financial exploitation against an alleged victim, and has documented a reasonable belief that the alleged victim will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General or the APS provider agency may petition for an order freezing the assets of the alleged victim. The petition shall be filed in the county or counties in which the assets are located. [320 ILCS 20/13(d)]*

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.265 EARLY INTERVENTION SERVICES**

Section 270.265 Early Intervention Services

- a) Services that may be purchased by the APS provider agency for eligible adults include emergency aid, respite care, legal assistance, housing and relocation services, or other services designed to protect the health, welfare and/or safety of the eligible adult.
- b) The Department shall establish a maximum amount available to a victim in each year he or she receives services. The Department shall also establish procedures whereby the regional administrative agency and the Department may allow for additional expenditures of such funds as are necessary to obtain emergency or essential services to protect the client.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.270 MULTI-DISCIPLINARY TEAMS**

Section 270.270 Multi-disciplinary Teams

- a) Every APS provider agency that has more than 7,200 potential eligible adults in its designated service area shall develop and maintain a multi-disciplinary team (M-Team).
- b) The M-Team shall act in an advisory role to the APS provider agency for the purpose of providing professional knowledge and expertise in the handling of complex abuse cases.
- c) Each M-Team shall consist of one volunteer representative each from the following professions: banking or finance; disability care; health care; law; law enforcement; mental health care; and clergy. The APS provider agency may choose to add representatives from the fields of substance abuse, domestic violence, sexual assault, or other related fields.
- d) The M-Team shall meet a minimum of eight times a year.
- e) Each M-Team member shall sign a confidentiality agreement not to release any client information.
- f) The APS provider agency shall have written procedures for recruiting M-Team members; for preparing and conducting M-Team meetings; and for financial management of M-Teams.
- g) The Department shall provide funding to APS provider agencies contingent upon adequate funding to support the cost of staff time, mailings, meeting space and other costs related to M-Team meetings. M-Team members shall not be reimbursed for their services.
- h) Law enforcement agencies, coroners and medical examiners shall supply records to M-Teams as may be requested in particular cases.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.275 CONFIDENTIALITY AND DISCLOSURE**

Section 270.275 Confidentiality and Disclosure

- a) The Adult Protective Services Act provides that the identity of any person making a report of alleged or suspected abuse, neglect, financial exploitation, or self-neglect may be disclosed only with that person's written consent or by court order.
- b) *All records concerning reports of abuse, neglect, financial exploitation, or self-neglect and all records generated as a result of those reports, including, but not limited to, referrals and intervention services, shall be confidential and shall not be disclosed or subject to subpoena except as specifically authorized by the Act or other applicable law and only after a case is closed [320 ILCS 20/8].*
- c) These confidential records are exempt from inspection and copying under the Freedom of Information Act [5 ILCS 140/7.5(y)].
- d) *Access to such records, but not access to the identity of the person or persons making a report of alleged abuse, neglect, financial exploitation, or self-neglect as contained in such records, shall be allowed to the following persons and for the following persons:*
 - 1) *Department staff, APS provider agency staff, other aging network staff, and regional administrative agency staff in the furtherance of their responsibilities under the Act;*
 - 2) *A representative of the public guardian acting in the course of investigating the appropriateness of guardianship for the eligible adult or while pursuing a petition for guardianship of the eligible adult pursuant to the Probate Act of 1975 [755 ILCS 5];*
 - 3) *A law enforcement agency or State's Attorney's office investigating a known or suspected case of abuse, neglect, financial exploitation, or self-neglect. When a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;*
 - 4) *A law enforcement agency, fire department agency or fire protection district having proper jurisdiction pursuant to a written agreement with an APS provider agency under which the agency may furnish to the law enforcement agency, fire department agency, or fire protection district a list*

of all eligible adults who may be at imminent risk of abuse, neglect, financial exploitation, or self-neglect;

- 5) *A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected, financially exploited or self-neglected or who has been referred to the Adult Protective Services Program;*
- 6) *An eligible adult reported to be abused, neglected, financially exploited or self-neglected who completes an authorization for release of records or to that adult's legal guardian or agent who has current authority to act on behalf of the eligible adult when access to those records is relevant to representing the interests of the eligible adult, and a complete authorization for release of records is submitted, unless the guardian or agent is the substantiated abuser or is the alleged abuser in an open case;*
- 7) *An executor or administrator of the estate of an eligible adult who is deceased when relevant to administration of the estate and a complete authorization for release of records is submitted;*
- 8) *A court or a guardian ad litem, upon its or his or her written finding that access to such records may be necessary for the determination of an issue before the court. However, such access shall be limited to an in camera inspection of the records, unless the court determines, following the in camera inspection, that disclosure of the information contained in the records is necessary for the resolution of an issue then pending before it;*
- 9) *In cases regarding self-neglect, a guardian ad litem;*
- 10) *A grand jury, upon its determination that access to such records is necessary for conduct of its official business;*
- 11) *Any person authorized by the Director, in writing, for audit, program monitoring or bona fide research purposes;*
- 12) *A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, financial exploitation, or self-neglect. The APS provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult;*
- 13) *A coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between an APS provider agency and the coroner or medical examiner, under which the APS provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, neglect, financial exploitation or self-neglect;*
- 14) *Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board or the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act [225 ILCS 20] by APS provider agency staff or other licensing bodies at the discretion of the Director of the Department on Aging;*

- 15) *Department of Healthcare and Family Services staff and its vendors when that Department is funding services to the eligible adult, including being given access to the identity of the eligible adult;*
 - 16) *Department of Human Services staff and its vendors when that Department is funding services to the eligible adult or is providing reimbursement for services provided by the abuser or alleged abuser, including being given access to the identity of the eligible adult;*
 - 17) *Hearing officers in the course of conducting an administrative hearing under the Act;*
 - 18) A caregiver who challenges placement on the Adult Protective Services Registry shall be given the statement of allegation in the abuse report and the substantiation decision in the final investigative report; and
 - 19) *The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act [405 ILCS 40] shall have access, through the Department, to records, including the findings, pertaining to a completed or closed investigation of a report of suspected abuse, neglect, financial exploitation or self-neglect of an eligible adult. [320 ILCS 20/8]*
- e) An authorization for release of records by the Department or the APS provider agencies must be legally sufficient and include:
- 1) supporting documentation of the agency or guardianship evidencing current authority and the extent of the authority to act on behalf of the eligible adult or his or her estate; and
 - 2) a sworn statement as to the purpose of the request and its relevance to representing the interests of the eligible adult or his or her estate.
- f) The release of records may be refused if evident that it is not in the best interest of the eligible adult.
- g) All records must be maintained as confidential and stored in a designated and secure area within the APS provider agency offices.

(Source: Amended at 42 Ill. Reg. 9226, effective July 1, 2018)

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PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.280 DEFINITIONS

Section 270.280 Definitions

Activity Plan: The document that describes and records the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of the individual volunteer.

Agreement: The document signed by an authorized representative of the APS provider agency and the volunteer in which the APS provider agency appoints the volunteer as an agent and representative of the Adult Protective Services Program and the volunteer accepts that appointment and the concomitant responsibilities. This agreement shall constitute the volunteer contract required by the State Employee Indemnification Act [5 ILCS 350].

APS provider agency: An organization designated by the Department pursuant to Section 3 of the Act to provide services to eligible adults pursuant to that Act.

Companion-type services: Activities intended to assist the eligible adults served by the APS provider agency, which may include, but are not limited to, visitations, assistance in transportation, and other personal assistance that does not involve medical, nursing or professional services.

Public awareness: Activities designed to educate and inform the public, which may include, but are not limited to, giving public presentations and speeches; participation in public informational fairs; representing the APS provider agency with community, social service or senior advocacy groups; the creation or production of television or radio public service announcements; and the writing, editing or distribution of newspaper articles, magazine articles, press releases or information sheets.

Regional Administrative Agency: A public or private entity that has been designated by the Department pursuant to Section 3 of the Act.

Volunteer: An individual who has been appointed by the APS provider agency to provide "public awareness services" to that agency or "companion-type services" to eligible adults in accordance with the APS provider agency's Volunteer Plan and the individual volunteer's Activity Plan.

Volunteer Plan: The document created by the APS provider agency and approved by the Department that describes the procedure for the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of volunteers.

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**TITLE 89: SOCIAL SERVICES
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PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.285 SELECTION AND SCREENING**

Section 270.285 Selection and Screening

- a) Each APS provider agency utilizing volunteers to provide public awareness services to that agency or companion-type services to eligible adults under this Subpart shall create a Volunteer Plan, approved by the Department, to recruit, select, screen, train, appoint, assign, supervise and evaluate volunteers.
- b) The recruitment, selection, and screening of volunteer applicants shall be the responsibility of the APS provider agency. Each volunteer applicant shall submit the required personal, professional and background information (see subsection (c)) on a form prescribed by the Department.
- c) The APS provider agency shall conduct a screening of each volunteer applicant. This screening process may include, but is not limited to, personal interviews; reference checks; fingerprint checks; credit checks; medical and mental health checks; background checks; driving record checks; and reviews of professional disciplinary actions, criminal prosecutions, and police records.
- d) The purpose of the screening process is solely to determine the suitability of the volunteer applicant to serve as an appointed volunteer. The APS provider agency shall not seek any personal information on a volunteer applicant beyond that which is necessary to complete the screening process. The screening process of the volunteer applicant shall be the same regardless of expected assignment of the individual volunteer.
- e) Each volunteer applicant shall be required to sign an authorization for the release of the information the APS provider agency has determined to be necessary to complete the screening process. All such information gathered in the course of the background checks and reviews of volunteer candidates shall be held in the strictest confidence permitted by law.
- f) Upon the completion of the screening process, the APS provider agency shall notify the volunteer applicant whether he or she will be designated as a volunteer. The APS provider agency shall also inform those volunteer applicants who are not so selected of the basis for the decision. The decision of the APS provider agency is final.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.290 TRAINING

Section 270.290 Training

- a) The training of volunteers is the responsibility of the APS provider agency, and shall be done according to the Volunteer Plan. Prior to being assigned any responsibilities, the volunteer must have satisfactorily completed an initial course of training of not less than six hours.
- b) The initial volunteer training shall include materials on program procedures, APS provider agency organization, types of abuse and neglect, confidentiality, safety procedures, the dynamics of client interaction, and additional subjects as each APS provider agency deems necessary.
- c) Each volunteer shall take the advanced training deemed appropriate and necessary by the APS provider agency to undertake the activities to which the volunteer will be assigned.
- d) The initial volunteer training shall be repeated for classes of new volunteers as needed.
- e) As a part of the Volunteer Plan, the APS provider agency shall maintain copies of past and current training agendas.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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**TITLE 89: SOCIAL SERVICES
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PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.295 VOLUNTEER AGREEMENT AND VOLUNTEER
RESPONSIBILITIES**

Section 270.295 Volunteer Agreement and Volunteer Responsibilities

Each volunteer, upon being appointed, and prior to entering into his or her assigned activities, shall sign a volunteer agreement with the APS provider agency. The agreement shall have been approved by the Department, and shall include the name and contact information for the volunteer, the number of hours per week or month that the volunteer anticipates serving, a statement of the general activities to which the volunteer will be assigned, and the following stipulations by the volunteer:

- a) the volunteer agrees to maintain confidentiality as required by the Act, the standards of the Adult Protective Services Program, and the policies of the APS provider agency, during and after the period of volunteer service;
- b) the volunteer acknowledges and accepts the responsibilities of being a mandated reporter for abuse of older adults, persons with disabilities, and children;
- c) the volunteer agrees to inform the APS provider agency, in writing, of the existence of any apparent conflict of interest, including a preexisting personal or professional relationship with any client of the program to whom the volunteer might be assigned;
- d) the volunteer agrees to maintain the appropriate driver's license and statutorily required insurance coverage if the volunteer is to be acting as a driver for eligible adults; and
- e) the volunteer agrees to abide by all statutory law, administrative rules, Departmental policies, and APS provider agency policies that apply to and govern the APS provider agency.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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**TITLE 89: SOCIAL SERVICES
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SECTION 270.300 ACTIVITIES AND SUPERVISION**

Section 270.300 Activities and Supervision

- a) The APS provider agency shall assign volunteers and provide supervision of each volunteer according to the Volunteer Plan. Each volunteer shall have an individualized Activity Plan, which shall include a job description of the specific assignment of the volunteer.
- b) A copy of the Activity Plan for each volunteer shall be maintained in the records of the APS provider agency.
- c) Each individualized Activity Plan shall include a record of all the training, assignments, activities, supervision, and evaluations of the volunteer.
- d) The Volunteer Plan shall be available for inspection and copying by law enforcement agencies, the Regional Administrative Agency, and the Department on Aging.
- e) The individual Activity Plans shall be available for inspection and copying by law enforcement agencies in the course of conducting a criminal investigation, and by the Department and appropriate Regional Administrative Agency (with redactions of identifying client information as necessary to maintain confidentiality) for monitoring and supervisory purposes.

(Source: Amended at 39 Ill. Reg. 2156, effective January 23, 2015)

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**TITLE 89: SOCIAL SERVICES
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PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.400 PURPOSE OF THE REGISTRY**

Section 270.400 Purpose of the Registry

The purpose of the Adult Protective Service Registry is to protect victims and participants receiving in-home and community-based services from caregivers against whom a verified and substantiated finding of abuse, neglect or financial exploitation was made by an Adult Protective Services provider agency under the Act.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

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**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.402 DEFINITIONS**

Section 270.402 Definitions

For the purposes of this Subpart E, the following definitions are applicable:

"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]

"Act" means the Adult Protective Services Act [320 ILCS 20].

"Administrative hearing" means a formal review of an action made by the Department. Specifically, it means any hearing authorized to be held under this Subpart by the Department or other entity authorized by the Director to hold these hearings.

"Administrative law judge" or "ALJ" means an attorney, licensed to practice law in the State of Illinois, who is authorized by the Director to conduct the administrative hearing and related processes under this Subpart.

"Allegation" means a charge or a claim of abuse, neglect or financial exploitation.

"Appeal" means a request to contest placement of a caregiver's identity on the Registry.

"APS" means Adult Protective Services.

"APS provider agency" means any public or nonprofit agency in a planning and service area that is selected by the Department, or appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. [320 ILCS 20/2(h)]

"Authorized representative" means any person, including an attorney, authorized in writing by a party to act on behalf of the party in the administrative hearing process.

"Business day" means a day, Monday through Friday, when State agency offices are open. The following are not business days: Saturdays, Sundays, State holidays, and any other day from time to time declared by the President of the United States or the Governor of Illinois to be a day during which the agencies of the State of Illinois that are ordinarily open to do business with the public will be closed for business.

"Caregiver" means a person who, as a result of a family relationship, voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living. [320 ILCS 20/2(a-7)]

"Continuance" means a decision to proceed with a hearing at a later date than scheduled.

"Department" means the Illinois Department on Aging.

"Direct care" includes, but is not limited to, direct access to an individual, his or her living quarters, or his or her personal, financial, or medical records for the purpose of providing nursing care or assistance with feeding, dressing, movement, bathing, toileting, other personal needs and activities of daily living or instrumental activities of daily living, or assistance with financial transactions. [320 ILCS 20/7.5(b)]

"Direct care agency" means a State agency listed in Section 270.404(a) and any entity or provider agency of direct care.

"Director" means the Director of the Department. [320 ILCS 20/2(c)]

"Domestic living situation" means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:

A licensed facility as defined in Section 1-113 of the Nursing Home Care Act [210 ILCS 45/1-113];

A facility licensed under the ID/DD Community Care Act [210 ILCS 47];

A facility licensed under the MC/DD Act [210 ILCS 46];

A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49];

A "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40];

A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

A "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a "community residential alternative" as licensed under that Act [210 ILCS 135];

An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act [210 ILCS 9]; or

A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5].

"Eligible adult" means either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual.

"Filed" means conveyed to the Department/other entity authorized to conduct hearings under this Subpart. A valid document or request will be considered filed on the business day it is received or, if mailed, on the date it is postmarked. Contact in person, by phone, fax, e-mail, via an electronic account, or other acceptable electronic means will be considered filed on a business day if it is received prior 5:00 p.m. on that date. If receipt is after 5:00 p.m., the action will be deemed filed on the next business day.

"Final administrative decision" means the final determination by the Director regarding whether or not placement of a caregiver's identity on the Registry is in the public interest.

"Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult. [320 ILCS 20/2(f-1)]

"Health care facility" means any residential facility licensed, certified, or regulated by the Department of Public Health, the Department of Healthcare and Family Services, or the Department of Human Services.

"Long term care facility" means any residential facility licensed, certified, or regulated by the Department of Public Health.

"Neglect" means another individual's failure to provide an eligible adult with, or willful withholding from an eligible adult, the necessities of life, including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in the Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. [320 ILCS 20/2(g)]

"Other entity" means an Illinois State agency or its qualified designee with the administrative capacity to handle all hearing functions as set forth in this Subpart.

"Participant" means an individual who uses the services of an in-home care or community-based program funded through the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health. [320 ILCS 20/7.5(b)]

"Party" means an individual or entity, including the Department, that has standing to participate and is participating in a proceeding under this Subpart. For purposes of filing and service, "party" also means an appropriately designated agent for receipt of service.

"Preponderance of the evidence" means the greater weight of the evidence that renders a fact more likely than not.

"Registry" means the Adult Protective Service Registry.

"Relevant Contact Information" means the current contact information, including, but not limited to, address, phone number and email address that allows the Department/other entity authorized to conduct hearings under this Subpart to contact the party as necessary during the course of a proceeding under this Subpart.

"Verified and substantiated finding", as used in this Subpart, means a determination by "clear and convincing" evidence by a provider agency, after assessment, that injury or harm has occurred as the result of abuse, neglect or financial exploitation in a reported case.

"Victim" means an eligible adult who is the subject of a verified and substantiated finding of abuse, neglect or financial exploitation.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

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**TITLE 89: SOCIAL SERVICES
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PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.404 ACCESS TO AND USE OF THE REGISTRY**

Section 270.404 Access to and Use of the Registry

- a) The following State agencies and entities are to obtain credentials from the Department of Public Health in order to have access to the Registry:
 - 1) the Department;
 - 2) the Department of Healthcare and Family Services;
 - 3) the Department of Human Services;
 - 4) the Department of Public Health; and
 - 5) any entity or provider agencies of direct care that are licensed, certified or regulated by or paid with public funds from any of these State agencies.
- b) Direct care agencies cannot retain, hire, compensate either directly or on behalf of a participant, or utilize the services of a caregiver to provide direct care if the online check indicates that the name of that caregiver has been placed on the Registry or when the direct care agency otherwise gains knowledge of the placement on the Registry.
- c) Direct care agencies are to conduct an online check:
 - 1) prior to hiring a caregiver to determine whether the caregiver's identity has been placed on the Registry; and
 - 2) on an annual basis for purposes of retention.
- d) Direct care agencies are to maintain a copy of the results of the online check to demonstrate compliance.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

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SECTION 270.406 NOTICE TO ELIGIBLE ADULT, GUARDIAN OR AGENT**

Section 270.406 Notice to Eligible Adult, Guardian or Agent

As part of the investigation, the APS provider agency will provide notice to the eligible adult, or the eligible adult's guardian or agent under a valid power of attorney, as may be applicable and as noted in the case records, that his or her caregiver's identity may be placed on the Registry based on a verified and substantiated finding of abuse, neglect or financial exploitation by the APS provider agency. However, that notice will not be provided to a guardian or agent who is an alleged or substantiated abuser.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

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**TITLE 89: SOCIAL SERVICES
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SECTION 270.408 NOTICE TO THE CAREGIVER'S EMPLOYER**

Section 270.408 Notice to the Caregiver's Employer

- a) Imminent Risk
 - 1) If there is an imminent risk of danger to a participant or an imminent risk of misuse of his or her personal, medical or financial information, the APS provider agency will notify the Department within 24 hours that there is a verified and substantiated finding of abuse, neglect or financial exploitation against the caregiver. The Department will use reasonable efforts to promptly notify the direct care agency employing the caregiver of the finding. The direct care agency shall immediately bar the caregiver from providing direct care to any participants pending the outcome of any challenge, review, appeal, criminal prosecution, or other type of collateral action.
 - 2) The bar to providing direct care to a participant is not a basis for appeal to the Department.
 - 3) The Department will use reasonable efforts to promptly notify the employer if a determination is made on appeal that the caregiver's identity will not be placed on the Registry.
- b) Final Administrative Decision

Within 45 calendar days after a final administrative decision on appeal under this Subpart, the Department will notify the employer of the caregiver's placement on the Registry. The employer cannot thereafter retain, hire, compensate either directly or on behalf of a participant, or utilize the services of a caregiver in a position that involves direct care if that individual has been placed on the Registry.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

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SECTION 270.410 NOTICE TO LONG TERM CARE FACILITIES AND OMBUDSMAN**

Section 270.410 Notice to Long Term Care Facilities and Ombudsman

If a victim moves from a domestic living situation to a health care or long term care facility, the APS provider agency will use reasonable efforts to promptly inform the facility and the appropriate Regional Long Term Care Ombudsman about any placement of a caregiver on the Registry relevant to the victim.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

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CHAPTER II: DEPARTMENT ON AGING
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SECTION 270.412 VERIFIED AND SUBSTANTIATED FINDING AND NOTICE TO
CAREGIVER**

Section 270.412 Verified and Substantiated Finding and Notice to Caregiver

- a) Within five business days after allegations of abuse, neglect or financial exploitation by a caregiver toward a victim have been found to be verified and substantiated by an APS provider agency, that agency is to notify the Department's Office of Adult Protective Services (Office) and forward a complete copy of all case records of the victim to the Department. The APS provider agency will also provide the Office with any additional information requested.
- b) The Office will review the case file as a quality assurance measure to ensure correct interpretation and application of:
 - 1) the Act, administrative rules, and standards; and
 - 2) sufficient documented evidence of abuse, neglect or financial exploitation.
- c) Notice to Caregiver
 - 1) If the Office concurs with the verified and substantiated finding, the Department will notify the caregiver, within 30 calendar days after the Department's receipt of the case record, that his or her name will be recommended for Registry placement. The notice is to include:
 - A) the statement of allegations from the abuse report and the substantiation decision from the final investigative report contained in the case record of the victim maintained by an APS provider agency;
 - B) a statement that the Department intends to place the caregiver's identity on the Registry;
 - C) information about the caregiver's right to contest placement on the Registry, including grounds for appeal and applicable legal burden; and
 - D) the identification number assigned by the Department.
 - 2) If the Office does not concur with the verified and substantiated finding, the Department will inform the caregiver and his or her employer, if applicable,

within 30 calendar days after the receipt of the case record, that his or her name will not be recommended for Registry placement.

- 3) Notice to the caregiver is presumed to have been received four calendar days after the date on the notice.
- 4) Notice will be sent via regular pre-paid, first-class mail to the caregiver's last known address.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.414 INITIATION OF AN APPEAL**

Section 270.414 Initiation of an Appeal

Requests for an appeal to contest placement of the caregiver's identity on the Registry are to be submitted to the Department/other entity authorized to conduct hearings under this Subpart. These requests are to be made in writing and signed by the caregiver within 30 calendar days after the date of the notice from the Department. The request is to be sent via regular pre-paid, first-class mail, email, facsimile, or other acceptable means as specified in the notice.

- a) The sole issue on appeal is whether placement of the caregiver's identity on the Registry is in the public interest.
 - 1) A copy of the notice to the caregiver, the statement of allegations in the abuse report, and the substantiation decision in the final investigative report constitute prima facie evidence of abuse, neglect or financial exploitation for placement on the Registry, which will be admitted into evidence without further proof.
 - 2) The burden of proof belongs to the caregiver to establish by a preponderance of evidence that placement of his or her identity on the Registry is not in the public interest, based on the following factors:
 - A) the length of time the caregiver has been providing care to the victim;
 - B) the relationship between the caregiver and the victim;
 - C) whether placement of the caregiver's identity on the Registry is in the victim's best interest or that of other participants;
 - D) whether additional training for the caregiver could remediate the abuse, neglect or financial exploitation;
 - E) in the case of financial exploitation, the value of the assets at issue and whether restitution was made; or
 - F) whether criminal charges were filed against a caregiver and any related outcome.
 - 3) The administrative law judge will issue a recommendation for final administrative decision based on the record as a whole and will have the

discretion to determine whether placement of the caregiver's identity on the Registry is in the public interest.

- b) The Department will be represented by a person designated by the Director.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.416 COLLATERAL ACTION**

Section 270.416 Collateral Action

- a) A caregiver may stay the appeal process upon the provision of an adequate and timely notice of the filing of a collateral action challenging an adverse employment action resulting from the verified and substantiated finding of abuse, neglect or financial exploitation.
- b) This notice is to be sent to the Department and to the ALJ and all parties of record in the administrative hearing, if applicable.
 - 1) The caregiver will provide supporting evidence of the collateral action such as file-stamped copies from the Illinois Civil Service Commission or documentation relating to a proceeding pursuant to any applicable collective bargaining agreement.
 - 2) If the caregiver fails to provide file-stamped copies of the collateral action after a request to do so by the ALJ, the appeal will move forward.
- c) If the adverse employment action is overturned in the collateral action and the caregiver's identity has already been placed on the Registry, the Department will remove the caregiver's identity from the Registry as soon as is practicable.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.418 CONFIDENTIALITY**

Section 270.418 Confidentiality

- a) Except as otherwise authorized by law, the Department/other entity authorized to conduct hearings under this Subpart, and the ALJ have an affirmative duty to protect the confidentiality of records protected under the Act, including:
 - 1) a verified and substantiated finding of abuse, neglect or financial exploitation of an eligible adult by a caregiver;
 - 2) all records concerning reports of abuse, neglect or financial exploitation and all case notes and records generated as a result of those reports;
 - 3) the name of, and personal information about, the victim;
 - 4) the names of, and identifying information about, reporters;
 - 5) redacting to the extent possible, use of confidential, identifying or personal information in the final administrative decision of the ALJ consistent with Sections 4(c) and 8 of the Act and Section 270.275 of this Part; and
 - 6) access to and use of the Registry.

- b) None of the information and documents in the case record of the victim or in the appeal record, including the final administrative decision of the Director under Section 270.474, will be subject to the Freedom of Information Act [5 ILCS 140].

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.420 REMOVAL FROM REGISTRY**

Section 270.420 Removal from Registry

- a) At any time after a caregiver's identity has been placed on the Registry, a caregiver may request removal of his or her name from the Registry by submitting a request to the Department in writing.
 - 1) The request may only be made in relation to a single Registry placement decision. A request cannot be made requesting removal of multiple Registry placement decisions.
 - 2) A request for removal of a Registry placement decision is not to be made more than once in each successive 3-year period after placement, with a maximum of 3 such requests.
 - 3) The caregiver is to prove by a preponderance of the evidence that removal of his or her name from the Registry is in the public interest.
- b) Within 60 calendar days after receiving a removal request, the Department will review and consider any written supporting material provided by the caregiver.
 - 1) The review will not include in-person testimony.
 - 2) The Department may consider the following factors in making its determination on whether to remove a caregiver's identity from the Registry:
 - A) the length of time the caregiver provided care to the victim;
 - B) the relationship between the caregiver and the victim;
 - C) whether inclusion of the caregiver's identity on the Registry remains in the victim's best interest or that of other participants;
 - D) whether the caregiver completed training to remediate the abuse, neglect or financial exploitation;
 - E) in the case of financial exploitation, the value of the assets at issue and whether restitution was made;
 - F) whether criminal charges were filed against a caregiver and any related outcome.

- 3) Within 30 calendar days after completion of the review, the Department will issue a written decision either granting or denying removal of the caregiver's identity from the Registry.
- 4) In the event the Department decides that the caregiver's identity should be removed from the Registry, the Department will take all necessary steps to remove the caregiver's identity from the Registry.
- 5) The removal decision by the Department is not subject to the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.422 INITIAL AND AMENDED PLEADINGS**

Section 270.422 Initial and Amended Pleadings

- a) Form of Pleadings
 - 1) If an initial or amended pleading is not in writing, it is to be made part of the record.
 - 2) Written pleadings shall be clear and legible.
 - 3) Reproductions may be by any process, if all copies are clear, accurate and permanently legible.
- b) Contents of Pleadings
 - 1) All pleadings will include the following information:
 - A) The full name and relevant contact information of the individual or entity and the individual's or entity's representative, if applicable;
 - B) A plain and concise statement of any facts upon which the pleadings are based;
 - C) The specific relief sought; and
 - D) If known, the statutory authority or rules upon which the relief is sought.
 - 2) If the information described by subsection (b)(1) is not readily available to the individual or entity, the individual or entity needs to supply sufficient information to identify the specific action or inaction that is the basis for the request for an administrative hearing.
 - 3) Written Pleadings
 - A) All written pleadings in proceedings under this Subpart to which a docket number has been assigned will display the docket number. Written pleadings initiating a new proceeding will leave a space for the docket number.
 - B) Written pleadings will be dated and signed by the individuals or entities filing them or their authorized representatives.

- c) For purposes of initial pleadings, a facsimile of a written, signed request, an electronically signed request, an electronic account request, or a request by other valid electronic means is considered the same as the original written, signed request.
- d) An individual or entity filing written pleadings pursuant to this Subpart will serve the pleadings on each known party in accordance with Section 270.424 (Service).
- e) Amendment of Pleadings
 - 1) A request to amend an initial pleading may be made in writing prior to the hearing or made on the record prior to the conclusion of the hearing.
 - 2) An amended pleading may be filed in the same manner as the original pleading or it may be presented to the ALJ during the course of the hearing.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.424 SERVICE**

Section 270.424 Service

- a) Notice of a scheduled hearing will include the following:
 - 1) A statement of the time, location and nature of the hearing;
 - 2) A statement of the legal authority and jurisdiction under which the hearing is held;
 - 3) A reference to the statutes and rules involved;
 - 4) The relevant contact information of the Department/other entity authorized to conduct hearings under this Subpart (Department/other entity), all parties, and all other persons to whom the Department gives notice of the hearing;
 - 5) A clear and concise statement of the matters asserted; and
 - 6) Any other information that is mandated by law to be included in the notice.
- b) Notice of a scheduled hearing will be sent no later than 15 calendar days prior to the scheduled date of hearing.
- c) Service
 - 1) Except as provided by this Subpart, orders and other notices, will be delivered to all parties by verifiable electronic methods, such as electronic mail. If these methods are unavailable or are a hardship for a party, orders and other notices will be delivered by a verifiable method reasonably anticipated to accomplish accurate and timely service.
 - 2) Except as provided by this Subpart or other law, pleadings, motions, and other notices from a party shall be delivered to the Department/other entity and all other parties by verifiable electronic methods. If these methods are unavailable or are a hardship on a party, notice from a party will be delivered by a verifiable method reasonably anticipated to accomplish accurate and timely service.
 - 3) Should a party choose to use an agent to accept service on its behalf, that party is responsible for notifying the Department/other entity in writing of the identity of the agent and ensuring that the Department/other entity has accurate relevant contact information for the agent.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.426 ANSWER**

Section 270.426 Answer

When an answer is necessary or allowed, the following apply:

- a) The party shall timely file an answer. The answer shall be in writing, signed by the party or representative, and shall contain a specific response to each allegation in the initial pleading. The response shall admit the allegation, deny it, or state that the party has insufficient information to admit or deny the allegation.
- b) When a party has responded that it has insufficient information to admit or deny the allegation, that response will serve as a denial.
- c) A failure to timely file a necessary answer will be deemed an admission of all allegations and may form the basis of a decision against the party that failed to answer.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.428 REPRESENTATION**

Section 270.428 Representation

- a) An individual may be self-represented or may instead designate an attorney authorized to practice law in the State of Illinois or other representative of the party's choosing. An individual or entity may only designate one authorized representative at a time.
- b) At any pre-hearing stage of a proceeding, including mediation, a corporation may be represented by an officer designated or authorized to act on behalf of the corporation. However, at a hearing, corporations are to be represented by an attorney authorized to practice law in the State of Illinois.
- c) The representative shall use reasonable efforts to promptly file a notice of appearance and authorization for representation with the Department/other entity authorized to conduct hearings under this Subpart. Notice of appearance and authorization for representation shall include the following:
 - 1) Full name and relevant contact information of the individual or entity; and
 - 2) Full name and relevant contact information of the individual's or entity's representative, if applicable.
- d) If a party has an authorized representative, that representative may exercise the rights of the party in any pre-hearing process, such as mediation, as well as during the hearing. The action or inaction of an authorized representative will be deemed to be the action or inaction of the party.
- e) Filing of notice of appearance and authorization for representation will not delay the start of the hearing absent showing of good cause for a continuance (see Section 270.436).
- f) An authorized representative to a proceeding is obligated to keep relevant contact information current.
- g) An authorized representative who has acted in a representative capacity for an individual or entity and who wishes to withdraw from the representation shall file a notice of withdrawal in writing or make a request to withdraw on the record.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.430 VENUE AND TESTIMONY BY TELEPHONIC OR OTHER
ELECTRONIC MEANS**

Section 270.430 Venue and Testimony by Telephonic or Other Electronic Means

- a) **Hearings will be at a reasonable time, date and location designated in the notice of administrative hearing. The hearing may be moved to another location when the Department/other entity authorized to conduct hearings under this Subpart finds that exceptional circumstances make it desirable, in the interest of justice, to allow a change of venue. The parties may stipulate to the exceptional circumstances or one party may make such a showing to the Department/other entity. Exceptional circumstances include, but are not limited to, age, infirmity or inability to travel due to ill health. Mere inconvenience will not constitute grounds for change in venue.**
- b) **Any activities, including the hearing or any pre-hearing meetings, may be conducted from different locations by connecting the parties, the witnesses, and the ALJ by telephone, video or other acceptable electronic means.**

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.432 PRE-HEARING CONFERENCES**

Section 270.432 Pre-hearing Conferences

- a) A party may request, or the Department/other entity authorized to conduct hearings under this Subpart may direct the parties to appear for, a prehearing conference if it expedites the proceeding. Conferences may be for considering settlement, simplification of issues, or other matters that may aid in the disposition of the hearing.
- b) Any agreements or stipulations made by the parties will be made part of the record.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.434 CONSOLIDATION OF MATTERS FOR HEARING**

Section 270.434 Consolidation of Matters for Hearing

The Department/other entity authorized to conduct hearings under this Subpart may consolidate matters when the following conditions are met:

- a) The matters involve common parties or common issues of law or fact, or grow out of the same transaction or occurrence;
- b) Consolidation would not prejudice the rights of the parties;
- c) Consolidation would result in the efficient and expeditious resolution of matters;
and
- d) Consolidation would not result in the disclosure of information made confidential by law.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.436 CONTINUANCES**

Section 270.436 Continuances

- a) Procedure for Requesting a Continuance
 - 1) Any party to a hearing may request to continue a hearing. Each request will be made part of the record.
 - 2) Any request to continue a hearing is to be made to the Department/other entity under this Subpart at least 5 business days before the scheduled hearing date, except in unavoidable circumstances.
- b) Contents of the Request

A request to continue is to state the specific reason the hearing date should be changed.
- c) Standards for Granting a Request
 - 1) A party's request for continuance may be granted for good cause, which includes:
 - A) Imminent danger to the public health, safety or welfare;
 - B) Unavoidable absence of an essential party;
 - C) A material change in the case that would otherwise prevent the proper preparation of a party's case or an answer; or
 - D) When failure to continue the hearing would be a hardship for a party.
 - 2) Good cause generally excludes an attorney's or party's scheduling conflicts that arise after the hearing has been scheduled. It also excludes a need for time to complete discovery, unless an emergency or manifestly unjust condition (such as improper withholding of evidence) prevented completion of discovery before the originally scheduled hearing date.
- d) Limitations on Continuances
 - 1) In all cases, the parties, the Department, and the ALJ will avoid unduly delaying the proceedings with repetitious continuances.

- 2) When a continuance is justified, its length and scope will be no greater than what is reasonably necessary under the circumstances.
 - A) The parties should complete as much of the hearing as possible on the original scheduled hearing date.
 - B) The hearing will be rescheduled for the earliest reasonably practicable date.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.438 MOTIONS**

Section 270.438 Motions

- a) Pre-hearing Motions
 - 1) Any party may file a pre-hearing motion requesting appropriate relief. A pre-hearing motion shall be in writing, unless made orally on the record and accompanied by any affidavits or other evidence relied upon. Appropriate relief will be determined by the Department/other entity authorized to conduct hearings under this Subpart based on the nature and form of the hearing. Absent good cause, a pre-hearing motion will be filed no later than five business days prior to the date of the hearing. Pre-hearing motions are limited to requesting the following:
 - A) Dismissal of a pleading for failure to state facts that, if true, would form a sufficient basis for the challenged action;
 - B) Dismissal of a request for hearing for failure to comply with notice or service requirements of this Subpart;
 - C) Compliance with discovery obligations or sanctions in accordance with Section 270.442 dealing with discovery;
 - D) A continuance or extension of time to comply with any of the provisions of this Section;
 - E) That an ALJ deems a failure to file a necessary answer to be an admission of the truth of the allegations contained in the pleading;
 - F) That an order be vacated or modified;
 - G) That ALJ schedule a pre-hearing conference;
 - H) Separation of cases consolidated by the Department/other entity;
 - I) Disqualification of an ALJ;
 - J) Approval to intervene, as a party with standing, in an existing proceeding; and
 - K) Any relief consistent with the administrative process that the Department/other entity determines is in the interest of justice.

- 2) Within five business days after receipt of a pre-hearing motion, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence. If the hearing is held during the response period, a party may respond to the pre-hearing motion on the record at the start of the hearing. If a party does not respond, the party will be deemed to have waived objection to the granting of the motion. Waiver of objection does not automatically constitute grounds for granting the motion. The moving party does not have a right to reply.
 - 3) Upon a finding of good cause, the Department/other entity may, by written order, set additional time deadlines. Good cause will have the same meaning ascribed in Section 270.464(c).
- b) Unless the ALJ directs otherwise, no oral argument will be heard on a motion. A written brief, no longer than 3,000 words, may be filed with a motion or a response to a motion, stating the arguments and authorities relied upon.
 - c) The Department/other entity shall rule on motions by written order or orally on the record.
 - d) Unless due process requires filing of a motion for fundamental fairness, the filing of a motion shall not unduly delay the start of the hearing or extend the time for the performance of any act described by this Subpart.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.440 SUBPOENAS**

Section 270.440 Subpoenas

- a) **Generally**

The Department/other entity may issue subpoenas to compel the attendance of a witness or the production of documents before or during an administrative hearing, on its own motion, or at a party's request.

 - 1) The request for subpoena shall be granted only if the requester demonstrates that the information to be produced by the subpoena is necessary, relevant, and not unduly repetitious.
 - 2) The ruling on the request for subpoena may be delayed until after available evidence has been submitted.
- b) **Service**

When a request for subpoena is granted, the requesting party shall be responsible for service of the subpoena. Subpoenas will be served pursuant to Section 270.424.
- c) **Record**

Subpoenas, requests for subpoenas, denials of requests for subpoenas, and the specific reasons for denying, revoking or modifying subpoenas will be made part of the record.
- d) **Failure to Comply**
 - 1) If a party fails to obey a subpoena and the Department/other entity finds that subsections (a) and (b) have been satisfied, appropriate sanctions may be imposed, including, but not limited to, disallowing testimony by the party who has refused to comply or drawing an adverse influence against the party refusing to comply.
 - 2) If a non-party fails to obey a subpoena, the party seeking enforcement will be responsible for preparing an application for enforcement and filing that application in a court of appropriate jurisdiction.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.442 DISCOVERY; EXCHANGE OF INFORMATION**

Section 270.442 Discovery; Exchange of Information

- a) Pursuant to Section 8(11) of the Act, a caregiver is only entitled to a copy of the statement of allegations from the abuse report and the substantiation decision from the final investigative report contained in the case record of the victim maintained by an APS provider agency.
 - 1) Written and/or digital information about the victim is not material and/or relevant to the limited issue on appeal. Disclosure of the case record, including, but not limited to, intake reports, risk assessments, plans of care, status reports, documents pertaining to interventions/services, and updates, constitutes an unwarranted invasion of personal privacy and/or protection afforded to a reporter.
 - 2) APS provider agency written and/or digital information, including, but not limited to, logs, tracking records, case recording forms, and reports to the Department's Office of Adult Protective Services, are not relevant to the limited issue on appeal and discloses investigative techniques to the detriment of program administration.
 - 3) Program written and/or digital information, including, but not limited to, auditing and monitoring information about the APS provider agency, is not relevant to the limited issue on appeal because this information exceeds the scope of the verified and substantiated finding.
 - 4) All other materials, including, but not limited to, information relating to the identity of the reporter, are confidential and protected from disclosure under Sections 4(c) and 8 of the Act.
- b) Discovery is a process primarily conducted between the parties. The Department/other entity will not facilitate the exchange of information, except when a motion is made alleging failure to comply with discovery obligations.
- c) Case-specific information regarding timeframes for discovery will be included in the Notice of Hearing.
- d) The parties shall not use discovery to harass or cause needless delay, and hearings shall not be delayed to permit the exchange of information unless timeliness and due diligence is shown by the party seeking the information.
- e) Upon written request served upon the opposing party, any party will be entitled to:

- 1) The name and address of any witness who may be called to testify;
 - 2) Copies of any document that may be offered as evidence; and
 - 3) A description of any other evidence that may be offered.
- f) If a party fails to answer a request for information, the Department/other entity may enter any just and appropriate order to advance the disposition of the matter, including but not limited to:
- 1) Staying any further proceeding until the request for information is answered;
 - 2) Barring the testimony of any witness not disclosed in the answer to the request for information;
 - 3) Not allowing the introduction of, or any testimony concerning, any document or evidence not provided in an answer to the request for information; or
 - 4) Issuing protective orders that deny, limit, condition, or regulate discovery to minimize unreasonable expense, or to prevent harassment, to expedite resolution of the proceeding, or to protect confidential materials from disclosure consistent with Sections 4(c) and 8 of the Act and this Section.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.444 EVIDENCE**

Section 270.444 Evidence

- a) The ALJ shall admit evidence that is admissible under the law in civil cases in the circuit courts of this State. In addition, the ALJ may admit material, relevant evidence, of the type commonly relied upon by reasonably prudent persons in the conduct of serious affairs, that is reasonably reliable and reasonably necessary to resolution of the issue for which it is offered.
- b) The ALJ shall exclude immaterial, irrelevant or unduly repetitious evidence.
- c) A party may object to evidentiary offers. These objections shall be noted in the record.
- d) The parties may, by stipulation, agree upon any facts involved in the proceeding. The facts stipulated will be considered as evidence in the proceeding.
- e) Official notice may be taken of all facts of which judicial notice may be taken and of other facts, of a technical nature, within the specialized knowledge and experience of the Department.
- f) Except as otherwise mandated by law, the privilege of a witness, person, or Illinois or non-Illinois governmental entity will be governed by the principles of the common law as they may be interpreted by Illinois courts.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.446 WITNESS TESTIMONY**

Section 270.446 Witness Testimony

- a) The ALJ may exercise reasonable control over the form of the examination and order of witnesses so as to make the examination effective for gathering the facts, avoiding delay, and protecting witnesses from harassment or undue embarrassment. The ALJ may limit the examination of witnesses to prevent cumulative or irrelevant evidence.
- b) Before testifying, a witness shall declare by oath or affirmation and under penalty of perjury that he or she will testify truthfully.
- c) Any individual is competent to testify as a witness so long as he or she is capable of understanding the nature of an oath or affirmation and giving an accurate account of facts within the witness' personal knowledge. In the absence of contrary evidence, a witness is presumed competent to testify. The ALJ determines competency of a witness.
- d) A witness may appear voluntarily to testify or may testify under power of a subpoena issued by the Department/other entity under Section 270.440.
- e) A witness compelled to testify in response to a subpoena may be accompanied and advised by an attorney.
- f) A witness may testify as to facts within the witness' personal knowledge. A witness not qualified as an expert pursuant to Section 270.448 may only provide opinion testimony if the opinion is rationally based on the perception of the witness and helpful to a clearer understanding of the witness' testimony or a determination of the issues.
- g) Any party may request to call any individual as a witness and conduct direct examination. Except for preliminary matters and facts already in evidence, questions on direct examination should be open-ended, non-leading questions.
- h) The opposing party is entitled to cross-examine any witness. A witness may be cross-examined on any matter relevant to any issue in the case, including credibility. In the interests of justice, the ALJ may limit testimony on cross-examination to subject matters testified about on direct examination.
- i) A party may be allowed to examine an adverse witness as if under cross-examination.

- j) The ALJ may question any witness pursuant to Section 270.452(g)(6).
- k) If a witness uses a document to refresh memory for the purpose of testifying, either while testifying or before testifying, the ALJ may have the witness show the document to the opposing party and be cross-examined about the document.
- l) In the interests of justice, at the request of a party, or an ALJ's own motion, the ALJ may order witnesses excluded so that they cannot hear the testimony of other witnesses.
- m) The ALJ may direct that all excluded or non-excluded witnesses be kept separate until called and may prevent them from communicating with one another until they have been examined or the hearing is ended.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.448 EXPERT TESTIMONY**

Section 270.448 Expert Testimony

- a) If scientific, technical, or other specialized knowledge will assist the ALJ to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify and render an opinion.
- b) The party seeking to introduce expert testimony bears the burden of establishing the witness' expertise. The ALJ determines whether the witness is sufficiently qualified as an expert.
- c) The expert may only testify as to matters within his or her area of expertise.
- d) An expert may give an opinion on the ultimate issue in the proceeding.
- e) The facts or data upon which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. The facts or data need not be admissible in evidence if they are of a type reasonably relied upon by experts in the particular field in forming opinions upon the subject.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.450 BURDEN OF PROOF**

Section 270.450 Burden of Proof

Unless otherwise provided by law, the burden of proof will be by the preponderance of the evidence and will be on the moving party or the party bringing the action.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.452 ADMINISTRATIVE LAW JUDGE QUALIFICATIONS, POTENTIAL
DISQUALIFICATION, AND AUTHORITY**

Section 270.452 Administrative Law Judge Qualifications, Potential Disqualification, and Authority

- a) In any proceeding under this Subpart, the Department/other entity may appoint any attorney, with a valid license to practice law in the State of Illinois, to serve as the ALJ.
- b) The ALJ is to have high integrity, good personal repute, and sufficient knowledge of the procedures and subject matter at issue.
- c) The ALJ shall not have:
 - 1) been involved in the decision to take the action being appealed;
 - 2) rendered legal advice to the decision-maker on the issue;
 - 3) a personal or professional interest that interferes with exercising objectivity;
or
 - 4) any bias against the parties or issues appealed.
- d) At any time before or at the hearing, a party may file a motion to disqualify the ALJ for bias or conflict of interest, which may include prejudice or financial or personal interest in the outcome of the case. An adverse ruling made by an ALJ or the ALJ's employment or contract as an ALJ with the State, in and of itself, is not evidence of bias or conflict of interests and is not grounds for disqualification. The motion will set forth the alleged grounds of bias or conflict of interest and will include an affidavit setting forth specific facts upon which the claim of bias or conflict of interest is based and other supporting evidence, if applicable. The Department/other entity may decline to disqualify the ALJ or appoint another ALJ to hear the case.
- e) An ALJ may recuse himself or herself from presiding over a matter due to a conflict of interest or bias. Any recusal will be made part of the record.
- f) An ALJ is to maintain and protect the confidentiality of the APS record (see Sections 4(c) and 8 of the Act and Section 270.418 of this Subpart).
- g) The ALJ has the authority to:

- 1) Conduct a fair, impartial and formal hearing following the applicable evidentiary standards;
- 2) Control the conduct of the hearing to prevent irrelevant or immaterial discussion and take all necessary actions to avoid delay;
- 3) Inform participants of their individual rights and responsibilities;
- 4) Conduct pre-hearing conferences;
- 5) Take necessary steps to ensure the development of a clear and complete record, preserve all documents and evidence for the record, and provide for the recording of the hearing;
- 6) Administer an oath or affirmation to all witnesses, permit examination of any witness under oath, examine any of the witnesses at any time or request additional information from either party, set reasonable limits on the scope of testimony or argument, and determine the order of appearance of all parties;
- 7) Issue subpoenas requested prior to the hearing;
- 8) Rule upon all motions, objections, and other matters arising in the course of the hearing;
- 9) Receive all evidence and testimony and rule on its admissibility, as well as mandate the production of any relevant document, witness or other evidence the ALJ deems material or relevant to any issue, including but not limited to additional testimony, documents, exhibits, briefs, memoranda of law, or post hearing briefs;
- 10) Mandate cooperation by all parties and maintain order and decorum, which the ALJ may accomplish by ordering the removal of any person from the hearing who is creating a disturbance that disrupts the hearing, whether by physical actions, profanity or conduct; and
- 11) Enter such orders as are just to address any violation of the ALJ's rulings or this Subpart, including, among others, the following:
 - A) That further proceedings be stayed until the order or rules are complied with;
 - B) That the offending party be barred from filing any other pleadings relating to any issue to which the refusal or failure relates;
 - C) That the offending party be barred from maintaining any particular claim or defense relating to that issue;
 - D) That a witness be barred from testifying concerning that issue;
 - E) That, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that the pleading be dismissed without prejudice; or

- F) That any portion of the offending party's pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered on the issue.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.454 TRANSLATORS AND ACCOMMODATIONS**

Section 270.454 Translators and Accommodations

- a) A party may request an interpreter to participate at the hearing if the individual's usual mode of communication is a spoken language other than English or a signed language. An interpreter will be provided at no cost to the individual. Unless the interpreter has been requested at least 14 calendar days prior to the prehearing conference or hearing, the time between the request for the interpreter and any continued hearing date will not be construed as a delay on part of the Department/other entity in issuing and implementing a decision.
- b) The Department/other entity will provide reasonable accommodations under the Americans With Disabilities Act and the ADA Amendment Act of 2008 (42 USC 12101 et seq.) for access to and participation in a proceeding.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.456 COSTS**

Section 270.456 Costs

- a) Except as otherwise provided by subsection (b) or other law, the State of Illinois will assume the administrative costs of the hearing process.
- b) The State will not be responsible for costs incurred solely by any party, including, but not limited to, process service, legal fees, travel, witness costs, and room and board.
- c) The Department will not be responsible for the cost of preparing and certifying the record (see Section 270.472(a)) for court review.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.458 IMPROPER OR EX PARTE COMMUNICATIONS**

Section 270.458 Improper or Ex Parte Communications

- a) No party or other individual or entity legally interested in the outcome of a proceeding under this Subpart may make any written or oral communication, directly or indirectly, imparting or requesting material information or making a material argument regarding potential action concerning the hearing, without including all parties to the hearing in the communication.
- b) If the Department/other entity receives a communication prohibited by subsection (a), including the receipt of any documents, that communication will be made known to all other parties to the proceedings and will be made part of the record.
- c) The rule on ex parte communication does not prevent the Department/other entity from communicating to one party about routine procedural or practice matters.
- d) Nothing in this Section is to prevent any communication necessary to protect the health, safety and welfare of the victim.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.460 VARIANCES**

Section 270.460 Variances

The Department/other entity may grant variances from this Subpart in individual cases in which it is found that:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) No party will be unfairly prejudiced by the granting of the variance; and
- c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome or would result in undue risk of harm to the health, safety or welfare of the victim.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.462 WAIVER**

Section 270.462 Waiver

Compliance with this Part may be waived by stipulation of all parties, in writing or made on the record, and consent of the Department/other entity.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.464 FAILURE TO APPEAR**

Section 270.464 Failure to Appear

- a) Unless a continuance is granted pursuant to Section 270.436, a matter will be considered abandoned and therefore dismissed if:
 - 1) A party does not appear at the time, date and place designated for the hearing;
 - 2) A party fails or refuses to proceed with the hearing; or
 - 3) A party failed to notify the Department/other entity of a change of address and a notice of the administrative hearing, sent to the party's last known address, was returned as "undeliverable", "unclaimed", "refused", "moved", or "no forwarding address" or other type of returned mail, via postal or electronic mail.
- b) Parties will be informed of the abandonment and resulting dismissal by written notice.
- c) A request to vacate a dismissal resulting from abandonment is to be in writing and signed by the party that failed to appear. These requests are to be made to the Department/other entity within 15 calendar days after notice of dismissal. Dismissals will be vacated only if good cause for nonappearance is shown. Good cause for failure to appear includes, but is not limited to:
 - 1) Death or serious illness in the immediate family of a party or a party's representative;
 - 2) Failure of the Department/other entity to give notice of the proceeding to a party and Department representative in accordance with this Subpart; or
 - 3) An unanticipated circumstance for which the party could not reasonably request a continuance.
- d) When a responding party fails to appear, the ALJ will proceed with the hearing to obtain evidence from the party who bears the burden of proof. Failure to appear at the time, place and date set for hearing will be deemed a waiver of the right to present evidence.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.466 GROUNDS FOR DISMISSAL**

Section 270.466 Grounds for Dismissal

- a) **The Department/other entity may dismiss a matter on its own motion or on the motion of any party when:**
 - 1) **A final administrative decision on the issue already exists as a result of a previous matter;**
 - 2) **A court of competent jurisdiction has made a judicial finding or decision resolving the issue pending before the Department/other entity;**
 - 3) **The pleading was not filed with the Department/other entity within the applicable timeframe;**
 - 4) **The matter has been withdrawn pursuant to Section 270.468;**
 - 5) **The matter has been abandoned by a party, or the party fails to appear for the hearing or refuses to proceed;**
 - 6) **The issue is not within the jurisdiction of the Department as set forth by the Act; or**
 - 7) **A party failed to notify the Department/other entity of a change of address and a notice of the administrative hearing, sent to the party's last known address, was returned as "undeliverable", "unclaimed", "refused", "moved", or "no forwarding address" or any other type of returned mail, via postal or electronic method.**
- b) **The parties will be informed of the dismissal by written notice.**
- c) **If the caregiver does not appeal within the requisite timeframe, or if an appeal is dismissed, the Department will place the caregiver's identity on the Registry as soon as is practicable and notify the caregiver's employer of this action.**

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.468 WITHDRAWAL OF A MATTER**

Section 270.468 Withdrawal of a Matter

A matter may be withdrawn by the party that filed the case or requested the hearing either prior to or at the hearing. A withdrawal is to be made in writing and signed by the moving party or entered orally on the record. A dismissal resulting from a withdrawal constitutes a final administrative decision.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.470 POST-HEARING MOTIONS AND BRIEFS**

Section 270.470 Post-hearing Motions and Briefs

- a) At the adjournment of the hearing, the record will be closed and no further evidence or argument may be submitted unless, prior to the adjournment of the hearing, a request to leave the record open for a specified period for the submittal of additional evidence, post-hearing briefs, or other motions is made and granted by the ALJ. Copies of any evidence presented after the hearing will be provided to all parties and made part of the record.
- b) Post-hearing briefs may be allowed, if the ALJ determines additional briefing would assist in rendering a decision. If post-hearing briefs are allowed:
 - 1) The ALJ will determine the due dates for the briefs, consistent with the length and complexity of the cases, and the ALJ's responsibility for rendering an expeditious decision; and
 - 2) The ALJ may limit the scope and length of post-hearing briefs.
- c) After a recommendation or decision is issued, no request for rehearing or reconsideration is allowed.
- d) Written exceptions to a recommendation made by the ALJ are not allowed.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.472 ADMINISTRATIVE HEARING RECORD**

Section 270.472 Administrative Hearing Record

- a) The administrative record will consist of:
 - 1) The recording of testimony and exhibits, or an official reporting containing the substance of what happened at the hearing;
 - 2) All pleadings, materials and requests submitted in the proceeding;
 - 3) The ALJ recommendation, if applicable; and
 - 4) The final administrative decision.
- b) The parties will be under a duty to keep the record to a reasonable minimum whenever possible. In all cases, the record will be limited to issues that are legitimately in dispute. Documents or other items that pertain to factual matters that are not being contested or challenged, or that may be redundant or repetitive, may be excluded from the record at the discretion of the ALJ.
- c) The Department/other entity will make an electronic recording of the hearing. The electronic recording will serve as the official documentation of the hearing. The recording will not be transcribed unless requested by a party; the requesting party will pay for the transcription of the portion requested, except as otherwise provided by law. The transcription will not constitute the official documentation of the proceeding unless expressly adopted by the Department/other entity.
- d) The Department/other entity will be the official custodian of the administrative records of administrative proceedings held before it. Access to the administrative records will be provided for by written agreement between the Department and other entities.
- e) The record will be preserved as confidential consistent with Section 270.418.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.474 FINAL ADMINISTRATIVE DECISION**

Section 270.474 Final Administrative Decision

- a) The final administrative decision will include a written order setting out the factual and legal reasons for the final decision. All findings of fact will be based exclusively on the record. The order will state it is a final administrative decision and will fully advise the parties of any right to judicial review.
- b) The final administrative decision will be served on all parties within 40 calendar days after the record has closed.
- c) When the ALJ issues a recommendation for final administrative decision:
 - 1) The recommendation shall be in writing and set forth proposed findings of fact and recommended conclusions of law for review by the Director.
 - 2) The recommendation shall be provided to the Director within 20 calendar days after the close of the record.
 - 3) The Director shall consider the recommendation in issuing a final administrative decision.
 - 4) The Director shall issue a decision accepting, rejecting or modifying the recommendation of the Department/other entity within 20 calendar days after receipt of the recommendation.
 - 5) To the extent the Director does not accept the recommendation, the decision shall set out in writing the rationale.
 - 6) The Department/other entity shall then serve all parties with the final administrative decision.
- d) All parties or their designees shall take appropriate action and comply with all terms and conditions set forth in the final administrative decision. All parties are responsible for ensuring the appropriate action is undertaken in the designated timeframe.
- e) Absent notice of judicial appeal, the Department will place the caregiver's identity on the Registry within 45 calendar days after the final administrative decision.
- f) The final administration decision is confidential and not open to the public pursuant to Section 7.5(y) of the Freedom of Information Act.

- g) The final administrative decision under this Subpart is not subject to the Illinois Administrative Review Law [735 ILCS 5/Art. III].

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.476 APPEAL OF DEPARTMENT DECISIONS**

Section 270.476 Appeal of Department Decisions

All decisions made by the Department will state whether they are final administrative decisions and identify what, if any, rights for appeal exist.

(Source: Added at 42 Ill. Reg. 9226, effective July 1, 2018)

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.500 FATALITY REVIEW TEAM ADVISORY COUNCIL**

Section 270.500 Fatality Review Team Advisory Council

- a) *The Fatality Review Team Advisory Council (Council) is the coordinating and oversight body for the activities of Regional Interagency Fatality Review Teams (Teams) in Illinois. [320 ILCS 20/15(c-5)]*
- b) Composition
 - 1) The Director of the Department on Aging will solicit information about individuals interested in being named as a member to serve on the Council from each of the Teams.
 - A) Each member will be appointed for a 3-year term and will be eligible for reappointment upon the expiration of the term.
 - B) Appointments to fill unexpired vacancies will be made in the same manner as original appointments. The Council may declare a vacancy for a member when it determines that a member has resigned, no longer resides within the State of Illinois, failed to maintain the professional position outlined in subsection (b)(1), or has become incapacitated and rendered incapable of serving or performing duties as a member. A vacancy will be filled as soon as practicable.
 - C) Members of the Council will be automatically reappointed unless the Director and the member are notified at least 30 days before the term ends that the respective Team will recommend another person or a resignation is received from the member. All successive appointments will be for a term of 3 years. No member will be reappointed if his or her reappointment would cause any conflict of interest.
 - D) The Director may terminate the appointment of any member prior to the end of a term based on the recommendation of the Chairperson for good cause, which includes, but is not limited to, unjustified absences, failure to meet Council responsibilities, or failure to maintain the professional position outlined in subsection (b)(1).

- 2) *The Council shall select from its members a Chairperson and a Vice-chairperson.*
 - A) Each position will be for a 2-year term.
 - B) *The Chairperson and Vice-chairperson may be selected to serve additional, subsequent terms.*
 - C) The Chairperson of the Council will perform the duties ordinarily ascribed to this position, preside at all meetings of the Council, and make reports on behalf of the Council as may be required.
 - D) In the event of the Chairperson's inability to act, the Vice-chairperson will act in his or her stead.
- 3) *The Director may also appoint any ex-officio members deemed necessary to this Council, including a staff member of the Department to maintain records, prepare notices and agendas for each meeting, provide technical assistance, and otherwise assist in carrying out the administrative functions of the Council. [320 ILCS 20/15(c-5)]*
- 4) A member will serve at his or her own expense and is to abide by all applicable ethics laws. All licensed professionals are to be in good standing within their profession.

c) Meetings

- 1) *The Council shall meet at least 4 times during each calendar year. [320 ILCS 20/15(c-5)]*
- 2) An agenda of scheduled business for deliberation will be developed in coordination with the Department and the Chairperson.
- 3) The meetings will take place at locations, dates and times determined by the Chairperson of the Council after consultation with members of the Council and the Director or the designated Department staff member.
- 4) It will be the responsibility of the designated Department staff member, at the direction of the Chairperson, to give notices of the locations, dates and time of meetings to each member of the Council and to the Director at least 30 days prior to each meeting.
- 5) A majority of the currently appointed and serving Council members will constitute a quorum. A vacancy in the membership of the Council will not impair the right of a quorum to perform all of the duties of the Council. All deliberations of the Council and its subcommittees will be governed by Robert's Rules of Order.
- 6) A majority of the Council may allow a member to attend any meeting by video or audio conference in accordance with the Open Meetings Act [5 ILCS 120], provided adequate equipment can reasonably be made available and that participation is audible to all other members.

7) *Meetings of the Council may be closed to the public under the Open Meetings Act. [320 ILCS 20/15(d-5)]*

d) Duties

1) *The Council has, but is not limited to, the following duties:*

A) *serve as the voice of the Teams in Illinois.*

B) *oversee the Teams in order to ensure that work is coordinated and in compliance with State statutes and operating protocols.*

C) *ensure that the data, results, findings and recommendations of the Teams are adequately used in a timely manner to make any necessary changes to the policies, procedures and State statutes in order to protect at-risk adults.*

D) *collaborate with the Department in order to develop any legislation needed to prevent unnecessary deaths of at-risk adults.*

E) *ensure that the Teams use standardized processes in order to convey data, findings and recommendations in a usable format.*

F) *serve as a link with the Teams throughout the country and to participate in national fatality review team activities.*

G) *provide the Teams with the most current information and practices concerning at-risk adult death review and related topics.*

H) *perform any other functions necessary to enhance the capability of the Teams to reduce and prevent at-risk adult fatalities. [320 ILCS 20/15(c-5)(1) through (8)]*

2) *Upon request by the Director, review the death of an at-risk adult that occurs in a planning and service area where a Team has not yet been established. [320 ILCS 20/15(c)]*

3) *All papers, issues, recommendations, reports and meeting memoranda will be advisory only. The Director, or designee, will make a written response/report, as requested, regarding issues before the Council.*

4) *The Director retains full decision making authority for the Adult Protective Services Program regarding any recommendations presented by the Council.*

e) Confidentiality

1) *Members of the Council are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of the Council or opinions formed by members of the Council based on that information. A person may, however, be examined concerning information provided to the Council. [320 ILCS 20/15(d)]*

- 2) *Records and information provided to the Council, and records maintained by the Council, are exempt from release under the Freedom of Information Act [5 ILCS 140]. [320 ILCS 20/15(d-5)]*
- f) Use of Aggregate Data
- 1) *The Council may prepare an annual report, in consultation with the Department, using aggregate data gathered by and recommendations from the Teams to develop education, prevention, prosecution or other strategies designed to improve the coordination of services for at-risk adults and their families. [320 ILCS 20/15(c-5)]*
 - 2) *The Department, in consultation with coroners, medical examiners and law enforcement agencies, shall use aggregate data gathered by, and recommendations from, the Council to create an annual report.*
 - 3) *The Department, in consultation with coroners, medical examiners and law enforcement agencies, may use aggregate data gathered by, and recommendations from, the Council to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families. [320 ILCS 20/15(f)]*
- g) Indemnification
- 1) Members of the Council will have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Council.
 - 2) *The State shall indemnify and hold harmless members of the Council for all their acts, omissions, decisions, or other conduct arising out of the scope of their service, except those involving willful or wanton misconduct.*
 - 3) *The method of providing indemnification shall be as provided in the State Employee Indemnification Act [5 ILCS 350]. [320 ILCS 20/15(e-5)]*

(Source: Added at 42 Ill. Reg. 6659, effective April 12, 2018)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING
PART 270 ADULT PROTECTION AND ADVOCACY SERVICES
SECTION 270.505 REGIONAL INTERAGENCY FATALITY REVIEW TEAMS**

Section 270.505 Regional Interagency Fatality Review Teams

- a) Establishment
The Director, in consultation with the Council, law enforcement, and other professionals who work in the fields of investigating, treating or preventing abuse or neglect of at-risk adults shall appoint members to a minimum of one Team in each of the Department's planning and service areas. [320 ILCS 20/15(b)]

- b) Composition
 - 1) A Team shall be composed of representatives of entities and individuals including, but not limited to:
 - A) *the Department on Aging;*
 - B) *coroners or medical examiners (or both);*
 - C) *State's Attorneys;*
 - D) *local police departments;*
 - E) *forensic units;*
 - F) *local health departments;*
 - G) *a social service or health care agency that provides services to persons with mental illness, in a program whose accreditation to provide such services is recognized by the Division of Mental Health within the Department of Human Services;*
 - H) *a social service or health care agency that provides services to persons with developmental disabilities, in a program whose accreditation to provide such services is recognized by the Division of Developmental Disabilities within the Department of Human Services;*
 - I) *a local hospital, trauma center, or provider of emergency medicine;*

J) *providers of services for eligible adults in domestic living situations; and*

K) *a physician, psychiatrist, or other health care provider knowledgeable about abuse and neglect of at-risk adults. [320 ILCS 20/15(b-5)]*

2) *Each member of a Team shall be appointed for a 2-year term and shall be eligible for reappointment upon the expiration of the term. [320 ILCS 20/15(b)]*

3) Appointments to fill unexpired vacancies will be made in the same manner as original appointments. A Team may declare a vacancy for a member when it determines that a member has resigned, no longer resides within the State of Illinois, failed to maintain the professional position outlined in subsection (b)(1), or has become incapacitated and rendered incapable of serving or performing duties as a member. A vacancy will be filled as soon as practicable.

4) Members of the Team will be automatically reappointed unless the Director and the member are notified at least 30 days before the term ends that the Council will recommend another person or a resignation is received from the member. All successive appointments will be for a term of 2 years. No member will be reappointed if his or her reappointment would cause any conflict of interest.

5) The Director may terminate the appointment of any member prior to the end of a term based on the recommendation of the Chairperson for good cause, which includes, but is not limited to, unjustified absences, failure to meet Team responsibilities, or failure to maintain the professional position outlined in subsection (b)(1).

6) The Team will select from its members a Chairperson and a Vice-chairperson.

A) Each position will be for a 2-year term.

B) The Chairperson and Vice-chairperson may be selected to serve additional, subsequent terms.

C) The Chairperson of the Team will perform the duties ordinarily ascribed to this position, preside at all meetings of the Team, and make reports on behalf of the Team as may be required.

D) In the event of the Chairperson's inability to act, the Vice-chairperson will act in his or her stead.

7) A member will serve at his or her own expense and is to abide by all applicable ethics laws. All licensed professionals are to be in good standing within their profession.

c) Meetings

- 1) *A Team shall meet not less than 4 times a year to discuss cases for its possible review. [320 ILCS 20/15(c)]*
 - 2) An agenda of scheduled business for deliberation will be developed in coordination with the Department and the Chairperson.
 - 3) The meetings will take place at locations, dates and times determined by the Chairperson of the Team after consultation with members of the Team.
 - 4) It will be the responsibility of the Chairperson to give notices of the locations, dates and time of meetings to each member of the Team and to the Director at least 30 days prior to each meeting.
 - 5) A majority of the currently appointed and serving Team members will constitute a quorum. A vacancy in the membership of the Team will not impair the right of a quorum to perform all of the duties of the Team. All deliberations of the Team and its subcommittees will be governed by Robert's Rules of Order.
 - 6) A majority of the Team may allow a member to attend any meeting by video or audio conference in accordance with the Open Meetings Act, provided adequate equipment can reasonably be made available and that participation is audible to all other members.
 - 7) *Meetings of the Teams may be closed to the public under the Open Meetings Act. [320 ILCS 20/15(d-5)]*
- d) Review of Cases
- 1) *Each Team, with the advice and consent of the Department, shall establish criteria to be used in discussing cases of alleged, suspected or substantiated abuse or neglect for review and shall conduct its activities in accordance with any applicable policies and procedures established by the Department for the allocation of time and resources of the Team for investigating cases; recordkeeping relating to the outcome of investigations and referral recommendations; maintaining confidential communications and records; sharing information about cases with other offices for adult protective services, criminal investigation and prosecution, or court-ordered discovery; and data aggregation, collection and analysis. [320 ILCS 20/15(c)]*
 - 2) *A Team's purpose in conducting review of at-risk adult deaths is:*
 - A) *to assist local agencies in identifying and reviewing suspicious deaths of adult victims of alleged, suspected or substantiated abuse or neglect in domestic living situations;*
 - B) *to facilitate communications between officials responsible for autopsies and inquests and persons involved in reporting or investigating alleged or suspected cases of abuse, neglect or financial exploitation of at-risk adults and persons involved in providing services to at-risk adults;*

- C) *to evaluate means by which the death might have been prevented; and*
 - D) *to report its findings to the appropriate agencies and the Council and make recommendations that may help to reduce the number of at-risk adult deaths caused by abuse and neglect and that may help to improve the investigations of deaths of at-risk adults and increase prosecutions, if appropriate. [320 ILCS 20/15(b)]*
- 3) *A Team shall review cases of deaths of at-risk adults occurring in its planning and service area:*
- A) *involving blunt force trauma or an undetermined manner or suspicious cause of death;*
 - B) *if requested by the deceased's attending physician or an emergency room physician;*
 - C) *upon referral by a health care provider;*
 - D) *upon referral by a coroner or medical examiner;*
 - E) *constituting an open or closed case from an adult protective services agency, law enforcement agency, or State's Attorney's office, or the Department of Human Services' Office of Inspector General that involves alleged or suspected abuse, neglect or financial exploitation; or*
 - F) *upon referral by a law enforcement agency or State's Attorney's office.*
- 4) *If such a death occurs in a planning and service area where a Team has not yet been established, the Director shall request that the Council or another Team review that death.*
- 5) *A team may also review deaths of at-risk adults if the alleged abuse or neglect occurred while the person was residing in a domestic living situation. [320 ILCS 20/15(c)]*
- 6) *In any instance in which a Team does not operate in accordance with established protocol, the Director, in consultation and cooperation with the Council, must take any necessary actions to bring the Team into compliance with the protocol. [320 ILCS 20/15(c-5)]*
- e) Confidentiality
- 1) *Members of a Team are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of the Team or opinions formed by members of the Team based on that information. A person may, however, be examined concerning information provided to a Team.*

- 2) *Records and information provided to the Team, and records maintained by the Team, are exempt from release under the Freedom of Information Act. [320 ILCS 20/15(d-5)]*
 - 3) *Any document or oral or written communication shared within or produced by the Team relating to a case discussed or reviewed by the Team is confidential and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.*
 - 4) *Any document or oral or written communication provided to a Team by an individual or entity, and created by that individual or entity solely for the use of the Team, is confidential, is not subject to disclosure to or discoverable by another party, and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.*
 - 5) *Each entity represented or individual represented on the Team may share with other members of the team information in the entity's or individual's possession concerning the decedent who is the subject of the review or concerning any person who was in contact with the decedent, as well as any other information deemed by the entity or individual to be pertinent to the review. Any such information shared by an entity or individual with other members of the Team is confidential. The intent of this subsection (e)(5) is to permit the disclosure to members of the Team of any information deemed confidential or privileged or prohibited from disclosure by any other provision of law.*
 - 6) *Release of confidential communication between domestic violence advocates and a domestic violence victim shall follow Section 227(d) of the Illinois Domestic Violence Act of 1986 [750 ILCS 60], which allows for the waiver of privilege afforded to guardians, executors or administrators of the estate of the domestic violence victim. This provision relating to the release of confidential communication between domestic violence advocates and a domestic violence victim shall exclude adult protective service providers.*
 - 7) *A coroner's or medical examiner's office may share with the Team medical records that have been made available to the coroner's or medical examiner's office in connection with that office's investigation of a death. [320 ILCS 20/15(d)]*
- f) **Recommendations and Referrals**
A Team's recommendation in relation to a case discussed or reviewed by the Team, including, but not limited to, a recommendation concerning an investigation or prosecution in relation to such a case, may be disclosed by the Team upon the

completion of its review and at the discretion of a majority of its members who reviewed the case. [320 ILCS 20/15(e)]

g) Indemnification

- 1) Members of the Team will have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Team.
- 2) *The State shall indemnify and hold harmless members of a Team for all their acts, omissions, decision or other conduct arising out of the scope of their service, except those involving willful or wanton misconduct.*
- 3) *The method of providing indemnification shall be as provided in the State Employee Indemnification Act [5 ILCS 350]. [320 ILCS 20/15(e-5)]*

h) Data Collection and Analysis

- 1) Data on actual cases collected by the Teams will be forwarded to the Department for aggregation and analysis, including, but not limited to, victim demographics; perpetrator demographics; descriptions of the victim's relationship with the perpetrators; cause of death; aggravating and other contributing risk factors for abuse, neglect or financial exploitation; the outcome of investigations; referral recommendations; and the final dispositions in criminal prosecutions.
- 2) *The Department, in consultation with coroners, medical examiners, and law enforcement agencies, shall use aggregate data gathered by and recommendations from the Teams to create an annual report.*
- 3) *The Department, in consultation with coroners, medical examiners, and law enforcement agencies, may use aggregate data gathered by and recommendations from the Teams to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.*
- 4) *The Department or other State or county agency, in consultation with coroners, medical examiners, and law enforcement agencies, may use aggregated data gathered by the Teams to create a database of at-risk individuals. [320 ILCS 20/15(f)]*

(Source: Added at 42 Ill. Reg. 6659, effective April 12, 2018)

