~~TITLE 473 SOCIAL SERVICES FOR AGED AND DISABLED ADULTS~~

~~CHAPTER 7-000 ADULT PROTECTIVE SERVICES~~

~~7-001 SCOPE AND AUTHORITY~~

~~7-001.01 Legal Basis: Authority for the provision of Adult Protective Services (APS) by the Nebraska Department of Health and Human Services is found in the Adult Protective Services Act, Neb. Rev. Stat. sections 28-348 to 28-387.~~

~~The APS Act establishes a program designed to meet the needs of vulnerable adults and to assure the availability of the program to all eligible persons. It places authority and responsibility for investigations and interventions in situations of abuse/neglect of vulnerable adults with the Department and local law enforcement agencies. The Act authorizes and requires the least restriction possible on the exercise of personal and civil rights consistent with the person's need for services.~~

~~7-001.02 Persons Mandated to Report Adult Abuse and Neglect: As required by Nebraska statute, when any physician, psychologist, physician assistant, nurse, nursing assistant, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the Department of Health and Human Services Regulation and Licensure, or human services professional or paraprofessional not including a member of the clergy has reasonable cause to believe a vulnerable adult has been subjected to abuse or neglect, or observes a vulnerable adult being subjected to conditions or circumstances which reasonably would result in abuse or neglect, s/he is mandated to report or cause a report to be made. Any other person may report under the same circumstances.~~

~~7-001.03 Philosophical Basis, Principles, and Outcome of Adult Protective Services~~

~~7-001.03A: The philosophy that guides the Adult Protective Services program is that vulnerable adults have the right to:~~

1. ~~Protection from abuse/neglect, whether this abuse/neglect is self-inflicted or perpetrated by another person;~~
2. ~~Self-determination and privacy;~~
3. ~~Participate in decisions affecting his/her life; and~~
4. ~~Confidentiality and respect.~~

~~7-001.03B: The principles of Adult Protection are as follows:~~

1. ~~When interests compete, the vulnerable adult is in charge of decision-making until s/he delegates responsibility voluntarily to another or a court of competent jurisdiction delegates those rights to another.~~
2. ~~When interests compete, the vulnerable adult is the primary person that is served by the Adult Protective Services Program.~~
3. ~~A vulnerable adult may choose to live in harmful or even self-destructive ways provided s/he has the capacity to choose, does not harm others and commits no crimes.~~
4. ~~In serving the adult victim of abuse/neglect, the APS worker must make an effort to ensure that the vulnerable adult is fully aware of alternatives and can make an informed choice, and understands the possible consequences of their choices.~~
5. ~~Protection of vulnerable adults seeks to achieve freedom, safety, least disruption of life-style, and least restrictive alternatives.~~

~~7-001.03C APS Outcome: Social Services Block Grant Outcome 3, which states that the client's abuse, neglect, and/or exploitation risk factors are decreased or eliminated, relates to the provision of Adult Protective Services.~~

~~7-001.04 Administration: The APS Program is a statewide program. Administrative activities include:~~

1. ~~Establish policies and procedures to implement responsibilities delegated to the Department by the APS Act;~~
2. ~~Monitor expenditures covered by APS funds;~~
3. ~~Perform quality assurance reviews;~~
4. ~~Perform case file reviews;~~
5. ~~Maintain statistics;~~
6. ~~Conduct training; and~~
7. ~~Provide technical assistance and consultation.~~

~~7-001.05 Services Provided: The APS Act requires the Department to provide certain services, specified in the definition of Adult Protective Services.~~

~~Adult Protective Services are only part of a system, which must include the resources of the entire community to effectively protect vulnerable adults from abuse/neglect. The Department must provide services in a collaborative manner with individuals, families, agencies, organizations, and communities. Services must be delivered in a way that supports integrating, improving and strengthening the services in the community.~~

~~The Department must provide services and supports that are:~~

1. ~~Based on the assessed needs of the vulnerable adult;~~
2. ~~Mindful of the safety of the vulnerable adult; and~~
3. ~~Delivered in a competent, professional manner by staff, with respect for cultural diversity.~~

~~7-002 DEFINITIONS~~

~~Abuse means any knowing, intentional or negligent act or omission on the part of a caregiver, a vulnerable adult, or any other person which results in physical injury, unreasonable confinement, cruel punishment, sexual abuse, exploitation, or denial of essential services to a vulnerable adult.~~

~~Abuse Hotline means the statewide, 24-hour, toll-free number maintained by the Department for the purpose of receiving reports of suspected abuse/neglect of vulnerable adults.~~

~~Activities of daily living (ADL) means those activities needed for self care, such as dressing, bathing, toileting, mobility, eating, and continence.~~

~~Acute medical hospital means an institution which:~~

1. ~~Is maintained primarily for the care and treatment of patients with disorders other than mental diseases;~~
2. ~~Is licensed or formally approved as a hospital by an officially designated authority for State standard-setting;~~
3. ~~Meets the requirements for participation in Medicare as a hospital; and~~
4. ~~Has in effect a utilization review plan, applicable to all Medicaid patients, that meets the requirements of 42 CFR 482.30.~~

~~Administrative hearing means a due process hearing that is held to appeal a decision made by a state agency.~~

~~Adult Protective Services (APS) means those services provided by the Department for the prevention, correction, or discontinuance of abuse. Such services are those necessary and appropriate under the circumstances to protect an abused vulnerable adult, ensure that the least restrictive alternative is provided, prevent further abuse, and promote self-care and independent living. Such services must include, but are not limited to:~~

1. ~~Receiving and investigating reports of alleged abuse;~~
2. ~~Developing social service plans;~~
3. ~~Arranging for the provision of services such as medical care, mental health care, legal services, fiscal management, housing, or home health care;~~
4. ~~Arranging for the provision of items such as food, clothing, or shelter; and~~
5. ~~Arranging or coordinating services for caregivers.~~

~~Assisted Living Facility (ALF) means a facility where shelter, food, and care are provided for remuneration for a period of more than 24 consecutive hours to four or more persons residing at such facility who require or request such services due to age, illness, or physical disability.~~

~~Caregiver means any person or entity which has assumed the responsibility for the care of a vulnerable adult voluntarily, by express or implied contract, or by order of a court of competent jurisdiction.~~

~~Center for the Developmentally Disabled (CDD) means a center or group home where shelter, food, and care, advice, counseling, diagnosis, treatment, or related services are provided for a period of more than twenty-four consecutive hours to four or more persons residing at such facility who have developmental disabilities.~~

~~Central Registry means the Adult Protective Services Central Registry established by the APS Act. Neb. Rev. Stat. Section 28-376 requires that the Department establish and maintain an Adult Protective Services Central Registry for recording each report of alleged abuse. The Central Registry also contains names of perpetrators of reported abuse/neglect of vulnerable adults that have been substantiated through investigation.~~

~~Collateral contact means a person or entity who has knowledge of the abuse/neglect situation or has provided services or assistance to the abused/neglected adult, but who was not directly involved in the referral to the Department.~~

~~Conservator means an individual or corporation appointed by a court to manage the estate, property, and/or other business affairs of an individual whom the court has determined is unable to do so for him/herself. (See 473 NAC 7-008.06D)~~

~~Cruel punishment means punishment which intentionally causes physical injury to a vulnerable adult.~~

~~Denial of essential services means that essential services are denied or neglected to such an extent that there is actual physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death.~~

~~Department means the Nebraska Department of Health and Human Services.~~

~~Emergency protective custody (EPC) means that part of the mental health commitment act which permits law enforcement officers to take into custody a mentally ill dangerous person that is likely to harm themselves or others before a mental health commitment hearing can be held.~~

~~Essential services means those services necessary to safeguard the person or property of a vulnerable adult. Such services include, but are not limited to, sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for physical needs, and proper supervision.~~

~~Ex-parte means a hearing in which the court hears only one side of the controversy, such as Emergency Guardian or Emergency Conservator or when a court orders involuntary adult protective services or placement under the Adult Protective Services Act.~~

~~Exploitation means the taking of property of a vulnerable adult by means of undue influence, breach of a fiduciary relationship, deception, or extortion or by any unlawful means.~~

~~Fiduciary relationship means a legal relationship in which one person holds a position of trust with respect to another person.~~

~~Good faith attempt to locate means an attempt to locate the subject(s) of an abuse/neglect report through actions by contacting friends, relatives, landlords, neighbors or other agencies that may be familiar with the vulnerable adult.~~

~~Guardian means the person appointed by the court for someone found by clear and convincing evidence to be incapacitated and require continuing care or supervision. Nebraska law allows for, and favors, the appointment of a limited guardian.~~

~~Guardian ad litem means an attorney appointed by the court in guardianship hearings for the purpose of completing an investigation into the necessity of guardianship and to make recommendations to the court.~~

~~HHSS means the Nebraska Health and Human Services System.~~

~~Instrumental activities of daily living (IADL) means those activities needed to support independent living, such as housekeeping, food preparation, use of the telephone, doing laundry, using public transportation, taking medicine, handling finances, shopping, mobility, and home maintenance.~~

~~Intermediate Care Facility for the Mentally Retarded (ICF/MR) means a facility which:~~

1. ~~Meets the standards for licensure as established by the Nebraska Department of Health and Human Services Regulation and Licensure and all related requirements for participation as prescribed in federal law and regulations governing medical assistance under Title XIX of the Social Security Act;~~
2. ~~Is certified as a Title XIX ICF/MR under Medicaid; and~~
3. ~~Has a current provider agreement with the Nebraska Medical Assistance Program and a Department of Health and Human Services Regulation and Licensure certification and transmittal form on file with the Nebraska Department of Health and Human Services Finance and Support.~~

~~Involuntary Adult Protective Services means those services as defined in Adult Protective Services which are court-ordered as a result of an ex-parte order under the Adult Protective Services Act.~~

~~Law enforcement agency means the police department or the town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol.~~

~~Least restrictive alternative means services provided must be in a manner no more restrictive of a vulnerable adult's liberty and no more intrusive than necessary to achieve and ensure essential services.~~

~~Nursing Facility (NF) means a facility or a distinct part of a facility that meets the standards for hospital, skilled nursing, nursing facility, or intermediate care facility licensure established by the Nebraska Health and Human Services Regulation and Licensure and all related requirements for participation as prescribed in federal law and regulations governing medical assistance under Title XIX of the Social Security Act.~~

~~Living independently includes, but is not limited to, using the telephone, shopping, preparing food, housekeeping, self-administering medications and managing money. (See definitions of Activities of Daily Living and Instrumental Activities of Daily Living).~~

~~Mental health commitment means the involuntary commitment of persons found, by a mental health board hearing and by clear and convincing evidence, to be mentally ill and to present a substantial risk of serious harm to another person or to themselves.~~

~~Payee:~~

> ~~Protective payee means an individual assigned by the Health and Human Services System (HHSS) to receive public assistance payments on behalf of another person.~~
>
> ~~Representative payee means an individual appointed by the Social Security Administration (SSA) to receive and manage benefits administered through SSA.~~

~~Permit means to allow a vulnerable adult over whom one has a proximate or direct degree of control to perform an act or acts or be in a situation which the controlling person could have prevented by the reasonable exercise of such control.~~

~~Physical injury means damage to bodily tissue caused by nontherapeutic conduct, including, but not limited to, fractures, bruises, lacerations, internal injuries, or dislocations, and includes, but is not limited to, physical pain, illness, or impairment of physical function.~~

~~Power of attorney:~~

> ~~Power of attorney means a document given voluntarily between a person (called a principal) and another person (called an attorney in fact) which allows the attorney in fact to make decisions on the principal's behalf.~~
>
> ~~Durable power of attorney means a power of attorney that continues beyond the disability or incapacity of the principal.~~
>
> ~~Durable power of attorney for health care means a document through which a principal authorizes an attorney in fact to make health care decisions on the principal's behalf.~~

~~Proper supervision means care and control of a vulnerable adult which a reasonable and prudent person would exercise under similar facts and circumstances.~~

~~Report means any telephone call, personal contact or letter by an individual or entity to the Department's Hotline, Central Office, or HHSS local office alleging abuse/neglect of a vulnerable adult.~~

~~Self-care includes, but is not be limited to, personal hygiene, eating, and dressing. (See activities of daily living and instrumental activities of daily living).~~

~~Self-neglect means that as a result of an adult's inability, due to physical and/or mental impairments or diminished capacity, s/he is unable to perform essential self-care tasks which include, but are not limited to: providing essential food, clothing, shelter and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well being and general safety, and/or managing financial affairs.~~

~~Sexual abuse means any sexually oriented act, practice, contact, or interaction in which a vulnerable adult is or has been used without his/her knowledgeable consent for the sexual stimulation of the perpetrator, the adult, or another person. Examples of sexual abuse include, but are not limited to fondling, sexual intercourse, sexual stimulation, incest, and sexual exploitation. (See Neb. Rev. Stat. Sections 28-317 to 28-321 and 28-703.)~~

~~Substantial functional impairment means a substantial incapability, because of physical limitations, of living independently or providing self-care as determined through observation, diagnosis, investigation, or evaluation.~~

~~Substantial mental impairment means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or ability to live independently or provide self-care as revealed by observation, diagnosis, investigation, or evaluation.~~

~~Temporary guardian means a court or an individual appointed by the court in emergency situations. The court must specify the powers and duties of the temporary guardian in the letters of guardianship and will limit the powers and duties to those necessary to address the emergency. Temporary guardianship letters are effective for up to 90 days at which time a hearing must be held to establish a permanent guardian, if necessary.~~

~~Testamentary guardian means a guardian who is appointed by the will of the vulnerable adult's spouse or parent. The guardianship is effective when the individual first gives seven days written notice of his/her intention to the adult, the person caring for the adult, or the adult's nearest living relative and then files a written acceptance in the county court where the will is to be probated. If the vulnerable adult files a written objection in the county court where the will is probated, the guardianship is terminated.~~

~~Unreasonable confinement means confinement which intentionally causes physical injury to a vulnerable adult.~~

~~Vulnerable adult means any person age 18 or older who has a substantial mental or functional impairment or for whom a guardian has been appointed under the Nebraska Probate Code.~~

~~7-003 DISCLOSURE OF INFORMATION~~

~~With the exception of those instances described below, all information regarding vulnerable adults served by the Department's APS Program is confidential. This section assures their rights of privacy is respected. Any time there is confusion about releasing information or a subpoena is received by a local office for APS records, staff must contact Legal Services staff for clarification.~~

~~7-003.01 Information Sharing Within Department: Information shared within the Department does not require any signed release. It is provided based on the person's need to know and his/her involvement with the vulnerable adult or their family. Such sharing must be done only in conjunction with the official administration of one program or another under HHS jurisdiction. (See 465 NAC 2-005 for general rules regarding confidentiality).~~

~~7-003.02 Signed Release Required: All case files are presumed confidential and must not be revealed to other parties without a signed release from the vulnerable adult or his or her legal representative naming who can receive information and what may be revealed in a specific time frame. This includes information requested by attorneys and other agencies. There are, however, situations in which an APS worker is not able to obtain a signed release form, and may need to share certain information with providers or others in the community, or family in order to benefit the vulnerable adult. In this situation, the APS worker must share only information that is absolutely necessary to help the vulnerable adult.~~

~~7-003.03 Request by or on Behalf of Vulnerable Adult: Upon request, a vulnerable adult who is the subject of a report or, if the vulnerable adult is legally incapacitated, the guardian or guardian ad litem of the vulnerable adult is entitled to receive a copy of all information contained in the registry pertaining to his or her case. The Department must not release data that would be harmful or detrimental to the vulnerable adult or that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction. Any requests for information regarding information contained on the registry must be forwarded to the APS Program Manager in the Central Office.~~

~~7-003.04 Persons or Agencies Allowed Access to Records: Except as otherwise provided in the APS Act, no person, official, or agency has access to the records relating to abuse unless in furtherance of purposes directly connected with the administration of the APS Act. Persons, officials, and agencies having access to such records include but are not limited to:~~

1. ~~A law enforcement agency investigating a report of known or suspected abuse;~~
2. ~~A county attorney in preparation of an abuse petition;~~
3. ~~A physician who has before him or her a person whom s/he reasonably suspects may be abused;~~

~~4. An agency having the legal responsibility or authorization to care for, treat, or supervise an abused vulnerable adult;~~
~~5. Defense counsel in preparation of the defense of a person charged with abuse;~~
~~6. Any person engaged in bona fide research or auditing, except that no information identifying the subjects of the report is made available to the researcher or auditor;~~
~~7. The designated protection and advocacy system authorized pursuant to federal law and when acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness; and~~
~~8. For purposes of licensing providers of child care programs, the Department of Health and Human Services Regulation and Licensure.~~

~~7-003.05 Requests Requiring Central Office Involvement: Requests from the last three categories above must be referred to the APS Program Manager in the Central Office. Assistance on all other requests may be directed to the APS Program Manager.~~

~~Central Registry information must be requested from the APS Program Manager in the Department's Central Office.~~

~~Any media request received by the local office concerning an Adult Protective Service case must be referred to the Public Information Officer in the Department's Central Office.~~

~~7-003.06 Department Release of Information: The Department must provide requested information to any person legally authorized when ordered by a court of competent jurisdiction or upon compliance by such person with identification requirements established by the Department. Information released must not include the name and address of the person making the report, except that the county attorney's office may request and receive the name and address of the person making the report with such person's written consent. The name and other identifying data of any person requesting or receiving information from the registry and the dates and the circumstances under which requests are made or information is released must be entered into the registry log.~~

~~If a reporter inquires about the action taken on his/her report, APS staff may release only the following information:~~

~~1. Whether an investigation has been conducted;~~
~~2. Whether the investigation has been completed; and~~
~~3. Whether the local office is remaining involved.~~

~~7-003.07 Summary of Findings and Actions: Upon request, a physician or the person in charge of an institution, facility, or agency making a legally mandated report, must receive a written summary of the findings of and actions taken by the Department in response to such report. The amount of detail such summary contains and the purposes for which it may be used depend on the source of the report.~~

~~7-004 DOCUMENTATION: Documentation must be complete on all APS reports. Case activities must be clearly documented. Guidelines have been developed to describe appropriate documentation.~~

~~7-004.01 Required Documentation: Documentation must include the following:~~

1. ~~APS Intake Form;~~
2. ~~Date Intake form is sent to law enforcement;~~
3. ~~Narrative;~~
4. ~~The priority of case and any reprioritization;~~
5. ~~Need for and authorization of emergency services;~~
6. ~~Current needs assessment form;~~
7. ~~Current case status determination form;~~
8. ~~Eligibility determination, when appropriate;~~
9. ~~Central Registry checks;~~
10. ~~Other Department information system checks;~~
11. ~~APS worker observations;~~
12. ~~APS worker decisions;~~
13. ~~Service Plans;~~
14. ~~Referral(s) to the county attorney or other attorney assisting in obtaining a guardianship, conservatorship, or other legal action the Department has determined as an appropriate remedy to abuse/neglect;;~~
15. ~~Court intervention action, including copies of all legal documents;~~
16. ~~Date(s) and type(s) of all contacts with the vulnerable adult;~~
17. ~~Date(s) and type(s) of all collateral contacts;~~
18. ~~Date case findings are sent to law enforcement;~~
19. ~~Reports and records received from other sources;~~
20. ~~Community resource referrals;~~
21. ~~Date(s) and type(s) of supervisory consultation; and~~
22. ~~Case closure.~~

~~7-004.02 Photographs or Videotape: Take or obtain photos or videotape (as necessary and appropriate) of a vulnerable adult when the adult has observable marks, injuries or an appearance believed to be caused by abuse or neglect. When the adult's environment creates a substantial risk of injury or other harm, photographs or video may be taken of the adult's environment. The APS worker must make every attempt to obtain a release from the individual if the vulnerable adult has the capacity to consent.~~

~~7-004.03 Case Files: All case files must contain the following tabs and each section must contain the following:~~

1. ~~Tab - Intake Form~~
   - ~~Current APS Intake Form*~~
2. ~~Tab - Case Status Determination~~
   - ~~Current Case Status Determination Form*~~

~~3. Tab - Assessment Form~~
- ~~Current APS Assessment Form*~~
- ~~Other Assessments Completed~~

~~4. Tab - Financial Records~~
- ~~Bank Statements~~
- ~~Verification of Income/Resources~~
- ~~Release of Information/Copy of Subpoena~~

~~5. Tab - Medical Records~~
- ~~Mental Health Records~~
- ~~Physical Health Records~~
- ~~Release of Information/Copy of Subpoena~~

~~6. Tab - Narratives~~
- ~~Chronological documentation of all client and collateral contacts to include the service plan~~

~~7. Tab - Services~~
- ~~Current eligibility determination form~~
- ~~Service authorizations~~
- ~~APS Funds forms~~
- ~~Notices of action~~
- ~~Billings~~
- ~~Exceptions~~

~~8. Tab - Correspondence~~
- ~~Letters received~~
- ~~Letters sent~~

~~9. Tab - Legal Documents~~
- ~~Court Orders~~
- ~~Guardian/Conservator Petitions, Letters, Acceptance Forms~~
- ~~Journal Entries~~
- ~~Subpoenas~~
- ~~Report to the County Attorney~~
- ~~Non-Court Documents (POA, etc)~~

~~10. Tab - Law Enforcement Reports~~

~~11. Tab - Miscellaneous~~

~~APPENDIX (separate file)~~
- ~~Legal contacts~~
- ~~Verbal and written correspondence with HHS Legal Division, County Attorney, Attorney General's office, private attorney involved with petitions for guardianships, etc.~~

~~* = Mandatory forms.~~

~~7-005 INTAKE~~

~~In keeping with the philosophy of providing services in the least restrictive and least intrusive manner possible, the Department has established criteria for determining when it is appropriate to intervene in the lives of vulnerable adults. Any level of intervention by the Department is intrusive because even minimal intervention invades the privacy of the individual. Adults have attained civil rights and those rights must be respected.~~

~~Allegations which meet the definition of vulnerable adult abuse and/or neglect must be assigned for investigation.~~

~~Some community contacts and concerns brought to the Department do not indicate a level of risk of abuse and neglect as defined by statute. These contacts are opportunities to benefit individuals, the community and the Department even if the Department does not accept the case for formal involvement. Individuals contacting the Department need information, clarification and direction to appropriate services. Staff who receive such contacts must assess the information to see if it is appropriate for Department services. If it is not, staff must refer the person to community services or provide consultation and education.~~

~~If allegations involve a vulnerable adult being served by a facility licensed or certified by HHS Regulation and Licensure and the alleged perpetrator is a staff member of that facility, see 473 NAC 7-005.07, Facility Investigations.~~

~~7-005.01 Intake Outcomes: These outcomes may not all apply to intake situations for all types of cases:~~

1. ~~Uniform and complete information and documentation~~
2. ~~Individuals needing other services from the Department are directed appropriately within the Department;~~
3. ~~The role of the Department is clearly identified;~~
4. ~~Reporting party understands the Department's response to the referral;~~
5. ~~Intake reports which do not meet criteria are referred to other resources;~~
6. ~~Intake reports of adult abuse and neglect are appropriately documented and submitted for entry onto the APS Central Registry; and~~
7. ~~Consultation and information is provided to reporters of suspected adult abuse and neglect.~~

~~7-005.02 Department Roles and Responsibilities~~

~~7-005.02A Role of Adult Protective Service Worker: The primary role of the APS worker is to determine the Department's response to allegations of abuse or self-neglect. Secondary roles of the worker during intake are as educator, consultant and referral source.~~

~~Intake reports meeting acceptance guidelines for adult abuse must be assigned for investigation or referred to law enforcement and/or to HHS Regulation and Licensure, as appropriate.~~

~~The Department's response to a referral is determined by the workers at intake who screen for adult abuse/neglect. The APS worker must consult with his/her supervisor as needed. Workers at intake must be:~~

- ~~Skilled professionals who have training in Adult Protective Services;~~
- ~~Knowledgeable about applicable statutes, regulations, and practice; and~~
- ~~Responsible for making decisions with the information available.~~

~~The APS worker must gather, compile and document information necessary on the Department's APS intake form to determine appropriate Department response. The following tasks apply to any report made to the Department.~~

1. ~~Elicit information from the reporting party, or review the written report;~~
2. ~~Contact others having knowledge of the situation if more information is needed;~~
3. ~~Check the APS Central Registry for any prior APS records and other Department information systems for relevant information (for example, ADC, AABD, Food Stamps);~~
4. ~~Determine whether report indicates suspected abuse/neglect of a vulnerable adult;~~
5. ~~Based on the report, assign a priority to the case;~~
6. ~~Notify law enforcement of any accepted report no later than the next working day as required by statute; and~~
7. ~~Submit intake form (see Appendix) to data entry no later than the next working day following the receipt of the report by the local office.~~

~~Consultation with an APS supervisor and/or the APS Program Manager may be used during any of these tasks.~~

~~7-005.02B Role of Support Staff: If an APS worker is not available, support staff may take the intake report.~~

~~The APS worker responsible for intake reviews the information received by support staff. The APS supervisor may review the worker's decision regarding the Department's response.~~

~~7-005.02C Role of Adult Protective Services Supervisor: The role of the APS supervisor at intake is to:~~

- ~~Facilitate ongoing consultation to assist in decision making and to enhance worker skill;~~
- ~~Review and assign Hotline and central office reports: and~~
- ~~Review intake decisions, as needed.~~

~~7-005.02D Role of Abuse/Neglect Hotline Staff~~

~~The role of the abuse/neglect statewide Hotline staff is to receive telephone calls regarding suspected abuse and neglect of vulnerable adults from across the state. This information is forwarded electronically to the appropriate APS Supervisor (or designee) no later than the next working day. In emergencies, Hotline personnel must contact local law enforcement immediately by phone.~~

~~7-005.03 Priorities~~

~~Investigation time frames are established by the priority of the intake. Priority is assigned at intake and is based on the allegations and the risk of the vulnerable adult. The following contains information for staff to use in determining priorities.~~

~~7-005.03A Priority 1: Priority 1 reports allege immediate danger of death or life threatening or critical harm to a vulnerable adult, including the death of a vulnerable adult when other vulnerable adults are still at risk.~~

~~7-005.03A1 Priority 1 Time Frames: Priority 1 reports have a 60-day time frame in which to complete an investigation. A one-time extension of 15 additional days may be obtained from the supervisor.~~

~~Face-to-face contact must be made with the victim as quickly as possible and no longer than 8 hours. If the APS worker cannot make immediate contact with the alleged victim, law enforcement must be contacted to request that they conduct an investigation and send a written summary of their investigation to the APS worker. The APS worker must follow up with contact with the alleged victim as needed and appropriate. The case file must contain documentation why immediate contact by APS could not be made timely.~~

~~7-005.03B Priority 2: Priority 2 reports allege danger of serious, but not life-threatening or critical, harm to a vulnerable adult.~~

~~7-005.03B1 Priority 2 Time Frames: Priority 2 reports have a 45-day time frame in which to complete an investigation. A one-time extension of 15 additional days may be obtained from the supervisor.~~

~~Face-to-face contact by an APS worker or law enforcement must be made with the victim within 5 working days of the receipt of the report into the local office. An exception to the 5-working-day limit may be made if the worker notifies the supervisor that face-to-face contact cannot be made within that time frame.~~

~~7-005.03C Priority 3: Priority 3 reports allege harm to a vulnerable adult which is serious, but not serious enough to be considered Priority 1 or 2.~~

~~7-005.03C1 Priority 3 Time Frames: Priority 3 reports have a 45-day time frame in which to complete an investigation. A one-time extension of 15 additional days may be obtained from the supervisor.~~

~~Face-to-face contact by an APS worker or law enforcement must be made with the victim within 10 working days of the receipt of the report into the local office. An exception to the 10-working-day limit may be made if the worker notifies the supervisor that face-to-face contact cannot be made within that time frame.~~

~~7-005.04 Information to Persons Reporting Abuse/Neglect~~

~~The APS worker must advise each person reporting adult abuse/neglect that the situation is being assessed. Staff must not release other information concerning the case to the reporter. Staff must tell the reporting person that the information contained in the referral is confidential and that his/her name will be released only to the appropriate law enforcement agency, the county attorney (if appropriate), HHS Regulation & Licensure (as appropriate), or when otherwise required by law. In addition, the reporting person must be advised that if the alleged abuse/neglect requires court intervention, it may be necessary for the reporting person to testify in court as to his/her knowledge of the alleged incident(s).~~

~~Intake staff must share information with the reporter, if known, that the report will be accepted for investigation. The reporter must be informed, if it is not known that the report will be accepted for investigation, that s/he may call the Department back in order to obtain information regarding the acceptance of the report.~~

~~A notice of action to reporters must be sent on most cases accepted for investigation when the reporter releases their name and address. APS workers must not send the notice of action when it is believed that the notice may create problems for either the victim or the reporter.~~

~~7-005.05 Assessment of Risk~~

~~Assessment of risk to the vulnerable adult is completed at intake and used to assign a priority to the investigation. Assessment of risk is ongoing and as each new piece of information is gathered a reassessment of risk must be made. A new priority may be assigned using this additional information. Guidelines for risk assessment have been developed and must be used in determining risk to the vulnerable adult throughout the investigation and ongoing services coordination.~~

~~7-005.06 Department Response on Reports of Suspected Vulnerable Adult Abuse and Neglect~~

~~The Department must investigate each case of alleged abuse and must provide such Adult Protective Services as are necessary and appropriate under the circumstances.~~

~~Cases involving physical assault, sexual abuse, and domestic violence issues must be immediately referred to law enforcement with the APS worker assisting in the investigation as needed. Depending on information received by the intake worker, 911 may be the appropriate immediate response action.~~

~~The Department may make a request for further assistance from the appropriate law enforcement agency or initiate any action as may be appropriate under the circumstances.~~

~~When law enforcement has investigated a report of suspected abuse/neglect of a vulnerable adult and has made a report of their findings to the Department, the Department may write an intake and initiate further investigation if deemed necessary.~~

~~7-005.07 Facility Investigations~~

~~7-005.07A Priority 1 Reports: APS staff must :~~

1. ~~Immediately investigate, with law enforcement as appropriate, any report that is received which is alleging immediate harm or imminent danger to a vulnerable adult, or any report of death of a vulnerable adult when other vulnerable adults are still in the environment and could be exposed to the abuse or neglect that caused the death of the vulnerable adult;~~
2. ~~Notify the Regulation and Licensure Investigations Division by phone as soon as possible of the allegations received; and~~
3. ~~Submit the appropriate intake form by electronic transfer to the Program Manager in Regulation and Licensure within one working day.~~

~~7-005.07B Priority 2 and 3 Reports: APS staff may:~~

1. ~~Investigate those reports if deemed necessary by the APS worker and supervisor. If an investigation is being completed, the appropriate intake form must be forwarded to Regulation and Licensure by electronic transfer informing them of that decision within one working day of the receipt of report; or~~
2. ~~Submit the information that was obtained at intake and any other relevant information that has been obtained to Regulation and Licensure by electronic transfer within one working day of the receipt of the report and request that Regulation and Licensure complete an investigation and file their findings with APS at the conclusion. The primary role of Regulation and Licensure is to determine facility compliance in assuring residents are free from abuse/neglect and misappropriation of residents property.~~

~~7-005.07C Investigative Findings: When any investigative findings are received from Regulation and Licensure that indicate that a violation of the APS Act has occurred, APS staff must:~~

1. ~~Immediately send a copy of those findings and a cover letter to the county attorney for possible prosecution; and~~
2. ~~File the appropriate case status determination form with the APS Central Registry and follow the perpetrator notification procedures, if applicable.~~

~~7-005.08 Conflict of Interest~~

~~During an APS intake, if the alleged victim or perpetrator is a Department staff person in the service area where the alleged abuse/neglect occurred, or is a close friend or relative of Department staff in the service area where the alleged abuse/neglect occurred, or otherwise might create a conflict of interest, the APS Supervisor must contact an APS Supervisor in another service area and make arrangements for the investigation and receipt of relevant material. This will avoid any question of conflict of interest or collusion. Any situation likely to cause a potential conflict of interest must be referred to another service area. Investigation timelines must be followed. The office conducting the investigation must retain all records concerning the investigation. (See Record Retention, 473 NAC 7-010.) In circumstances where an acquaintance or casual friend of the APS worker is either the victim or the alleged perpetrator, the APS worker must consult with his/her supervisor for guidance.~~

~~7-005.09 Record Keeping: Records are maintained at intake to:~~

1. ~~Support decision-making;~~
2. ~~Maintain an ongoing assessment of the adult victim's needs from both the community's and the Department's perspectives;~~
3. ~~Determine and develop trends;~~
4. ~~Identify service needs and make decisions regarding staff allocation to meet those service needs;~~
5. ~~Enhance quality;~~
6. ~~Comply with the law; and~~
7. ~~Determine uniform case count using the current case count tool (see Appendix).~~

~~To achieve the above, staff may receive periodic requests for specific information.~~

~~7-006 INVESTIGATIONS~~

~~APS workers conduct investigations to make a case determination in regard to the allegations and to determine what services and/or protection, if any, are needed and how services and/or protection can best be provided.~~

~~The Department acknowledges that as long as adults can recognize the consequences of decisions they have made about their lives, the right to make those decisions must be respected, provided they are capable of making that choice, harm no one in doing so, and commit no crime. Vulnerable adults have the right to refuse service, make bad choices, or be eccentric. If there is evidence that the vulnerable adult is making reasonable choice, effort must be made to support their choice. Adults have the right to personal choices until such time as they delegate this responsibility or the probate courts appoints an alternative decision maker.~~

~~7-006.01 Investigation Outcomes: Outcomes may vary depending upon each specific investigation. One or more of the following outcomes must be documented in the case file:~~

1. ~~Safety of the vulnerable adult;~~
2. ~~Validation of abuse/neglect and allegations;~~
3. ~~Determination of the extent of abuse/neglect;~~
4. ~~Identification of the source or nature of abuse/neglect;~~
5. ~~Determination of level of risk;~~
6. ~~Service needs are identified;~~
7. ~~Findings are documented;~~
8. ~~Case status determination is completed for the Central Registry;~~
9. ~~Investigations that are "closed" are referred, as appropriate;~~
10. ~~Cases may be opened for voluntary or court-ordered services; and~~
11. ~~It is identified that community supports are in place to assist the vulnerable adult.~~

~~7-006.02 Department Roles and Responsibilities~~

~~7-006.02A Role of Adult Protective Service Worker: The primary role of the APS worker is to gather information to validate abuse/neglect and to determine what services, if any, are needed and how they can best be provided. When necessary, a plan is developed and implemented to provide safety for the vulnerable adult. The priority during this time is securing safety. The APS worker also works with the community systems to complete the investigation so the most appropriate and adequate services can be initiated. The vulnerable adult must receive intervention in the least restrictive and least intrusive manner possible consistent with an adults right to self-determination. The APS worker obtains additional consultation from supervisory staff and teams, when appropriate. APS staff make referrals, as needed, both within and outside the Department.~~

~~APS Workers at the investigation phase must be:~~

- ~~Skilled professionals who are well trained;~~
- ~~Knowledgeable about statutes, rules and policy; and~~
- ~~Responsible for making a decision with the information available.~~

~~7-006.02B Role of Adult Protective Service Supervisor: The supervisor's role during investigation is to support the APS worker during the decision-making process. In addition to the usual tasks of evaluating the APS worker's skill and implementing training to enhance the worker's skill, the supervisor has the responsibility to intervene with larger Department and community systems to insure that outcomes of the investigation are achieved. The supervisor also maintains a comprehensive knowledge base of community resources and the population served. The supervisor provides continuous efforts to enhance system response by supporting, facilitating or developing use of collaboration as a support to quality service delivery.~~

~~7-006.03 Coordination with Law Enforcement~~

~~Law enforcement and APS have statutory obligations pertaining to vulnerable adult abuse/neglect cases. It is necessary to establish which agency will take the primary responsibility for a given case and which kinds of cases will initially be a joint effort. Once an investigation has begun, APS must obtain assistance from law enforcement agencies when any of the following circumstances become evident:~~

1. ~~Evidence of criminal activity has been discovered;~~
2. ~~Threatening, assaultive, or otherwise high-risk individuals need to be contacted;~~
3. ~~Emergency intervention procedures are necessary; or~~
4. ~~Intervention is needed because the caregiver or someone other than the vulnerable adult refuses to grant access to the vulnerable adult.~~

~~7-006.04 Emergency Intervention~~

~~7-006.04A Need for Emergency Intervention: The APS worker may determine that emergency intervention is needed when there is reason to believe that the adult:~~

1. ~~Cannot permit entry to the APS worker because s/he is too ill or too injured to do so;~~
2. ~~Is not able to allow the APS worker in because the alleged perpetrator prevents entry;~~
3. ~~Is in immediate danger and requires medical or mental health treatment; or~~
4. ~~Is unable to consent to medical or mental health treatment or is unwilling, because of mental or physical impairment, to consent to medical treatment.~~

~~7-006.04B Contacts for Emergency Intervention: When the determination for emergency intervention is made, the APS worker must immediately contact one or more of the following for assistance:~~

1. ~~The appropriate law enforcement agency to request assistance;~~
2. ~~The county attorney to request his/her recommendations;~~
3. ~~An attorney to file a petition for temporary guardianship and/or conservatorship;~~
4. ~~The county attorney to file an application for short-term involuntary adult protective services or temporary placement as defined in statute;~~
5. ~~Law enforcement when the report indicates alleged sexual abuse, to arrange a joint investigation;~~
6. ~~Law enforcement in cases involving physical assault and domestic violence issues, with the worker assisting in the investigation as needed;~~
7. ~~The APS supervisor as needed; or~~
8. ~~Depending on information received, 911 may be the appropriate immediate response action.~~

~~7-006.05 Investigation Activities: To conduct the investigation, the APS worker must:~~

1. ~~Visit the residence of the adult victim whenever possible and feasible. The APS worker determines whether immediate action is necessary to protect the adult;~~
2. ~~Contact law enforcement to assist if any person refuses to allow the APS worker to begin an investigation or interferes with the Department's ability to conduct such an investigation, or refuses to give access to the subject of the report;~~
3. ~~Interview the adult victim in order to obtain his/her explanation of the incident(s) alleged in the intake report;~~
4. ~~Complete the Client Assessment Form (see Appendix) to determine the adult's functioning in his/her environment;~~
5. ~~Complete the Mini Mental Exam, when possible (see Appendix);~~

~~The APS worker may gather information directly from the vulnerable adult or from caregivers/others with information about the person's functioning, if there is concern that the vulnerable adult may not be able to report reliably.~~

6. ~~Obtain necessary subpoenas to obtain additional information, as necessary;~~
7. ~~Request State Fire Marshal and County Department of Health inspections of the adult's living arrangement, as appropriate, when the adult's living arrangement presents a hazard;~~
8. ~~Make collateral contacts, as appropriate (for example, the reporter, landlord, neighbor, family, physician, law enforcement) to determine the facts about the nature and cause of the abuse/neglect; and~~
9. ~~Document in the narrative all client and collateral contacts.~~

~~7-006.06 Unable to Locate~~

~~In-person contact is waived when the APS worker has made a good faith attempt to locate the subject(s) of the report, but cannot locate them. The APS worker must document these efforts in the case file. The report may be placed in a pending status for a maximum of 30 days in these situations. If the subject(s) of the report is located during the 30 days, the investigation time frame begins with the date of the location of the subject(s).~~

~~7-006.07 Worker Safety~~

~~Worker safety must be considered during contacts in the investigative phase. When there is a threat of violence to a worker, law enforcement must be contacted to assist with or conduct the investigation. When concerns exist about risk to staff from communicable diseases or environmental hazards, appropriate health authorities may be called to assist in the contacts.~~

~~7-006.08 Courtesy for Vulnerable Adults~~

~~Whenever possible, APS assures individuals a level of respect and privacy in regard to where the interview takes place, flexibility in scheduling the interview and the least intrusive method of interviewing.~~

~~With non-English speaking or non-verbal individuals, the worker must exercise considerable flexibility in order to achieve the initial investigation outcomes. This includes finding and working with an appropriate interpreter(s) and sensitivity to cultural issues.~~

~~7-007 CASE STATUS DETERMINATION~~

~~Based on the information gathered and analyzed during the investigation, the APS worker arrives at a finding regarding the abuse/neglect report. The decision at this point is whether there is credible evidence to support the finding that abuse or self-neglect has occurred. This finding is called the case status determination. The case status determination is entered into the APS Central Registry. Before a finding of either Court- or Department-Substantiated is assigned to a case of perpetrated abuse, the APS worker must consult with the APS Supervisor.~~

~~The APS worker must complete the current "Adult Abuse/Neglect Report" (see Appendix) and submit it to the Central Registry for each investigation conducted. Submittal of the report closes the investigation.~~

~~7-007.01 Determinations Available and Definitions: The following case status determinations are available to the APS worker:~~

~~Court-Substantiated - when a guardian or a conservator is appointed by a court, or when a vulnerable adult is committed by a mental health board, or when a finding of abuse of a vulnerable adult has been validated by a court of competent jurisdiction or when the perpetrator is found guilty or pleads guilty or no contest to other charges stemming from the alleged abuse. The court, docket and page number of the case are cited in the case file.~~

~~Department-Substantiated/Referred for Legal Action - when the APS worker determines that the best interest of the vulnerable adult would be served by guardianship, conservatorship, or mental health commitment, and has requested that an attorney file a petition for guardianship, conservatorship, or mental health commitment or when civil or criminal action is being considered against the perpetrator.~~

~~Department-Substantiated/Acceptance of Services - when the APS worker determines through the investigation and the preponderance of evidence supports the allegation of abuse or self-neglect AND court intervention doesn't occur AND the vulnerable adult is willing to accept ongoing services coordination and services.~~

~~Department-Substantiated/Refusal of Services - when the APS worker determines through the investigation and the preponderance of evidence supports the allegation of abuse or self-neglect AND court intervention doesn't occur AND the vulnerable adult does not accept ongoing services coordination and services.~~

~~Department-Substantiated/Services Not Needed - when the APS worker determines through the investigation and the preponderance of evidence supports the allegation of abuse or self-neglect AND court intervention doesn't occur AND the adults needs are currently being met without further APS involvement.~~

~~Unfounded - when the worker determines through the investigation that there is insufficient evidence that abuse or self-neglect occurred. When the worker has been unable, for good cause, to gather sufficient facts to support a decision within the time frames allowed, the report must be determined unfounded.~~

~~Unable to Locate - when the APS worker has made a good faith attempt to locate the subject(s) of the report but has been unable to locate them, this case status determination must be used.~~

~~Information and Referral Only - when allegations do not meet the criteria of abuse/neglect as defined by statute or regulation, but the APS worker has spent time referring to other appropriate resources, this case status determination must be used.~~

~~7-007.02 Perpetrator Notification: Upon completion of an investigation, and with a case status determination of either Court-Substantiated or Department-Substantiated, the Department must provide the perpetrator with written notice of the determination of the case and that his/her name will be entered into the Adult Protective Services Central Registry. The notice must be mailed certified, return receipt requested. A copy of this notice and proof of delivery must be retained in the case file. The APS worker must use the current perpetrator notification form to complete this duty (see Appendix).~~

~~7-007.03 Report to the County Attorney: Upon completion of an investigation, the Department must provide a written report to the appropriate county attorney if it is believed that a violation of the Adult Protective Services Act has occurred. A copy of this report must be retained in the case file.~~

~~7-007.04 Law Enforcement Notification: Upon completion of the investigation, the Department must provide a written report to law enforcement.~~

~~7-007.05 Record Keeping: Records are maintained during investigation to:~~

1. ~~Support decision-making;~~
2. ~~Maintain an ongoing assessment of the vulnerable adult's needs from the vulnerable adult's perspective as well as the community and the state's perspective;~~

3. ~~Document the service needs of the vulnerable adult;~~
4. ~~Document the need for legal intervention;~~
5. ~~Record contacts made and information gathered during the course of the investigation; and~~
6. ~~Comply with relevant state statutes.~~

~~7-008 SERVICE COORDINATION~~

~~The determination to open a case for service coordination is made at the end of the investigation. Decisions regarding the types of services offered are made with the vulnerable adult or his/her legal representative during development of the service plan. The Department may provide direct services, refer to other service providers or contract for needed services.~~

~~Service coordination must be implemented only if the vulnerable adult or his/her legal representative accept ongoing service coordination or when legal intervention is being initiated.~~

~~All vulnerable adults involved with APS Service Coordination are provided with the following services:~~

- ~~A service plan developed with the vulnerable adult or his/her legal representative to address the issues that brought the vulnerable adult to the attention of APS;~~
- ~~Service coordination; and~~
- ~~Referrals to appropriate resources.~~

~~Ongoing service coordination may be provided for a period of 180 days. For good cause, and with the APS supervisor's approval noted in the case file, a one-time extension of 180 days may be granted.~~

~~Ongoing assessment and services must be approached in the least intrusive and least restrictive manner possible. Priority is given to providing safety and reasonable opportunities for vulnerable adults to be as independent as possible by utilizing all appropriate services available. Service plans are developed and implemented to assure opportunities for time-limited intervention to correct the conditions which brought the vulnerable adult to the attention of the Department.~~

~~While recognizing the importance of family and community input, the Department's first responsibility is to the vulnerable adult. When it is appropriate, family members should participate in decisions involving a vulnerable adult family member.~~

~~To promote self-care and independent living, consideration must first be given to:~~

- ~~Assisting the vulnerable adult in building a support network; and~~
- ~~Linking the vulnerable adult or their family/caregiver with community services that can be independently accessed.~~

~~When community-based services and/or programs are not available or appropriate, contracted or staff-provided services may be considered.~~

~~Vulnerable adults must receive appropriate services to address the presenting problem, reduce risk to the individual in the present and future, and provide opportunities to be as independent as possible. The work at this phase occurs through a collaborative effort on the part of the Department, the vulnerable adult, and the vulnerable adult's family and community, as appropriate.~~

~~The final piece of service coordination evaluates the progress of the case and case closure.~~

~~7-008.01 Department Roles and Responsibilities~~

~~7-008.01A Role of Adult Protective Services Worker: The role of the APS Worker during this phase is to work in partnership with the vulnerable adult, the APS Supervisor, other staff, and the community to ensure a quality, comprehensive service delivery. The APS worker's role and responsibilities during service coordination are to:~~

1. ~~Conduct and complete an ongoing needs assessment;~~
2. ~~Maintain the vulnerable adult's safety;~~
3. ~~Develop and implement a service plan to address the identified issues and reduce the present risk of abuse or self-neglect;~~
4. ~~Provide and coordinate services to assist the vulnerable adult and his/her family as appropriate in resolving issues;~~
5. ~~Determine whether the service plan to remedy the abuse/neglect is working and modify as necessary;~~
6. ~~Prepare the vulnerable adult for case closure; and~~
7. ~~Close case.~~

~~7-008.01B Role of Adult Protective Services Supervisor: The role of the APS Supervisor is to respond to and meet the needs identified by APS workers. APS Supervisors have a responsibility to ensure that the tools and resources necessary for the delivery of services to vulnerable adults are available and accessible to APS staff. The APS supervisor's responsibilities during service coordination are to:~~

1. ~~Provide support, consultation and assistance to the worker during critical decision points;~~
2. ~~Provide, develop, and maintain a comprehensive knowledge base for consultation, education and support;~~
3. ~~Evaluate worker's skill and implement training to enhance worker's skill;~~
4. ~~Intervene in Department, community or legal system to ensure outcomes of service coordination are achieved;~~
5. ~~Support, facilitate, or develop the use of collaboration to enhance quality service delivery; and~~
6. ~~Identify and assist in removing barriers to service delivery.~~

~~7-008.02 Service Coordination Activities: The worker must gather, compile, and document information necessary to develop a service plan within 15 days of case status determination.~~

~~7-008.02A Outside Opinion: The APS worker may obtain a physician's or other mental health professional's opinion to assist in determining if the vulnerable adult is in need of a substitute decision-maker. The APS worker must use the Department's checklist for competency determination form (see Appendix) or obtain a statement from the physician or mental health professional when necessary.~~

~~7-008.02B Worker Tasks: The APS worker must complete the following tasks when initiating service coordination:~~

1. ~~Determine what action is necessary to protect the vulnerable adult and promote self-care and independent living. This may be determined by evaluating the following:~~

   a. ~~Specific problems relating to care/protection of the vulnerable adult;~~
   b. ~~Positive and negative factors in the environment;~~
   c. ~~Strengths and weaknesses of the vulnerable adult;~~
   d. ~~Vulnerable adult's and/or others' capacity and motivation to deal with these problems;~~
   e. ~~Possible approaches to solving these problems;~~
   f. ~~Specific goals for improved care/protection of the vulnerable adult; and~~
   g. ~~Decisions about which services will be provided, how and by whom, including referral to other community services and mobilization of the vulnerable adult's resources.~~

2. ~~Determine whether "arranging for legal services" is needed. (See 473 NAC 7-008.06.)~~
3. ~~Discuss the findings of the investigation and needs assessment with the vulnerable adult and/or his/her legal representative, if any.~~
4. ~~Explain to the vulnerable adult and/or his/her legal representative, if any, the services that are available through the local office and other community services.~~
5. ~~Obtain acceptance of services from the vulnerable adult or his/her legal representative, if any. The vulnerable adult or his/her legal representative's signature on the current service application form (see Appendix) indicates acceptance of service coordination.~~

~~a. If the vulnerable adult or his/her legal representative accept service coordination, the APS worker must develop a service plan/contract with the vulnerable adult, utilizing share decision-making, as appropriate. The service plan/contract will state the actions needed to reach the desired outcomes. Continuous evaluation of the service plan/contract will measure progress in the accomplishment of the outcomes. The service plan/contract may be revised as needed to achieve the desired outcome(s). The APS worker must use the Department's current APS Service Plan/Contract Form (see Appendix).~~

~~6. Arrange for the provision of service which may include, but not be limited to, medical care, mental health care, legal services, transportation, home health care or provision of food, clothing, shelter or supervision. The worker must determine categorical eligibility and authorize necessary purchased services under the Social Services Block Grant.~~

~~a. The APS worker checks the Department's information systems to determine if a case exists.~~
~~b. The APS worker must explore other funding options to obtain services necessary for the vulnerable adult.~~
~~c. The APS worker may purchase services under the SSBG for the vulnerable adult without regard to income (WI) on a time-limited basis if no other options exist and those services are necessary to safeguard the vulnerable adult.~~

~~7-008.03 Service Coordination Outcomes: Outcomes may vary depending upon each specific case plan. One or more of the following outcomes must be documented in the case file:~~

~~1. The adult victim of abuse or self-neglect is safe in either his/her home or appropriate out-of-home placement;~~
~~2. Necessary legal assistance or intervention is initiated to protect the vulnerable adult and/or his/her estate;~~
~~3. Families/caregivers are better able to care for the adult victim of abuse or self-neglect; and/or~~
~~4. The vulnerable adult receives needed medical care or supplies and appropriate services to stabilize and remedy the abuse or self-neglect.~~

~~7-008.04 Arranging and Coordinating Health and Social Services: The APS worker must involve the vulnerable adult and/or his/her legal representative when arranging health and social services. This includes:~~

~~1. Locating or assisting the vulnerable adult to locate needed service providers;~~
~~2. Providing information to the service provider(s) concerning the vulnerable adult's need for the services;~~

~~3. Providing information and/or guidance to the vulnerable adult concerning the reason for the referral to the service resource; and~~
~~4. Providing follow-up contact with the service provider and the vulnerable adult. To accomplish this, the APS worker must:~~

~~a. Determine whether the service is meeting the vulnerable adult's needs; and~~
~~b. Determine if the vulnerable adult is experiencing problems using the service and explore with the vulnerable adult solutions to problems that are identified.~~

~~The APS worker must use supportive community resources when available.~~

~~7-008.05 Arranging and Coordinating Substitute Financial Management~~

~~When the APS worker concludes that the vulnerable adult is unable to manage his/her financial affairs, it is necessary to determine the degree of assistance necessary. The APS worker must involve the vulnerable adult to the degree possible, using the least restrictive and least intrusive alternatives. The following alternatives must be explored:~~

~~7-008.05A Power of Attorney: Power of attorney means a document that is given voluntarily between a person (called a principal) and another person (called an attorney in fact) which allows the attorney in fact to make decisions on the principal's behalf.~~

~~7-008.05B Durable Power of Attorney for Health Care: Durable Power of Attorney for Health Care means a document through which a principal authorizes an attorney in fact to make health care decisions on the principal's behalf.~~

~~When the APS worker and the vulnerable adult conclude that his/her best interest would be served by giving power of attorney to another individual or to a corporation, the APS worker, if requested by the vulnerable adult, must assist the adult to contact an attorney for legal advice concerning the assignment of power of attorney.~~

~~7-008.05C Protective Payee: A protective payee is an individual assigned by HHSS to receive public assistance payments on behalf of another person.~~

~~When the APS worker has determined that it would be in the best interest of the vulnerable adult to have their benefits managed by a protective payee, the APS worker must:~~

~~1. Document the information necessary to establish a protective payee; and~~
~~2. Contact the vulnerable adult's eligibility worker to request that a protective payee be appointed.~~

~~7-008.05D Representative Payee: A representative payee is a person appointed by the Social Security Administration (SSA) to receive and manage benefits administered through SSA.~~

~~When the APS worker has determined that it would be in the best interest of the vulnerable adult to have their social security benefits managed by a representative payee, the APS worker must:~~

1. ~~Contact the Social Security Administration to request that a representative payee be appointed; and~~
2. ~~Document the need for establishment of a representative payee.~~

~~7-008.06 Arranging for Legal Services~~

~~When the APS worker concludes that it is necessary to legally intervene to protect the vulnerable adult from harm or threatened harm, the APS worker must determine which of the following alternatives needs to be accomplished and take the steps necessary to complete the task.~~

~~7-008.06A Involuntary Adult Protective Services: The worker must request that the county attorney file a petition for involuntary adult protective services when an emergency exists for a vulnerable adult and no other alternative protection is available.~~

~~The APS worker must continue to monitor the vulnerable adult's situation until a petition has been filed and the vulnerable adult has been removed from danger or other action to protect the vulnerable adult is in place.~~

~~7-008.06B Mental Health Commitment: When the APS worker determines that a vulnerable adult requires inpatient or outpatient mental health treatment but law enforcement has not deemed emergency protective custody appropriate, the worker must contact the county attorney and request a mental health commitment hearing.~~

~~During this period the APS worker must continue to monitor the vulnerable adult's situation until it has been resolved through the mental health commitment process or other action resolves the situation.~~

~~7-008.06C Guardianship: When the APS worker has determined that the vulnerable adult is unable to make, communicate, or carry out responsible decisions concerning him/herself, the APS worker must contact an attorney to file a petition for a finding of incapacity and establish a guardianship.~~

~~If an emergency exists, the APS worker must contact an attorney to file for an order for a temporary guardian to address the emergency.~~

~~The APS worker must provide information to the attorney who will file the petition which supports the need for guardianship and which will assist the attorney in filing the necessary papers.~~

~~The APS worker may not sign as the petitioner in a guardianship case unless the attorney filing the petition is a county attorney doing so in his/her official role as county attorney or the attorney is a special representative of the Nebraska State Attorney General. If direction is needed in this area, APS staff must contact the Department's Legal Division.~~

~~7-008.06D Conservatorship: When the APS worker has determined that the vulnerable adult is unable to manage his/her estate, property, and/or other business affairs, the APS worker must contact an attorney to file a petition for establishing a conservatorship.~~

~~If a vulnerable adult has no conservator and an emergency exists, a temporary conservator may be petitioned for.~~

~~A conservatorship may be established for a vulnerable adult by a court if it determines the vulnerable adult has property which will be wasted or dissipated unless proper management is provided and the vulnerable adult is unable to effectively manage his/her own estate, property, and/or other business affairs because of:~~

1. ~~Mental illness or deficiency;~~
2. ~~Physical illness or disability;~~
3. ~~Chronic use of drugs;~~
4. ~~Chronic intoxication;~~
5. ~~Confinement;~~
6. ~~Lack of discretion in managing benefits received from public funds; or~~
7. ~~Detention by a foreign power.~~

~~When the worker determines that the vulnerable adult may need legal services other than protective legal proceedings, the worker must refer the vulnerable adult to an appropriate source of legal assistance and must coordinate and arrange those services.~~

~~7-008.07 Working with Families and Caregivers~~

~~The APS worker must assist the caregiver and family members of a vulnerable adult, as appropriate. This includes:~~

1. ~~Assistance to the caregiver and family members to assess problems and develop plans to deal with problems requiring the most immediate attention;~~
2. ~~Referral to community programs and services;~~
3. ~~Assistance to the caregivers and family members to acknowledge their need for socialization outside the home; and~~
4. ~~Assistance to the caregivers and family members to identify feelings of anger, frustration, and stress.~~

~~7-008.08 Evaluation of Progress~~

~~The primary purpose of evaluation of progress is to measure what changes have occurred in the factors identified during the investigation. The APS worker collects and organizes information, measures and analyzes information, and evaluates and interprets the meaning of information with the assistance of his/her supervisor, as needed.~~

~~The evaluation of progress is a continual service coordination function. Once the service plan is established, the APS worker's contacts are focused on assessing the progress made towards achieving established goals. Once the established goals are attained, the APS worker, in consultation with the APS supervisor as needed, may work toward case closure.~~

~~7-008.09 Case Transfer~~

~~When a decision has been made to transfer an open case because the adult has moved and there is a continued need for APS service coordination, the transfer is completed in a timely manner to provide for continuity. The APS worker prepares a case transfer summary and updates the case file to include the following information:~~

1. ~~Current members of family;~~
2. ~~Guardian/Conservator/Payee/Power of Attorney status;~~
3. ~~Date of case opening and previous case opening, if any;~~
4. ~~Problems, nature of referral, reason for case opening;~~
5. ~~Other significant problems identified by worker;~~
6. ~~Services used and offered to the vulnerable adult;~~
7. ~~Conclusions of assessments during period case was open;~~
8. ~~Current situation and evaluation of change in the case including, but not limited to, family's strength and weaknesses, vulnerable adult's strength and weaknesses, and how the vulnerable adult's situation is different from that at case opening;~~
9. ~~Service providers and other persons still involved with the vulnerable adult and who will remain involved with the vulnerable adult;~~
10. ~~Placement history: names of providers, date of placement, and appropriateness of previous providers. Note if placement was voluntary or court-ordered and reasons for placement;~~
11. ~~Special characteristics of the family (for example, language, literacy, etc.);~~
12. ~~Recommendations regarding future service coordination, such as appropriateness of other services, court involvement, etc; and~~
13. ~~Date of transfer, reason for transfer, and worker's signature.~~

~~The APS worker updates any necessary service documentation, completes filing, and makes any necessary changes on the APS Central Registry and current client information system. The APS worker must complete the current transfer summary sheet (see Appendix) and attach it to the case file.~~

~~Once the case file is ready for transfer, the APS worker notifies his/her APS supervisor, who is responsible for ensuring the case file is reviewed and sent to the appropriate local office.~~

~~7-009 CASE CLOSURE~~

~~Department intervention and/or involvement is terminated and a case is closed on the basis of one or more of the following:~~

1. ~~The vulnerable adult is safe and risk of future abuse/neglect has been sufficiently reduced;~~
2. ~~The goals established in the service plan have been achieved;~~
3. ~~The vulnerable adult refuses services and no legal grounds exist to pursue court action; or~~
4. ~~The vulnerable adult can't be located or the vulnerable adult is deceased and there is no need for APS involvement.~~

~~Prior to case closure, the worker assists in arranging ongoing support and services that may be needed by the vulnerable adult or his/her family following termination of Adult Protective Services.~~

~~The rationale for case closing is documented in the case file narrative.~~

~~7-010 RECORD RETENTION~~

~~7-010.01 Substantiated Investigations~~

~~The required documentation from local office files must be retained permanently. Identifying case file information is retained in the APS Central Registry.~~

~~7-010.02 Unfounded Investigations~~

~~Identifying case file information must be retained for a minimum of one year by the local office. No identifying case file information is retained in the APS Central Registry.~~

~~7-011 APS CENTRAL REGISTRY: The Department has established and maintains an APS Central Registry, in which each report of alleged abuse is recorded. The Central Office of the Department maintains this automated system. The Central Registry contains information regarding the vulnerable adult, the alleged perpetrator and other data gathered for statistical purposes. If an investigation is completed and the report is determined to be unfounded, all identifiable data is expunged from the Registry.~~

~~7-011.01 Release of Registry Information~~

~~7-011.01A Request by or on Behalf of Vulnerable Adult~~

~~Upon request, a vulnerable adult who is the subject of a report, or if the vulnerable adult is legally incapacitated, the guardian or guardian ad litem of the vulnerable adult, is entitled to receive a copy of all information contained in the Registry pertaining to his/her case. The Department must not release data that would be harmful or detrimental to the vulnerable adult or that would identify or locate a person who, in good faith, made a report or cooperated in an investigation unless ordered to do so by a court of competent jurisdiction.~~

~~7-011.01B Request for Registry Information as Background Check~~

~~The Registry is used to complete pre-employment checks for individuals, facilities or programs with employees or volunteers who work with vulnerable adults or children. The Registry is also used by agencies or programs who complete background checks for persons wishing to adopt a child or children. Information is released from the Registry only when a valid signed release of information is obtained from the individual whose name is being checked.~~

~~Information released to a third party is limited to:~~

- ~~Record Found~~
- ~~No Record Found~~

~~If the local office receives request for background checks to be completed for pre-employment or other reasons from providers other than HHSS, the requester must be advised to contact the APS Program Manager in the Central Office, who will give the requestor the procedures to follow.~~

~~7-011.02 Request for Amendment, Removal, or Expunction of Registry Information~~

~~If the local office receives a request for amendment, removal, or expunction of registry information, staff must advise the requestor to contact the APS Program Manager in the Central Office, who will advise the requester of the procedures to follow.~~

~~The APS Program Manager or designee will inform the requestor that a letter must be sent in asking for expunction or removal of their name from the Registry. Once this letter has been obtained by the APS Program Manager, the case file is requested from the HHS local office and reviewed. Following the review of the case file, an administrative decision is made to:~~

1. ~~Expunge or remove the requestor's name from the Registry because the case file does not support the case status determination; or~~
2. ~~Deny the request for expunction because the case file supports the case status determination that placed the requestor's name on the Registry.~~

~~A letter is sent to the requestor following the case file review. The letter will contain one of the responses listed above. The requestor is given the procedures to follow to appeal this administrative decision and request a hearing from the Department.~~

~~7-011.02A Request by or on Behalf of Vulnerable Adult~~

~~At any time subsequent to the completion of the Department's investigation, a vulnerable adult, his or her legal guardian, or a person who allegedly abused a vulnerable adult and is mentioned in a report believes the information in the report is inaccurate or being maintained in a manner inconsistent with the APS Act, he or she may request the Department to amend or expunge identifying information from the report or remove the record of such report from the Registry. To request expunction, contact must be made with the APS Program Manager in the Central Office of the Department.~~