

**Title of Proposed Rule: Adult Protective Services Program Revisions**

**CDHS Tracking #: 17-06-26-01**

Office, Division, & Program:  
OCAI, AAS, APS

Rule Author:  
Mindy Kemp

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**STATEMENT OF BASIS AND PURPOSE**

**Summary of the basis and purpose for new rule or rule change.**

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.*

12 CCR 2518-1 are the program rules for the Adult Protective Services (APS) program, as authorized by Title 26, Article 3.1, C.R.S. The APS program provides protective services for at-risk adults who are experiencing mistreatment or are self-neglecting. The purpose of this proposed rule change is to update sections of the Adult Protective Services (APS) rules to reflect the changes made in recent legislation (HB15-1370, HB17-1253, HB17-1284 and SB17-254) and to make technical corrections.

HB17-1284 implements a process requiring employers of specific professions to conduct a background check to determine if an applicant has been substantiated in an APS case of mistreatment against an at-risk adult. In order for these checks to take place by January 1, 2019 as required in the bill, APS must make changes to rule. The proposed rule changes in this packet related to HB17-1284 address statutory changes to definitions, confidentiality, training requirements and investigations.

HB17-1253 creates a new mandatory reporting requirement for financial broker-dealers and financial planners. This rule packet addresses the legislative changes impacting the APS program in the investigation and service provision sections of APS rules.

HB15-1370 expanded the exceptions to the APS confidentiality requirements. This rule packet ensures consistency between the confidentiality requirements in statute and those in rule as a result of this change to the law.

SB17-254 included funding beginning July 1, 2017 for a new quality assurance (QA) unit with the Administrative Review Division at the Colorado Department of Human Services (CDHS). This rule packet contains rule revisions necessary to provide better clarity to ensure the casework reviews conducted by the new QA unit are as objective as possible.

**State Board Authority for Rule:**

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

**Program Authority for Rule:** *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26-3.1-108, C.R.S. (2015)	The state department shall promulgate rules for the implementation of this article.

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

Some definitions are repeated in rule from statute which is consistent with existing rules that include some definitions that exist in statute. Ensuring that the definitions are in rule provides APS staff the ability to easily understand their program requirements within one document.

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## **REGULATORY ANALYSIS**

### **1. List of groups impacted by this rule.**

*Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?*

Groups that will benefit from these rules are at-risk adults, county APS staff, and alleged and substantiated perpetrators of mistreatment. County department APS staff will be required to successfully complete investigations training and to collect additional demographic and contact information from alleged perpetrators.

The successful completion of investigations training will provide APS caseworkers and supervisors with the skills needed to ensure the quality and standardization of investigations conducted statewide, including accurate findings related to the mistreatment allegations and the perpetrator. Alleged perpetrators will benefit from consistency in determination of findings so that those who were alleged but did not commit mistreatment will not be reported to prospective employers as having a substantiated mistreatment. The overall result of these changes will ultimately benefit at-risk adults who will be provided improved protective services.

### **2. Describe the qualitative and quantitative impact.**

*How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?*

In the short term, the rules contained in this rule packet related to the implementation of HB17-1284 will ensure adequate training for county APS caseworkers and supervisors to increase proficiency and consistency in investigative practices, as well as increase the accuracy and validity of findings, the results of which will be used to identify substantiated perpetrators that will be identified in employer background checks beginning January 1, 2019. The State Department APS staff will be responsible for identifying and contracting with a vendor to develop and deliver the training identified in HB17-1284 to all county APS caseworkers and supervisors by July 1, 2018.

In the long term, once the employer background checks begin on January 1, 2019, employers will be provided information on whether applicants for positions that will provide direct care to at-risk adults have been substantiated in an APS case of mistreatment against an at-risk adult. In FY 2016-17, the APS program had a total of 9,121 cases, 62 percent of which pertained to allegations of mistreatment (physical or sexual abuse, caretaker neglect, and exploitation) and the remainder of which were for self-neglect. Forty five percent of the mistreatment allegations were substantiated by an APS investigation. Furthermore, 25 percent of the identified perpetrators of these mistreatment allegations work in a professional capacity with at-risk adults. Ultimately, at-risk adults in Colorado will benefit from the employer background checks of the APS data system (CAPS) as the checks will decrease the risk that those with a history of mistreating at-risk adults will be in positions that allow them to reoffend.

Implementation of HB17-1253 will also allow for improved investigation and service provision for at-risk adults in cases of financial exploitation. Exploitation accounted for 25 percent of the reports the APS program received in FY 2016-17 and is the only allegation category that has steadily increased in frequency over the years. In addition to requiring that the Securities Commissioner provide reports received to the local APS for follow up, this bill allows for county APS staff to work with broker-dealers in delaying disbursements for suspicious transactions and allow county APS staff to have better access to financial records to aid in investigations.

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HB15-1370 expanded the exceptions to the APS confidentiality requirements to include access to APS records to county department auditors, as necessary, to complete financial or performance audits.

SB17-254 provided ongoing funding to support four quality assurance staff within the Administrative Review Division (ARD) to conduct case reviews of APS cases. The process used by ARD will be similar to that used in the Child Welfare program and will ensure greater adherence by county department caseworkers and supervisors to the APS statutes and rules as well as consistency in practice across the state. The quality assurance process will include a method to provide feedback to county departments to make them aware of areas for improvement.

Some technical corrections to rule are also being recommended with this rule packet.

### 3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just “no impact” answer should include “no impact because....”***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

The rule changes proposed in this packet related to HB17-1284 will have a fiscal impact on CDHS. Funding to support the fiscal impact of the bill was provided for in the Fiscal Note and State General Funds were appropriated for these costs. Specifically, CDHS will incur the costs to hire a vendor to develop and deliver the investigations training to county department APS staff. CDHS will also incur the cost of lodging for those county department APS staff who will need to travel to attend the investigations training. The total cost for training and lodging is estimated to be \$147,600 in FY 2017-18 and \$70,800 in FY 2018-19 and beyond.

While the rule changes proposed in this packet to provide better clarity to ensure the casework reviews conducted by the new quality assurance unit are as objective as possible do not have a cost associated with their implementation, it is worth noting that \$276,612 was appropriated in SB17-254 for FY 2017-2018 and \$277,907 for FY 2018-19 and beyond to support the cost of four quality assurance staff within the ARD at CDHS.

There are no fiscal impacts identified for the rule changes related to HB17-1253 or HB15-1370 and no fiscal impacts as a result of the technical changes.

### County Fiscal Impact

County Departments may incur travel and per diem costs for APS caseworkers and supervisors to attend the 3-day investigations training in FY 2017-18. Sessions will be offered regionally to limit travel required. County departments may use a portion of their APS Administration Allocation for these expenses, which could reduce the county fiscal impact to the 20 percent match required for State General Fund allocations. Mileage and per diem costs are established by each county. In addition, it is unknown which regional session a worker will attend, whether that worker will incur per diem costs, or the extent of the travel costs that might be incurred. Therefore, an estimate of the cost to each county is unknown.

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Federal Fiscal Impact

There is no federal fiscal impact for this rule packet.

Other Fiscal Impact (such as providers, local governments, etc.)

No other agencies are impacted by these rules.

**4. Data Description**

*List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?*

The Colorado APS Annual Report for FY 2015-16 was used as a reference guide to understand the number of APS cases, types of cases, etc. for this rule packet. No other studies or questionnaires were used in developing this rule packet.

**5. Alternatives to this Rule-making**

*Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just "no alternative" answer should include "no alternative because..."*

There are no alternatives to this rule-making, as these changes are necessary to implement recent legislation.

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mindy.kemp@state.co.us**OVERVIEW OF PROPOSED RULE**

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
30.100	Addition	N/A	Adds definition of "CAPS check" related to employer checks.	Pursuant to HB17-1284 – CAPS Background Checks	No
30.100	Update	Definition of "caretaker neglect".	Updates definition of caretaker neglect to include the Access to Medical Aid in Dying statute to the list of exceptions for what constitutes caretaker neglect.	Pursuant to §25-48-116 (3)(a), C.R.S. – Medical aid-in-dying.	No
30.100	Update	Definition of "collateral contact".	Updates definition collateral contact to provide more clarification on who is considered a collateral contact when conducting an investigation.	The change is being made to ensure adequate investigations are completed and so that the quality assurance unit is able to provide a more objective review of the quality of the investigation.	No
30.100	Addition	N/A	Adds definition for "Date of Notice" for substantiated perpetrator notification.	Necessary change to implement due process pursuant to HB17-1284. This will be part of the investigation process.	No
30.100	Addition	N/A	Adds definition of "good cause".	This definition will be applied when conducting quality assurance reviews and will be needed for the appeals process pursuant to HB17-1284 when those rules are developed in a subsequent submission.	No
30.100	Update	Definition of "self-neglect".	Updates definition of self-neglect to include the Access to Medical Aid in Dying statute to the list of exceptions for what constitutes caretaker neglect.	Pursuant to §25-48-116 (3)(a), C.R.S. – Medical aid-in-dying.	No
30.250, B, 2	Technical correction	Rule refers to antiquated terms no longer used - "physical, environmental, resources and financial, medical, mental and behavioral, social systems status".	Updates language to reflect current terms regarding assessment- "safety and risk as determined by the client assessment".	Language should have been updated with the previous rule revision, which was effective January 30, 2017.	No
30.250, E, 1	Technical correction	The term exploitation is used in addition to mistreatment and self-neglect.	Exploitation is now included within the definition of "mistreatment"; therefore "exploitation" is redundant and	This rule should have been updated with the previous	No

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
			should be removed.	rule revision effective January 30, 2017.	
30.250, E, 4	Technical correction	Grammatical error in the word "teams".	Added apostrophe.	Grammatical correction.	No
30.250, E, 8	Removal of current rule	Rule regarding release of a case record to the client upon request.	Removes this exception to confidentiality.	This rule is incompatible with APS confidentiality statute and therefore needs to be removed.	No
30.250, E, 8	Addition	N/A	Addition of a rule allowing the release of confidential case information for purposes of a county audit pursuant to 26-1-114.5, C.R.S.	Pursuant to HB15-1370 – County Audits	No
30.250, E, 9	Addition	N/A	Addition of a rule to allow the release of limited information for purposes of perpetrator notification.	Pursuant to HB17-1284 – CAPS Checks.	No
30.250, G, 1 and 30.250, G, 2	Technical correction	Rules regarding releasing minimum necessary/redacted information to persons essential to court orders, criminal investigations, AP teams, provision of services, and client requests.	Addition of "or APS" following the term "criminal investigations" to provide clarification that these releases are allowed in conducting APS investigations, as well.	Change necessary to provide clarity in APS practice.	No
30.250, G, 3	Technical correction	Rule regarding redacting reporting party information unless court ordered or the reporting party gives consent.	Adds "or when sharing the report with law enforcement per 26-3.1-102, C.R.S." as an exception to redacting reporting party information to ensure law enforcement is receiving the complete APS report.	Pursuant to §26-3.1-102, C.R.S.	No
30.320, B	Technical correction	The date for required background checks for county APS staff is written as June 1, 2010.	The background check requirement was not implemented in statute until May 29, 2012 and this revision corrects this date in rule.	Needed to have rule align with the date in statute	No
30.320, C, 6	Technical correction	Rule is incorrectly cited as 30.320, C, 4.	Corrected citation to 30.320, C, 6.	Needed to follow numerical order.	No
30.330, A	Technical correction	Rule regarding the county departments ensuring all APS staff completes required training.	Grammatical change to read "as outlined in section 30.330" instead of "as follows."	Technical correction due to reorganization of the Training Requirements section.	No
30.330, B	Addition	N/A	Addition of rule to clarify the requirement that all APS supervisors and caseworkers must meet minimum qualifications and certification requirements to perform the duties of APS work.	Pursuant to HB17-1284, clarifies that APS staff need training. Changes better align APS requirements with Child Welfare's current certification Rules and practice.	No
30.330, B, 1	Reorganization	Section 30.330, A, 1 relates to caseworker completion of the Pre-Academy Workbook.	This requirement now at 30.330, B,1 and adds the same requirement for supervisors.	Rules are being reorganized for user efficiency. The addition of the supervisor	No

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
				requirement is to align rule with practice that has been in place for over two years.	
30.330, B, 2	Reorganization and shortens time frame for completion.	Section 30.330,A, 2 relates to caseworker completion of training academy.	This requirement is now at 30.330,B,2 and adds the same requirement for supervisors. It shortens the time frame for completing Training Academy from nine months to six months from hire/transfer to the APS program.	Rules are being reorganized for user efficiency. The addition of the supervisor requirement is to align rule with practice that has been in place for two years. Having Training Academy required within six months of hire is important to ensure effective APS practice by new workers and will ultimately benefit at-risk adults.	No
30.330, B, 3	Reorganization	Section 30.330,A,2,a relates to requesting case consultation prior to completing training.	Moves this requirement to 30.330,B,3	Rules are being reorganized for user efficiency.	No
30.330, B, 4	Addition	N/A	Adds a rule that exempts a newly hired worker or supervisor from the certification process if they were certified in APS within the past four years.	Sometimes APS staff will leave one county to go to work in another and there may be a gap in time between the two positions. This rule allows those workers to be exempted from new worker training if they had certification in their former county within the past four years.	Originally allowed for a two year look back. Sub-PAC requested that the look back be four years to align with Child Welfare.
30.330, C	Reorganization	Section 30.330,A,4 relates to case aide training requirements	Rule moved from 30.330, A, 4 to 30.330, C	Rules are being reorganized for user efficiency. The rule requirement is unchanged.	No
30.330, D	Technical Correction and Reorganization	Section 30.330,B is the rule regarding continuing education requirements for each fiscal year.	Rule moved from 30.330, B to 30.330, D. Revised to align with the language used for initial certification in 30.330, B and to better clarify the time frames for completing continuing education hours for recertification.	Rules are being reorganized for user efficiency. The rule language has been updated to align with 30.330, B. Clarification related to time	No

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				frames for completing continuing education hours is needed to help county staff understand their requirements.	
30.330, E	Reorganization, Clarification	Section 30.330, B identifies continuing education hours must be "relevant to the APS Program and client populations."	Moved from 30.330, B, 2 to 30.330, E. Addition of language at 30.330, E, 1-7 to clarify what topics relate to the APS program and client populations. 30.330, C,2 is also moved to Section 30.330, E, 7 related to supervisory training. Supervisory training is opened up as an option for lead workers.	Rules are being reorganized for user efficiency. Added detail related to training topics is needed due to confusion about what trainings were related to the APS program and client populations as evidenced by recent statewide review of documented training hours. Lead workers were formerly not able to use supervisory training to meet their APS training requirements.	No
30.330, F	Reorganization, Update	Rules at 30.330, C, 1-3 related to the number of hours of state vs non-state continuing education hours taken each year. Provides options for non-state provided training.	Rules moved from 30.330, C, 1-3 to 30.330, F. Changed language to simplify and standardize state provided training requirements to be "at least half" of the required overall continuing education requirement.	Makes the calculation of state provided training hours easier for county APS staff. Options for non-state provided trainings did not change.	No
30.330, G	Reorganization, Technical Correction	Rules at 30.330, C 4 details the number of continuing education hours for part-time staff.	Rules moved from 30.330, C, 4 to 30.330, G. Hours remain prorated per FTE, but FTE is no longer listed in ranges. The FTE amounts are now listed as "up to" 100%, 75%, 50%, and 25%. Language changed to refer to hours required for "recertification", rather than "continuing education".	Rules are being reorganized for user efficiency. Change to the percentage of FTE aligns with Child Welfare format in Rule to eliminate confusion for county workers who work in both programs.	No
30.330, H	Reorganization	Rule at 30.330, C requires documentation of training in CAPS within 14 days.	Rule moved to 30.330, H. No change to rule language or content.	Rules are being reorganized for user efficiency. The rule requirement is unchanged.	No
30.510, A, 1-2	Reorganization, Addition	Rule at 30.510, A is related to the completion of an investigation unless the client is not an at-risk adult or if the client refuses to participate in the investigation.	Part of 30.510, A relating to a client refusing to participate in an investigation has been moved to 30.510, A, 2. Language has not changed. New clarifying rule has been added at 30.510, A, 1 to clarify that the APS case must be closed if the client is not an at-risk adult, though workers	Clarification is needed to better ensure compliance with existing statute and rule regarding statutory authority for APS intervention. County	No

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			may refer the client to other applicable county programs/resources.	representatives on APS task group identified this change as helpful in supporting their response to community stakeholders in instances like this.	
30.510, A 3	Addition	N/A	This rule provides additional detail in support of the requirement at 30.520, A, 4 to ensure that reasonable efforts are made to interview the client, witnesses, collateral contacts, and others who have information relevant to the investigation.	As a result of HB17-1284, it is important for APS investigations to be thorough and findings to be accurate since information will be provided during employer background checks. Formal and informal quality assurance of APS case records has identified a need to provide greater clarity about this expectations in Rule.	No
30.510, A, 4	Addition	N/A	This rule provides additional detail in support of the requirement at 30.520, A to ensure that the allegations reported to APS are investigated, as well as any new allegations identified later.	Pursuant to HB17-1284, it is important for thorough investigations are conducted to ensure the accuracy of information provided during employer background checks. Formal and informal quality assurance of cases has shown that greater clarity in Rule is needed to ensure allegations are properly investigated.	No
30.520, A, 5	Update	Rule requires the perpetrator be interviewed, when appropriate and safe.	Changed language to provide clarification around the process for when the alleged perpetrator is unavailable. Addition of language regarding information that needs to be collected from the alleged perpetrator for purposes of notification.	This language change is necessary to ensure consistent practice related to information to be collected from the alleged perpetrator.	No
30.520, A, 6, d	Update	Rule lists "bank records" as an example of evidence that should be collected during an investigation.	Updates language to "bank or other financial records".	Pursuant HB17-1253 other financial records will now be available to APS during	No

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
				investigation.	
30.520, B, 4	Clarification	Current rule states: "If the investigation cannot be completed within this time frame the county department shall document the reason why."	Changes rule to: "If the investigation cannot be completed within this time frame due to good cause the county department shall document the reason why."	The addition of "good cause" is necessary to ensure a more objective case review during quality assurance activities.	No
30.620, C	Addition	N/A	Adds a new involuntary case planning option for clients who may be a victim of exploitation.	Pursuant to HB17-1253, APS has a new option for protecting a client who may not have capacity to make reasonable decisions.	No

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**STAKEHOLDER COMMENT SUMMARY**

**Development**

*The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):*

Adult Protective Services Task Group (created by the Child Welfare Sub-PAC)  
County APS staff  
CDHS Administrative Review Division  
Colorado Human Services Directors Association  
Child Welfare Sub-PAC and PAC

**This Rule-Making Package**

*The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:*

Adult Protective Services (APS) Task Group (created by the Child Welfare Sub-PAC), County APS staff, CDHS Administrative Review Division, Colorado Human Services Directors Association, Child Welfare Sub-PAC and PAC.  
Stakeholders who had previously expressed an interest in and could be impacted by HB17-1284, including home health and long-term care agencies, advocates for disabled persons, Community Centered Boards, Area Agencies on Aging, other employers who will be required to complete CAPS checks for new employees, Disability Law Colorado, Colorado Commission on Aging were also notified of this rule package.  
All APS Task Group meetings were open to the public and proposed Rules were posted on the APS Task Group website at: <https://www.colorado.gov/pacific/cdhs-boards-committees-collaboration/adult-protective-services-task-group>

**Other State Agencies**

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes  No

If yes, who was contacted and what was their input?

**Sub-PAC**

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes  No

Name of Sub-PAC	Child Welfare		
Date presented	September 7, 2017		
What issues were raised?	There was a request that the look-back for certification for APS staff that have a gap in service be changed to four years from the recommended two years so that the time frame aligned with Child Welfare's time frame for this same look-back period. The rule was updated to reflect the four years instead of two years originally proposed by the task group.		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Voice Vote in favor	None	None

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If not presented, explain why.

**PAC**

Have these rules been approved by PAC?

Yes  No

Date presented	September 7, 2017		
What issues were raised?	None		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Voice vote.	None	None

If not presented, explain why.

**Other Comments**

Comments were received from stakeholders on the proposed rules:

Yes  No

*If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.*

## DEPARTMENT OF HUMAN SERVICES

### Adult Protective Services

## ADULT PROTECTIVE SERVICES

### 12 CCR 2518-1

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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## 30.000 ADULT PROTECTIVE SERVICES

### 30.100 DEFINITIONS

The following definitions shall apply to these rules.

"Abuse", pursuant to Section 26-3.1-101(1), C.R.S., means any of the following acts or omissions committed against an at-risk adult:

- A. The non-accidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;
- B. Confinement or restraint that is unreasonable under generally accepted caretaking standards; or,
- C. Subjection to sexual conduct or contact classified as a crime under the "Colorado criminal code", Title 18, C.R.S.

"Adult Protective Services (APS) Program" means the State Department supervised, county department administered program that has the authority to investigate and/or assess allegations of mistreatment and self-neglect of at-risk adults. The APS Program offers protective services to prevent, reduce, or eliminate the current or potential risk of mistreatment or self-neglect to the at-risk adult using community based services and resources, health care services, family and friends when appropriate, and other support systems. The APS Program focuses on the at-risk adult and those services that may prevent, reduce, or eliminate further mistreatment or self-neglect. The APS Program refers possible criminal activities to law enforcement and/or the district attorney for criminal investigation and possible prosecution.

"Allegation" means a statement asserting an act or suspicion of mistreatment or self-neglect involving an at-risk adult.

"Assessment" means the process of evaluating a client's functional abilities to determine the client's level of risk and, in cooperation with the client whenever possible, to identify service needs for the case plan.

"Assumed responsibility", as used in the definition of caretaker, means a person who is providing or has provided recurring assistance to help meet the basic needs of an at-risk adult. The assumption of responsibility can attach by entering into a formal or informal agreement, whether paid or unpaid; by identifying oneself as a caretaker to others; or based on the nature of the situation or relationship between the caretaker and the at-risk adult.

"At-risk adult", pursuant to Section 26-3.1-101(1)(1.5), C.R.S., means an individual eighteen years of age or older who is susceptible to mistreatment or self-neglect because the individual is unable to perform or

obtain services necessary for his or her health, safety, or welfare, or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs.

"CAPS" means the Colorado Adult Protective Services (APS) state department prescribed data system.

"CAPS CHECK" MEANS A CHECK OF THE COLORADO ADULT PROTECTIVE SERVICES DATA SYSTEM PURSUANT TO SECTION 26-3.1-111, C.R.S.

"Caretaker", pursuant to Section 26-3.1-101(2), C.R.S., means a person who:

- A. Is responsible for the care of an at-risk adult as a result of a family or legal relationship;
- B. Has assumed responsibility for the care of an at-risk adult; or,
- C. Is paid to provide care, services, or oversight of services to an at-risk adult.

"Caretaker neglect", pursuant to Section 26-3.1-101(2.3)(a), C.R.S., means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health, safety, or welfare of the at-risk adult is not secured for an at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise, or when a caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an at-risk adult. However, the withholding, withdrawing, or refusing of any medication, any medical procedure or device, or any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, is not deemed caretaker neglect. IN ADDITION TO THOSE EXCEPTIONS IDENTIFIED ABOVE, ACCESS TO MEDICAL AID IN DYING, PURSUANT TO TITLE 25, ARTICLE 48, C.R.S., SHALL NOT BE CONSIDERED CARETAKER NEGLECT.

"Case" means a report that contains information indicating that there is an at-risk adult and a mistreatment category, and the report is screened in for investigation and/or further assessment.

"Caseload average" means the fiscal year monthly average sum of new reports plus ongoing cases per caseworker. The fiscal year caseload average is calculated as:  $[(\text{fiscal year total of new reports}/12) + (\text{beginning cases on July 1} + \text{ongoing cases on June 30}/2)]/\text{FTE on June 30} = \text{caseload average}$ .

"Case Planning" means using the information obtained from the investigation and/or assessment to identify, arrange, and coordinate protective services in order to reduce the client's level of risk for mistreatment and improve safety.

"Clergy member", pursuant to Section 26-3.1-101(2.5), C.R.S., means a priest; rabbi; duly ordained, commissioned, or licensed minister of a church; member of a religious order; or recognized leader of any religious body.

"Client" means an actual or possible at-risk adult for whom report has been received and the county department has made a response, via telephone resolution or open case.

"Collateral contact" means a person who has RELEVANT knowledge about the client's situation that supports, refutes, or corroborates information provided by a client, reporting party, or other person involved in the case. Examples of contacts include, but are not limited to, family members, law enforcement, health care professionals, service providers, facility staff, neighbors, THE REPORTING PARTY, friends, and ANY PERSON WHO PROVIDES/PROVIDED ONGOING CARE OR SUPPORT TO THE CLIENT.

"County Department" means a county department of human/social services.

"DATE OF NOTICE" MEANS THE DATE THAT THE NOTICE OF A SUBSTANTIATED FINDING AGAINST A PERPETRATOR(S) IS MAILED TO THE LAST KNOWN MAILING ADDRESS(ES) OF THE PERPETRATOR(S).

"Enhanced supervision" means CAPS security access that prevents a caseworker from finalizing an investigation, assessment, case plan, or case closure without supervisory approval.

"Exploitation" means an act or omission committed by a person that:

- A. Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk adult of the use, benefit, or possession of anything of value;
- B. Employs the services of a third party for the profit or advantage of the person or another person to the detriment of the at-risk adult;
- C. Forces, compels, coerces, or entices an at-risk adult to perform services for the profit or advantage of the person or another person against the will of the at-risk adult; or,
- D. Misuses the property of an at-risk adult in a manner that adversely affects the at-risk adult's ability to receive health care or health care benefits or to pay bills for basic needs or obligations.

"Facility" means a medical or long-term care facility that provides 24 hour care and oversight for residents, and includes a group or host home, alternative care facility, state regional center, or state mental health facility.

"Financial institution" means a state or federal bank, savings bank, savings and loan association or company, building and loan association, trust company, or credit union.

"Fiscal Year" means the State Department fiscal year, which begins July 1 and ends June 30.

"FTE" means Full Time Equivalent. The actual percentage of time a person works on the APS program shall be considered that person's FTE.

"GOOD CAUSE", EXCEPT AS APPLIED BY A COURT, MEANS EMERGENCY CONDITIONS OR CIRCUMSTANCES WHICH WOULD PREVENT A REASONABLE PERSON FROM MEETING A DEADLINE OR COMPLYING WITH APS RULE OR PRACTICE. EXAMPLES INCLUDE, BUT ARE NOT LIMITED TO, LAW ENFORCEMENT REQUEST TO DELAY THE APS INVESTIGATION; INABILITY TO LOCATE THE CLIENT OR KEY COLLATERALS DESPITE REASONABLE, DOCUMENTED ATTEMPTS; ADDITIONAL TIME REQUIRED TO OBTAIN DOCUMENTS WHICH WERE TIMELY REQUESTED BUT NOT DELIVERED; LACK OF PROPER NOTICE TO THE SUBSTANTIATED PERPETRATOR OF THE AVAILABILITY OF AN APPEAL; ETC.

"Inconclusive finding" means that indicators of mistreatment, exploitation, or self-neglect may be present but the investigation could not confirm the evidence to a level necessary to substantiate the allegation.

"Investigation" means the process of determining if an allegation(s) of mistreatment involving an at-risk adult can be substantiated by a preponderance of evidence.

"Least restrictive intervention" means acquiring or providing services, including protective services, for the shortest duration and to the minimum extent necessary to remedy or prevent mistreatment.

"Medical Directive or Order" means a medical durable power of attorney, a declaration as to medical treatment executed pursuant to Section 15-18-104, C.R.S., a medical order for scope of treatment form executed pursuant to Article 18.7 of Title 15, C.R.S., and a CPR directive executed pursuant to Article 18.6 of Title 15, C.R.S.

"Minor impact" means the client may experience some difficulty with the assessment risk indicator, but there is very little impact on the client's overall health, safety, and/or welfare and no intervention is necessary to improve overall safety.

"Mistreatment", pursuant to Section 26-3.1-101(7), C.R.S., means:

- A. Abuse;
- B. Caretaker neglect;
- C. Exploitation;
- D. An act or omission that threatens the health, safety, or welfare of an at-risk adult; or,
- E. An act or omission that exposes an at-risk adult to a situation or condition that poses an imminent risk of bodily injury to the at-risk adult.

"Person(s)" means one or more individuals, limited liability companies, partnerships, associations, corporations, legal representatives, trustees, receivers, or the State Department of Colorado, and all political subdivisions and agencies thereof.

"Protective Services" means services to prevent the mistreatment and self-neglect of an at-risk adult initiated and provided by the county department authorized to administer the Adult Protective Services Program. Such services include, but are not limited to:

- A. Receipt and investigation of reports of mistreatment and self-neglect;
- B. Assessment of the at-risk adult's physical, environmental, resources and financial, medical, mental and behavioral, and support system needs;
- C. Protection from mistreatment;
- D. Coordination, implementation, delivery, and monitoring of services necessary to address the at-risk adult's safety, health, and welfare needs;
- E. Assistance with applications for public benefits and other services; and,
- F. Initiation of protective and probate proceedings under Colorado Revised Statutes.

"Reassessment" means the process of updating the assessment status areas and the case plan, including the status of any services implemented and any new services and/or goals identified since the last assessment.

"RED Team" is an acronym that stands for Review, Evaluate, and Direct. The RED Team is a decision making process that utilizes a structured framework to determine the county department's response to reports.

"Report" means an oral or written report of suspected mistreatment or self-neglect of a suspected at-risk adult, received by the county department.

"Risk" means conditions and/or behaviors that create increased difficulty or impairment to the client's ability to ensure health, safety, and welfare.

"Safety" means the extent to which a client is free from harm or danger, or to which harm or danger is lessened.

"Self-Determination" means the right to decide for one's self; the ability or right to make one's own decisions without interference from others.

"Self-Neglect", pursuant to Section 26-3.1-101(10), C.R.S., means an act or failure to act whereby an at-risk adult substantially endangers his/her health, safety, welfare, or life by not seeking or obtaining services necessary to meet the adult's essential human needs. Refusal of medical treatment, medications, devices, or procedures by an adult or in accordance with a valid medical directive or order, or as described in a palliative plan of care, shall not be deemed self-neglect. Refusal of food and water in the context of a life-limiting illness shall not, by itself, be evidence of self-neglect. "Medical directive or order" includes, but is not limited to, a medical durable power of attorney, a declaration as to medical treatment executed pursuant to Section 15-18-104, C.R.S., a medical orders for scope of treatment form executed pursuant to Article 18.7 of Title 15, C.R.S., and a CPR directive executed pursuant to Article 18.6 of Title 15, C.R.S. IN ADDITION TO THOSE EXCEPTIONS IDENTIFIED ABOVE, ACCESS TO MEDICAL AID IN DYING, PURSUANT TO TITLE 25, ARTICLE 48, C.R.S., SHALL NOT BE CONSIDERED SELF-NEGLECT.

"Significant impact" means that the client's impairment diminishes the client's health, safety, and/or welfare and intervention is necessary to improve overall safety.

"Staffing a case" means the review of an APS case between the supervisor and caseworker to ensure the appropriateness of the investigation findings, client assessment, case plan, service provision, need for ongoing services, plans to terminate services, documentation, and overall intervention as it relates to APS rules and best practices. Staffing a case may include the county department APS unit, the State Department APS unit, and/or the APS Team in addition to the supervisor and caseworker.

"State Department" means the Colorado Department of Human Services.

"Substantiated finding" means that the investigation established by a preponderance of evidence that mistreatment, exploitation, or self-neglect has occurred.

"Undue Influence" means the use of influence to take advantage of an at-risk adult's vulnerable state of mind, neediness, pain, or emotional distress.

"Unsubstantiated finding" means the investigation did not establish any evidence that mistreatment or self-neglect has occurred.

### 30.250 CONFIDENTIALITY

- A. Information received as a result of a report to APS and subsequent investigation and casework services shall be confidential and shall not be released without a court order for good cause except in limited circumstances, as defined in Section 30.250, E.
- B. The county department shall treat all information related to the report and the case, whether in written or electronic form, as confidential according to applicable statutes, including, but not limited to, the following:
  - 1. Identifying information, such as the name, address, relationship to the at-risk adult, date of birth, or Social Security Number of the:
    - a. At-risk adult;
    - b. At-risk adult's family members;
    - c. Reporting party;
    - d. Alleged perpetrator; and,
    - e. Other persons involved in the case.
  - 2. Allegations, assessment, and investigative findings, including, but not limited to:
    - a. Initial report of allegations and concerns;
    - b. The client's SAFETY AND RISK AS DETERMINED BY THE CLIENT ASSESSMENT; ~~physical, environmental, resources and financial, medical, mental and behavioral, and social systems status;~~
    - c. Medical and behavioral diagnoses, past medical conditions, and disabilities;
    - d. Services provided to or arranged for the adult;
    - e. Information learned as a result of a criminal investigation;
    - f. Information obtained during the APS investigation and the substantiation or non-substantiation of the allegations; and,
    - g. Legal protections in place including, but not limited to, wills, advance directives, powers of attorney, guardianship, conservatorship, representative payeeship, and protective orders.
- C. Individuals or groups requesting information regarding APS reports and/or investigations shall be informed of the confidential nature of the information and shall be advised that a court order is required to release information held by the county department, except as provided at Section 30.250, E. These persons or groups include, but are not limited to:
  - 1. Federal and state legislators;
  - 2. Members of other governmental authorities or agencies, including county commissioners, city councils, school boards, and other city and county department boards, councils, officials, and employees;

3. Courts and law enforcement agencies;
  4. Attorneys, guardians, conservators, agents under powers of attorney, representative payees, and other fiduciaries;
  5. Family members, reporting parties, or other interested parties;
  6. Any alleged perpetrator; and,
  7. Media representatives.
- D. In a criminal or civil proceeding or in any other circumstance in which the APS report and/or case record is subpoenaed or any request for disclosure has been made, or any county department or State Department representative is ordered to testify concerning an APS report or case, the court shall be advised, through proper channels, of the statutory provisions, rules, and policies concerning disclosure of information.
1. Confidential information shall not be released unless so ordered by the court for good cause.
  2. Courts with competent jurisdiction may determine good cause. Although it is not an exhaustive list, the following are examples of court proceedings in which a court may determine that good cause exists for the release of confidential information:
    - a. Guardianship or conservatorship proceeding in which either the county is the petitioner or has been ordered to testify;
    - b. Review of Power of Attorney under the Uniform Power of Attorney Act, as outlined at Title 15, Article 14, Part 7, Colorado Revised Statutes (C.R.S.);
    - c. Review of a fiduciary under Title 15, Article 10, Part 5, C.R.S.; and/or,
    - d. Criminal trial.
- E. Information held by the State Department or county department may be released without a court order only when:
1. Coordination with professionals and collateral contacts is necessary to investigate mistreatment, ~~exploitation~~, or self-neglect and/or to resolve health and/or safety concerns.
  2. It is essential for the provision of protective services, including establishing eligibility for, arrangement and implementation of services and benefits, and appointment of a guardian and/or conservator.
  3. A review of a Power of Attorney is requested under the Uniform Power of Attorney Act, as outlined at C.R.S. Title 15, Article 14, Part 7 or review of a fiduciary under C.R.S. Title 15, Article 10, Part 5.
  4. A case is reviewed with the adult protection team, in accordance with the adult protection team's by-laws, and when in executive session with members who have signed a confidentiality agreement.
  5. A criminal complaint or indictment is filed based on the APS report and investigation.

6. There is a death of a suspected at-risk adult and formal charges or a grand jury indictment have been brought.
  7. The coroner is investigating a death suspected to be a result of mistreatment or self-neglect.
  - ~~8. The client requests his/her file and provides a written release of information, in accordance with the county department's policy. The county department shall review the request to determine whether the client has the ability to provide informed consent related to the release of the file.~~
  8. AN AUDIT OF THE COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES IS BEING CONDUCTED PURSUANT TO SECTION 26-1-114.5, C.R.S.
  9. NOTIFICATION IS MADE TO SUBSTANTIATED PERPETRATOR(S) OF MISTREATMENT PURSUANT TO SECTION 26-3.1-108, C.R.S.
- F. Whenever there is a question about the legality of releasing information ~~or the ability of the client to provide informed consent~~, the requestor, ~~whether the client or another person~~, shall be advised to submit a written request to the appropriate court to order the county department to produce the desired records or information within the custody or control of the county department.
- G. Information released under Section 30.250, D and E, shall be the minimum information necessary to secure the services, conduct the investigation, or otherwise respond to the court order. ~~or request for information~~ The county department shall:
1. Provide the information only to persons deemed essential to the court order, criminal OR **APS** investigation, Adult Protection team activities, OR the provision of services, ~~or client request~~;
  2. Edit the information prior to its release to physically remove or redact sensitive information not essential to the court order, criminal OR **APS** investigation, Adult Protection Team activities, OR provision of services and benefits, ~~or client request~~;
  - ~~3. Always redact the reporting party information and other documentation that could identify the reporting party unless specifically ordered by a court or the reporter has given written consent to release his/her information;~~
  3. REDACT ALL INFORMATION THAT WOULD IDENTIFY THE REPORTING PARTY UNLESS ORDERED BY THE COURT, THE REPORTING PARTY HAS GIVEN WRITTEN CONSENT, OR WHEN SHARING THE REPORT WITH LAW ENFORCEMENT PER, 26-3.1-102, (3); AND,
  4. Always redact all HIPAA protected information and any other confidential information which is protected by law unless specifically ordered by a court; and,
  5. Redact all other report and case information not directly related to the COURT ORDER request.
- H. When a court order or other written request for the release of information related to an APS report or case is received, as outlined in Sections 30.250, D and E, the county department shall:
1. Comply within the time frame ordered by the court, or in accordance with county department policy; and,

2. Provide a written notice with the information to be released regarding the legality of sharing confidential information.
- I. All confidential APS information and data shall be processed, filed and stored using safeguards that prevent unauthorized personnel from acquiring, accessing, or retrieving the information.
    1. Client files shall be kept in a secured area when not in use.
    2. Passwords to CAPS shall be kept secured.
    3. The State Department shall ensure that only State Department and county department staff persons with a business need to do so shall have access to CAPS.
    4. Laptops and other mobile devices used to document in the field shall be protected and encrypted in compliance with HIPAA security requirements.
    5. Email correspondence that contains APS confidential information shall be sent through secure encryption programs.
    6. All CAPS users must electronically sign the CAPS Security and Confidentiality Agreement annually.
  - J. County departments shall not access information in CAPS that is not necessary to serve the client. Violations may result in loss of access to CAPS, at the discretion of the State Department.
  - K. Any person who willfully violates confidentiality or who encourages the release of information related to the mistreatment and self-neglect of an at-risk adult from CAPS or the APS case file, to persons not permitted access to such information, commits a Class 2 petty offense and shall be punished as provided in Section 26-3.1-102(7)(c), C.R.S.
  - L. Clients shall be referred to the Colorado Address Confidentiality Program (ACP) as appropriate to determine their eligibility for services including the legal substitute mailing address and mail forwarding services. The State Department and county department shall comply with any applicable provisions for APS clients enrolled in the ACP.

### **30.300 STAFF QUALIFICATIONS, TRAINING, AND DUTIES**

#### **30.320 BACKGROUND CHECK REQUIREMENTS**

- A. The county department shall complete a criminal background check on all prospective APS employees who, while in their employment, have direct, unsupervised contact with any actual or potential at-risk adult.
- B. If the county department has not previously requested and received a criminal background check on a current employee hired on or after MAY 29, 2012 ~~June 1, 2010~~, the county department shall immediately request a fingerprint criminal background check. The county department shall pay the fee.
- C. The county department shall require a fingerprint background check for all prospective employees.
  - 1. The county department shall submit to the Colorado Bureau of Investigation (CBI) a complete set of fingerprints taken by a qualified law enforcement agency to obtain any criminal record held by the CBI.
  - 2. The background check shall include a check of the records at the Colorado Bureau of Investigation and the Federal Bureau of Investigation.
  - 3. The county department is strongly urged to require the background check be flagged for future notification of arrest and/or conviction.
  - 4. The prospective employee shall pay the fee for the criminal record check unless the county department chooses to pay the fee.
  - 5. The prospective employee's employment shall be conditional upon a satisfactory criminal background check.
    - a. The current employee or applicant shall be disqualified from employment, regardless of the length of time that may have passed since the discharge of the sentence imposed, for any felony criminal offenses as defined in Title 18, Articles 2-10, 12-13, 15-18, 20, 23 of the Colorado Revised Statutes, or any felony offense in any other state the elements of which are substantially similar to the elements of any of the offenses included herein.
    - b. At the county department's discretion, a person shall be disqualified from employment either as an employee or as a contracting employee if less than ten years have passed since the person was discharged from a sentence imposed for conviction of any of the following criminal offenses:
      - 1) Third degree assault, as described in Section 18-3-204, C.R.S.;
      - 2) Any misdemeanor, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.;
      - 3) Violation of a protection order, as described in Section 18-6-803.5, C.R.S.;

- 4) Any misdemeanor offense of child abuse, as defined in Section 18-6-401, C.R.S.;
- 5) Any misdemeanor offense of sexual assault on a client by a psychotherapist, as defined in Section 18-3-405.5, C.R.S.;
- 6) Any misdemeanor offense of arson, burglary and related offenses, robbery, or theft, as defined in Title 18, Articles 1-4, C.R.S.;
- 7) A pattern of misdemeanor convictions within the ten years immediately preceding the date of submission of the application, or;
- 8) Any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any of the offenses described above.

46. Prospective employees who are transferring from one county department to another are not required to be re-fingerprinted if they complete the following process:

- a. New employees must obtain their CBI clearance letter or a photocopy of their processed fingerprint card from their former employer. They must attach it to a new fingerprint card, with the top portion completed.
- b. The new fingerprint card must include the new employer's address. "Transfer – County Department" must be inserted in the "Reason Fingerprinted" block.
- c. The CBI clearance letter (or photocopy of the old fingerprint card) and the new fingerprint card shall be sent with payment by the county department to the CBI.
- d. County departments that have accounts with CBI are not required to send payment, but the county department shall enter its CBI account number in the OCA block of the new fingerprint card.

### 30.330 TRAINING REQUIREMENTS

- A. The county department shall ensure that all APS staff complete required APS training AS OUTLINED IN SECTION 30.330. ~~as follows:~~
- ~~1. New entry and journey level caseworkers shall successfully complete the Pre-Academy Workbook (PAW) within one (1) month of hire or transfer to the APS program and shall not be assigned cases until the paw has been completed. The caseworker shall document completion of the PAW in CAPS.~~
  - ~~2. New entry and journey level caseworkers shall complete the APS training academy.~~
    - ~~a. Small county departments with only one (1) caseworker who is less than a twenty five percent (25%) FTE in APS shall complete the training academy within nine (9) SIX (6) months of hire or transfer to the APS Program. Caseworkers shall request case consultation support from a county APS supervisor or lead worker who has attended training academy or the State Department on any cases opened prior to attending training academy.~~
    - ~~b. All other county departments with at least one (1) caseworker with a twenty five percent (25%) or higher FTE in APS shall complete the training academy within six (6) months of hire or transfer to the APS Program.~~
  - ~~3. New supervisors, managers, administrators, and/or county department directors with direct casework supervision duties shall successfully complete the web-based APS supervisor training within six (6) months of hire, transfer to the APS Program, or promotion from a caseworker position. The web-based training requirements shall be waived if the supervisor, manager, administrator, or director attends the APS training academy.~~
  - ~~4. Case aides shall complete the pre-academy workbook (paw) within one (1) months of hire or transfer to the aps program. Case aides may attend aps training academy, space permitting.~~
- B. APS CASEWORKERS AND LEAD CASEWORKERS AND SUPERVISORS, MANAGERS, ADMINISTRATORS, AND/OR COUNTY DIRECTORS WHO PROVIDE DIRECT CASEWORK SUPERVISION (HEREIN KNOWN COLLECTIVELY AS SUPERVISORS) WHOSE JOB TITLES ARE IDENTIFIED IN SECTION 30.340 A AND B MUST MEET THE REQUIRED MINIMUM QUALIFICATIONS AND FULFILL ALL CERTIFICATION REQUIREMENTS IN ORDER TO PERFORM THE DUTIES OF AN APS CASEWORKER OR SUPERVISOR. INITIAL CERTIFICATION FOR CASEWORKERS AND SUPERVISORS IS AS FOLLOWS:
1. NEW APS CASEWORKERS AND SUPERVISORS SHALL SUCCESSFULLY COMPLETE THE PRE-ACADEMY WORKBOOK (PAW) WITHIN ONE (1) MONTH OF HIRE OR TRANSFER TO THE APS PROGRAM AND SHALL NOT BE ASSIGNED CASES UNTIL THE PAW HAS BEEN COMPLETED. THE CASEWORKER SHALL DOCUMENT COMPLETION OF THE PAW IN CAPS.
  2. NEW APS CASEWORKERS AND SUPERVISORS SHALL BECOME CERTIFIED BY SUCCESSFULLY COMPLETING TRAINING ACADEMY WITHIN SIX (6) MONTHS OF HIRE OR TRANSFER TO THE APS PROGRAM.
  3. PRIOR TO CERTIFICATION, CASEWORKERS AND SUPERVISORS SHALL REQUEST CONSULTATION SUPPORT ON ALL REPORTS AND CASES FROM A

COUNTY APS SUPERVISOR OR LEAD WORKER WHO IS CERTIFIED OR FROM THE STATE DEPARTMENT.

4. IF A NEWLY HIRED APS CASEWORKER OR SUPERVISOR HAS HELD CERTIFICATION AS AN APS CASEWORKER OR SUPERVISOR IN THE STATE OF COLORADO IN THE PREVIOUS FOUR (4) YEARS, COMPLETION OF THE CERTIFICATION PROCESS IS NOT REQUIRED.
- C. ALL CASE AIDES SHALL COMPLETE THE PRE-ACADEMY WORKBOOK (PAW) WITHIN ONE (1) MONTH OF HIRE OR TRANSFER TO THE APS PROGRAM. CASE AIDES MAY ATTEND APS TRAINING ACADEMY, SPACE PERMITTING.
- D. The county department shall ensure that ~~any~~ ALL APS staff memberS ~~on the job longer than twelve (12) months completes ongoing training~~ fulfill recertification requirements EACH FISCAL YEAR, BEGINNING THE FIRST FISCAL YEAR AFTER INITIAL CERTIFICATION IS OBTAINED. IN ORDER TO OBTAIN RECERTIFICATION COUNTY DEPARTMENT APS STAFF SHALL COMPLETE THE FOLLOWING RECERTIFICATION REQUIREMENTS ~~relevant to the APS Program and client populations~~. BY JUNE 30 EACH YEAR. UNLESS MANDATED BY THE STATE DEPARTMENT, ~~Aa~~ attendance at any specific training event is at the supervisor's discretion.
- E. CONTINUING EDUCATION HOURS FOR RECERTIFICATION MUST BE RELATED TO APS CASEWORK AND CLIENT POPULATIONS, INCLUDING, BUT NOT LIMITED TO:
1. CLIENT POPULATIONS, SUCH AS BEHAVIORAL HEALTH, COGNITION, BRAIN INJURY, DISABILITIES, ETC.
  2. PROVISION OF CASEWORK SERVICES, SUCH AS BEST PRACTICES, MEDICAID AND OTHER PUBLIC BENEFITS TRAINING, COMMUNITY RESOURCES, ETC.
  3. INTERVIEW, INVESTIGATION, AND CLIENT ASSESSMENT SKILLS
  4. LEGAL TOPICS AND ISSUES, SUCH AS GUARDIANSHIP, END OF LIFE DECISION-MAKING, ETC.
  5. MISTREATMENT RELATED, SUCH AS IDENTIFYING SIGNS OF MISTREATMENT, UNDERSTANDING MEDICAL REPORTS, SEXUAL ASSAULT TRAINING, ETC.
  6. WORKER SAFETY, RESILENCY, AND SELF-CARE.
  7. SUPERVISORS MAY OBTAIN TRAINING ON LEADERSHIP AND SUPERVISION FOR UP TO FIFTY PERCENT (50%) OF REQUIRED HOURS. LEAD WORKERS WHO ARE PERFORMING SUPERVISORY DUTIES MAY OBTAIN LEADERSHIP AND SUPERVISION TRAINING FOR UP TO TWENTY-FIVE PERCENT (25%) OF REQUIRED HOURS.
- F. AT LEAST HALF OF ALL REQUIRED CONTINUING EDUCATION HOURS MUST BE ACQUIRED THROUGH STATE PROVIDED TRAINING OPPORTUNITIES. NON-STATE PROVIDED TRAINING HOURS MAY BE USED FOR UP TO HALF OF ALL REQUIRED CONTINUING EDUCATION HOURS AND MAY INCLUDE:
1. NATIONAL APS ORGANIZATIONS' WEBINAR TRAINING;
  2. CHILD WELFARE TRAINING ACADEMY COURSEWORK THAT HAS CROSS-OVER RELEVANCE AND HAS BEEN APPROVED BY THE STATE DEPARTMENT APS UNIT;

3. OTHER STATE OR NATIONAL APS CONFERENCES;
  4. TRAINING CONDUCTED BY AGENCIES OR PROFESSIONALS THAT WORK WITH OLDER ADULTS OR PEOPLE WITH DISABILITIES SUCH AS A COMMUNITY CENTERED BOARD, ALZHEIMER'S ASSOCIATION, COLORADO COALITION FOR ELDER RIGHTS AND ABUSE PREVENTION (CCERAP).
  5. READING PROFESSIONAL JOURNALS OR WATCHING EDUCATIONAL VIDEOS ABOUT CURRENT APS BEST PRACTICES, RESEARCH, AND INTERVENTIONS.
- G. THE NUMBER OF HOURS REQUIRED FOR RECERTIFICATION EACH FISCAL YEAR IS BASED ON THE PERSON'S POSITION AND THE PERCENTAGE OF TIME THE PERSON WORKS IN THE APS PROGRAM, AS DESIGNATED IN CAPS, AS FOLLOWS:
1. SUPERVISORS:
    - a. UP TO TWENTY-FIVE PERCENT (25%) APS FTE SHALL COMPLETE AT LEAST EIGHT (8) HOURS.
    - b. UP TO FIFTY PERCENT (50%) APS FTE SHALL COMPLETE AT LEAST FIFTEEN (15) HOURS.
    - c. UP TO SEVENTY-FIVE PERCENT (75%) APS FTE SHALL COMPLETE TWENTY-THREE (23) HOURS.
    - d. UP TO ONE HUNDRED PERCENT (100%) APS FTE SHALL COMPLETE THIRTY (30) HOURS.
  2. CASEWORKERS:
    - a. UP TO TWENTY-FIVE PERCENT (25%) APS FTE SHALL COMPLETE AT LEAST TEN (10) HOURS.
    - b. UP TO FIFTY PERCENT (50%) APS FTE SHALL COMPLETE AT LEAST TWENTY (20) HOURS.
    - c. UP TO SEVENTY-FIVE PERCENT (75%) APS FTE SHALL COMPLETE THIRTY (30) HOURS.
    - d. UP TO ONE HUNDRED PERCENT (100%) APS FTE SHALL COMPLETE FORTY (40) HOURS.
  3. CASE AIDES:
    - a. UP TO TWENTY-FIVE PERCENT (25%) APS FTE SHALL COMPLETE AT LEAST FIVE (5) HOURS.
    - b. UP TO FIFTY PERCENT (50%) APS FTE SHALL COMPLETE AT LEAST TEN (10) HOURS.
    - c. UP TO SEVENTY-FIVE PERCENT (75%) APS FTE SHALL COMPLETE FIFTEEN (15) HOURS.
    - d. UP TO ONE HUNDRED PERCENT (100%) APS FTE SHALL COMPLETE TWENTY (20) HOURS.

- CH. All training hours shall be documented in CAPS within fourteen (14) calendar days of completion of the training.
1. ~~Caseworkers shall successfully complete at least forty (40) hours of ongoing training per fiscal year related to the APS Program, target populations, and the provision of casework services, as follows:~~
    - a. ~~At least fifteen (15) hours shall be State Department provided training specifically related to the APS Program, which may include:~~
      - 1) ~~Statewide or regional training;~~
      - 2) ~~Quarterly training meetings;~~
      - 3) ~~County department onsite training; and/or,~~
      - 4) ~~Live webinar or self-directed web-based training.~~
    - b. ~~Additional training options relevant to the APS Program, target populations, and/or the provision of casework services shall include, but are not limited to:~~
      - 1) ~~National APS organizations' webinar training;~~
      - 2) ~~Child Welfare Training Academy coursework that has cross-over relevance and has been approved by the State Department APS unit;~~
      - 3) ~~Other state or national APS conferences; and/or,~~
      - 4) ~~Regional training or conference conducted by agencies or professionals that work with older adults or people with disabilities including, but not limited to, a community centered board, Alzheimer's association, Colorado legal assistance developer, Colorado Coalition for Elder Rights and Abuse Prevention (CCERAP), Colorado Long-Term Care Ombudsman, local law enforcement, AP team, APS supervisor or county department attorney.~~
      - 5) ~~Reading reports or professional journals about current APS best practices, research, and interventions.~~
  2. ~~Supervisors, managers, administrators, and/or county department directors with direct casework supervision duties shall successfully complete at least thirty (30) hours of ongoing training per fiscal year related to the APS Program, target populations, the provision of casework services, or general supervision of employees, as follows:~~
    - a. ~~At least fifteen (15) hours shall be State Department provided training specifically related to the APS Program, as outlined for caseworkers.~~
    - b. ~~Additional training options include those outlined for caseworkers plus training options related to general employee supervision.~~
  3. ~~Case aides shall successfully complete at least twenty (20) hours of ongoing training per fiscal year, as outlined for caseworkers. At least seven (7) hours shall be State Department provided training.~~

- ~~4. Required training hours as outlined in Section 30.330, B, 1-3, shall be prorated for part time APS staff.~~
- ~~a. Persons working less than twenty five percent (25%) in APS shall complete a minimum of:~~
- ~~1) Ten (10) hours for caseworkers, six (6) of which shall be state provided; and,~~
  - ~~2) Five (5) hours for supervisors, managers, administrators, and/or county directors with direct casework supervision duties, three (3) SIX (6) of which shall be state provided; and,~~
  - ~~3) Four (4) hours for case aides, two (2) of which shall be state provided.~~
- ~~b. Persons working percent (25-49%) in APS shall complete a minimum of:~~
- ~~1) Twenty (20) hours for caseworkers, at least ten (10) shall be state provided;~~
  - ~~2) Ten (10) hours for supervisors, managers, administrators, and/or county directors with direct casework supervision duties, at least six (6) shall be state provided; and,~~
  - ~~3) Ten (10) hours for case aides, at least five (5) shall be state provided.~~
- ~~c. Persons working fifty through seventy four percent (50-74%) in APS shall complete a minimum of:~~
- ~~1) Thirty (30) hours for caseworkers, at least fifteen (15) shall be state provided;~~
  - ~~2) Twenty (20) hours for supervisors, managers, administrators, and/or county directors with direct casework supervision duties, at least fifteen (15) shall be state provided; and,~~
  - ~~3) Twelve (12) hours for case aides, at least six (6) shall be state provided.~~
- ~~d. Persons working seventy five through one hundred percent (75-100%) in APS shall complete the full training requirement outlined in 30.330, B, 1-3.~~

### **30.500 INVESTIGATION AND ASSESSMENT**

#### **30.510 INVESTIGATION AND ASSESSMENT OVERVIEW**

- A. The county department shall conduct a thorough and complete investigation into the allegations unless the initial visit and assessment confirms that the client is not an at-risk adult.
  - 1. IF THE ASSESSMENT AND/OR FURTHER INVESTIGATION CONFIRMS THAT THE CLIENT IS NOT AN AT-RISK ADULT, THE COUNTY DEPARTMENT SHALL CLOSE THE APS CASE. THE COUNTY DEPARTMENT MAY PROVIDE THE ADULT REFERRALS TO RESOURCES OR CONTINUE TO ASSIST THE ADULT THROUGH OTHER COUNTY DEPARTMENT PROGRAMS.
  - 2. If the client refuses to participate in the investigation, the county department shall complete the investigation by gathering evidence and interviewing other collateral contacts that have knowledge of the client or the alleged mistreatment.
  - 3. THE INVESTIGATION MUST INCLUDE REASONABLE EFFORTS TO INTERVIEW THE CLIENT, WITNESSES, COLLATERAL CONTACTS, AS DEFINED IN SECTION 30.100, AND ANY OTHER PERSONS WHO CAN PROVIDE RELEVANT INVESTIGATIVE EVIDENCE OR CONTEXT. IF THE INTERVIEW CANNOT BE CONDUCTED, THE ATTEMPTS AND THE REASON FOR BEING UNABLE TO COMPLETE THE INTERVIEW SHALL BE DOCUMENTED.
  - 4. THE INTERVIEWS AND COLLECTION OF EVIDENCE MUST ADDRESS THE SPECIFIC ALLEGATIONS IDENTIFIED IN THE REPORT AS WELL AS ANY NEW MISTREATMENT OR SELF-NEGLECT THAT MAY BE IDENTIFIED DURING THE INVESTIGATION.
- B. The county department shall BEGIN ~~conduct~~ an assessment of the client's risk, safety, and strengths during the initial face-to-face visit to further clarify the level of risk of mistreatment or self-neglect to the client and the client's immediate needs, ~~whenever possible~~.
- C. The investigation and assessment may be conducted independent of one another or simultaneously, depending on the nature of the allegations.
- D. If upon initial investigation, the county department determines a different county has jurisdiction, the originating county department shall transfer the case in CAPS. The county department determined to have jurisdiction shall uphold the screening decision and conduct the investigation and assessment, unless:
  - 1. Additional or new information related to the safety of the adult or alleged mistreatment or self-neglect indicating the case may be closed is gathered by the county department determined to have jurisdiction.
  - 2. The basis for the decision to close the case shall be documented in CAPS.

### 30.520 INVESTIGATION

- A. The county department shall conduct an investigation to determine findings related to allegations of mistreatment or self-neglect. The investigation shall include, but may not be limited to:
1. Determining the need for protective services. If the client is in clear and immediate danger, the county shall intervene immediately by notifying the proper emergency responders.
  2. Determining if the investigation should be conducted jointly with another entity, such as:
    - a. Law enforcement and/or the district attorney;
    - b. Community Centered Board;
    - c. Health Facilities Division;
    - d. Attorney General's Medicaid Fraud Unit; and/or,
    - e. The long-term care ombudsman.
  3. Conducting a face-to-face interview with the client, unannounced and in private, whenever possible, and if not unannounced and/or in private, the reason shall be documented in CAPS.
  4. Conducting interviews with collateral contacts.
  5. Interviewing the alleged perpetrator(s), with or without law enforcement. ~~when appropriate and safe, and if~~ IN THE EVENT the ALLEGED perpetrator is not UNABLE TO BE interviewed, the reason shall be documented in CAPS. THE FOLLOWING INFORMATION SHALL BE COLLECTED RELATED TO THE ALLEGED PERPETRATOR(S) IN ADDITION TO INFORMATION ABOUT THE ALLEGATIONS:
    - a. FULL NAME OF THE ALLEGED PERPETRATOR(S) WITH ACCURATE SPELLING;
    - b. CURRENT EMAIL ADDRESS, WHEN AVAILABLE;
    - c. CURRENT MAILING ADDRESS;
    - d. DATE OF BIRTH; AND,
    - e. SOCIAL SECURITY OR ALIEN REGISTRATION NUMBER, WHEN AVAILABLE.
  6. Collecting evidence and documenting with photographs or other means, when appropriate, such as:
    - a. Police reports;
    - b. Any available investigation report from a currently or previously involved facility and the occurrence report from the Health Facilities Division;
    - c. Medical and mental health records;

- d. Bank OR OTHER FINANCIAL records.
  - e. Care plans for any person in a facility or receiving other services that require a care plan and any daily logs or charts; and/or,
  - f. Staffing records and employee work schedules when investigating in a facility.
7. Making a finding regarding the substantiation or unsubstantiation of the allegations;.
  8. Determining the identity of, and making a finding related to, the perpetrator(s) of the mistreatment.
  9. Determining whether there are additional mistreatment concerns not reported in the initial allegations and investigating and documenting any newly identified concerns.
  10. Notifying law enforcement when criminal activity is suspected.
- B. The county department shall complete the investigation within forty-five (45) calendar days of the receipt of the report, ensuring that documentation of the investigation is occurring in CAPS throughout the investigation process, as follows:
1. All interviews, contacts, or attempted contacts with the client, collaterals, alleged perpetrators, and other contacts during the investigation shall be documented within fourteen (14) calendar days of receipt of the information.
  2. All evidence collected during the investigation shall be scanned and attached to the case by the conclusion of the investigation.
  3. Findings for the allegations and alleged perpetrator shall be documented no later than forty-five (45) calendar days from receipt of the report.
  4. If the investigation cannot be completed within this time frame DUE TO GOOD CAUSE, the county department shall document the reason why.

### 30.620 PROVISION OF SERVICES

- A. The county department shall provide protective services for the shortest duration necessary to ensure the client's safety by implementing case plan goals as quickly as possible in order to stabilize the client's situation and prevent further mistreatment or self-neglect.
- B. If the client appears to have capacity to make decisions:
  - 1. The county department shall ask the consenting client to sign a release of information that covers general, medical, and/or money management, as appropriate to the client's needs. However, a release of information is not required for the county department to provide protective services.
  - 2. The client may refuse protective services, but the county department shall attempt to obtain the client's consent to additional visits or phone calls from the caseworker if the situation appears to require further services. The caseworker shall document the consent or refusal to additional visits or phone calls.
  - 3. Caseworkers shall provide clients who refuse services with the county department contact information for future reference.
- C. If a client is suspected to lack capacity to make decisions, is at risk for harm, and refuses to consent to services, the county department shall document the client's inability to provide consent.
  - 1. Documentation shall include:
    - a. Observations of client behaviors and actions;
    - b. Medical documentation of client's suspected incapacity and safety concerns to support involuntary case planning; and/or,
    - c. Investigative evidence.
  - 2. The county department shall ensure immediate safety and make its best effort to obtain an evaluation of the client's decision making capacity from a qualified professional.
  - 3. These situations shall be staffed with the supervisor and/or county attorney to:
    - a. Determine the client's risk and safety;
    - b. Assess the client's ability to consent;
    - c. Determine urgency of safety concerns if intervention is not taken;
    - d. Review previous interventions; and,
    - e. Ensure the intervention is done ethically and is the least restrictive intervention to ensure the client's safety.
  - 4. The county department shall intervene when appropriate to coordinate with the responsible agency in taking action to protect the immediate safety and health of the client, such as:
    - a. Gaining access to the client with assistance from law enforcement, family, or another person the client trusts;

- b. Emergency hospitalization;
- c. Coordinating with municipal authorities to arrange a home clean up, when there is a clear biohazard;
- d. Mental health hold, per Title 27, Article 65, C.R.S.;
- e. Coordinating with family members, law enforcement, or financial institutions to freeze client bank accounts to prevent further loss of assets;
- f. REQUESTING A DELAYED DISBURSEMENT OF FINANCES FROM THE CLIENT'S BROKER-DEALER PURSUANT TO TITLE 11, ARTICLE 51, C.R.S.;
- fg. Emergency protection order, per Title 13, Article 14, C.R.S.;
- gh. Authorization of a Medical Proxy Decision Maker, per Title 15, Article 18.5, C.R.S.;
- hi. Requesting a judicial review of a fiduciary, per Title 15, Article 10, Part 5, C.R.S., and Title 15, Article 14, Part 7, C.R.S.;
- ij. Contacting the Social Security Administration or other pension administrator to secure a representative payee;
- jk. Petitioning the court for emergency guardianship and/or special conservatorship, per Title 15 Article 14, Parts 3 and 4, C.R.S., or,
- kl. Alcohol and drug involuntary commitment, per Title 27, Article 81, Part 112 and Title 27, Article 82, Part 108.

D. If a client lacks capacity and has a fiduciary to make decisions on behalf of the client, the county department shall consult with supervisors, the county director, the county attorney, law enforcement, and/or the district attorney to determine whether the county department should petition the court for a review of the fiduciary's actions if:

- 1. The fiduciary refuses to allow the provision of protective services, which places the client at-risk for continued mistreatment or self-neglect; or,
- 2. There are allegations and evidence of mistreatment of the client by the client's fiduciary.
- 3. The county department shall petition the court under the appropriate statute:
  - a. Uniform Power of Attorney Act, as outlined in Title 15, Article 14, Part 7, C.R.S.;
  - b. Guardianship or conservatorship statutes as outlined in Title 15, Article 14, Parts 3 and 4, C.R.S.; and/or,
  - c. Fiduciary oversight statute, as outlined in Title 15, Article 10, Part 5, C.R.S.