



Frequently Asked Questions

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The Protective Services Process

1. What is the Adult Protective Services (APS) Act?

In 2010, the Adult Protective Services (APS) Act (Act 70) was enacted to provide protective services to adults between 18 and 59 years of age who have a physical or mental impairment that substantially limits one or more major life activities. The Act establishes a program of protective services to detect, prevent, reduce, and eliminate abuse, neglect, exploitation and abandonment of adults in need of protective services.

2. Who do I contact to report abuse, neglect, exploitation or abandonment for an adult with a disability between 18 and 59 years of age?

If you have reason to suspect that an adult with a disability is a victim of abuse, neglect, exploitation or abandonment, you may make an immediate oral report to the **Protective Services Hotline at 800-490-8505**.



3. What happens when I call the Protective Services Hotline?

When you call the Protective Services Hotline, 800-490-8505, you will be routed to one of the Area Agencies on Aging, normally the AAA associated with the county from which you are placing the call. The AAA intake staff is trained to take the protective services report, regardless of the age or the location of the consumer. Once they've taken the report, depending on the person's age and location, they will then forward the report to either Liberty Healthcare for consumers between the ages of 18 and 59 or to the appropriate AAA if the consumer is 60 years of age or over.

4. What step in the reporting process initiates the protective services investigation?

The oral report to the statewide Protective Services Hotline (800-490-8505) is the critical step that triggers the start of the investigation. Once this report is made, the Area Agency on Aging intake staff refer the report to the APS agency (Liberty Healthcare Corporation). Liberty's intake specialists will then review and categorize the report and assign the report to one of their field investigators for follow up, within the required 24 or 72 hour time frame, contingent on whether it has been categorized as a priority or non-priority investigation (categorization is addressed in question #6). If the report is categorized as no need for protective services, no investigation will be initiated; however, Liberty may contact the reporter in order to give him or her a referral for other appropriate services.

5. Are there any consequences to reporting allegations?

Any person who makes a report, cooperates with APS, or provides testimony in any administrative or judicial proceeding, and any adult in need of protective services, must not be subject to intimidation or to any discriminatory, retaliatory, or disciplinary action by an employer or by any other person or entity. Any person who violates this rule can be sued in civil court for damages by the reporter or the adult in need of protective services.

6. *How are reports of abuse classified, and how soon does an investigation begin after the report is made?*

Based on the information provided, reports are categorized as: Priority, Nonpriority, and No Need.

- Priority reports require immediate attention because specific details in the report indicate the possibility that the adult reported to need protective services **is at imminent risk of death or serious injury or serious bodily injury**. These investigations must be initiated within 24 hours.
- A non-priority report does not appropriately fall within the priority category and, therefore, does not require immediate attention by the agency. These investigations must be initiated within 72 hours.
- No need for protective services: A report shall be placed in this category when the person reported to be in need of protective services meets either of the following criteria:
 1. **has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health;**
 2. **is not at imminent risk or danger to his person or property.**

Who are Mandatory Reporters? What are their Reporting Responsibilities?

1. *Who is required to make abuse reports? What are the required reporting steps?*

The Act mandates that a mandatory reporter, who is any administrator or employee of a “facility” who has reasonable cause to suspect that a recipient is a victim of abuse, neglect, exploitation, or abandonment shall immediately make an oral report to the Protective Services Hotline (800-490-8505).

In addition, if the allegations involve sexual abuse, serious injury, serious bodily injury or suspicious death, the administrator or employee must **also** immediately contact local law enforcement, **and** make an immediate oral report to the Department of Human Services (DHS) by calling the mandatory abuse reporting line at 717- 265-7887 and selecting option #3.

Within 48 hours of making the oral report, the mandatory reporter must submit a written report to the APS Agency (Liberty Healthcare) for their review at mandatoryron@libertyhealth.com or fax it to 484-434-1590. The written report can be one of the following:

- The mandatory reporting form found on the Department’s website at www.dhs.pa.gov under Report Abuse>Adult Protective Services;
- An administrator or employee of a nursing facility, licensed by Department of Health, may submit a PB-22 form; or
- An administrator or employee may submit a Home and Community Services Information System (HCSIS) incident report (Printable Summary) or an Enterprise Incident Management (EIM) report.

The term, "facility," includes, but is not limited to:

1. An assisted living residence
2. A domiciliary care home
3. A home health care agency
4. An intermediate care facility for people with intellectual disabilities
5. A long-term care nursing facility
6. An older adult daily living center
7. A personal care home
8. A residential treatment facility
9. An organization or group of people that uses public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting.



2. Can the Department clarify "public funds" as outlined under the definition of mandated reporter? Do "public funds" include DHS funds, federal funds, or any funds from the Commonwealth?

The APS Act does not specifically define "public funds," so the Department of Human Services is interpreting "public funds" in the broadest sense possible, to include an organization or group of people that uses any public funds, federal, state, county, or any other public funding sources.

3. Does the setting in which the service is provided impact whether or not the provider meets the definition of Mandated Reporter?

The setting in which the service is provided does not affect whether or not the provider meets the definition of Mandated Reporter—if the provider "uses any public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting," that provider would then meet the definition of Mandated Reporter under the APS Act.

4. Does DHS consider physicians and their employees, who are employees of large health systems in independent practices, mandatory reporters under the Act? The physician practices are not licensed.

Yes, physicians and their employees who are part of large health systems in independent practices are considered mandatory reporters under the APS Act —provided that they meet the definition under the Act, "an organization or group of people that uses public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting." Public funds include payments for care and support from Medicare, Medical Assistance and any other public funds.

5. Are individuals who provide services in a community or home setting considered mandatory reporters?

Yes.



6. *If a sexually-related incident does not meet the definition of sexual abuse, should it still be reported as abuse?*

Yes. APS makes a distinction between sexual abuse and sexual harassment, which is important for mandatory reporters to understand. Under the APS Act, sexual abuse is defined as “intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault or incest.” These Acts are defined in the PA Crimes Code, Title 18, at Chapter 31.

In contrast, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

When a mandatory reporter reports sexual abuse, the additional steps (i.e., immediately calling local law enforcement and the DHS mandatory abuse reporting line) must be taken. However, when a mandatory reporter reports sexual harassment to the statewide protective services hotline, the additional steps do *not* need to be taken.

7. *We have offices throughout the state. Can we call our local Area Agency on Aging (AAA) to report abuse, or should we always call the Statewide Hotline number?*

You can call either the local AAA directly or the hotline number. If you call the hotline number, you will be connected with one of the AAA’s, based on the number that you are calling from, most likely the AAA in the county where you’re located. All AAA intake staff are trained and required to take reports, regardless of the consumer’s age or location.

8. *What are the consequences for a mandatory reporter who does not follow the mandatory reporting requirements under the Adult Protective Services Act?*

The Adult Protective Services Act provides for assessment of both civil and criminal penalties for non-compliance with the mandatory reporting requirements of the Act.

Specifically, the Act states that the Commonwealth agency or agencies that regulate a facility have jurisdiction to determine violations for non-compliance, with corresponding authority to assess civil penalties of up to \$2,500.



8. *What are the consequences for a mandatory reporter who does not follow the mandatory reporting requirements under the Adult Protective Services Act? (Continued)*

The Act also provides criminal penalties for an administrator or facility owner who intentionally or willfully fails to comply or obstructs compliance with the reporting provisions of the Act—specifically, this non-compliance constitutes a misdemeanor of the third degree and upon conviction, may result in a fine of up to \$2,500 or in imprisonment for up to one year, or both.

In addition, any person required under the Act to report a case of suspected abuse or neglect who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

9. *Can you provide the definitions of serious bodily injury and serious injury?*

Serious bodily injury: is an injury that:

1. creates a substantial risk of death; or
2. causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ

Serious Injury: is an injury that:

1. causes a person severe pain; or
2. significantly impairs a person's physical or mental functioning, either temporarily or permanently

10. *For a serious case, isn't contacting the Protective Services Hotline and the police double reporting?*

No. Each agency has a different focus for its investigation. Liberty Healthcare addresses the victim's need for protective services and the police focus on criminal prosecution of the abuser.

11. *What if our agency has already completed a certified investigation prior to Liberty Healthcare doing an investigation? Can I provide copies of witness interview statements to Liberty Healthcare?*

Section 503(c) of the APS Act provides, "To the fullest extent possible, law enforcement officials, facilities and agencies shall coordinate their respective investigations and advise each other and provide any applicable additional information on an ongoing basis." Based on this section of the Act, it would be appropriate to share copies of the witness interview statements from your certified investigation with the Liberty Healthcare investigator.

APS Procedures

1. Am I still required to follow all required incident management regulations, policies, and procedures specific to my facility or agency?

Yes.

2. If an individual receiving supports from a service provider has had an investigation opened through APS, should the provider still initiate its own investigation?

Yes, you should continue to follow your incident management process, including conducting the certified investigation concurrent with the APS investigation if that is the protocol. Ideally, there should be coordination between the certified investigator and the APS investigator as much as possible. In particular, this applies to avoiding re-interviewing the alleged victim in order to minimize the re-victimization of the individual.

3. Do OLTL and ODP providers need to send the EIM/HCSIS report in addition to the mandated reporting form?

It is not necessary for mandatory reporters to send both the EIM/HCSIS report and the mandatory abuse report form. In order to meet the mandatory reporting requirements under the APS Act, reporters can use any of the optional formats for submitting the written report, provided that they meet the 48 hour deadline. The reason for making the optional formats available to providers is to eliminate the necessity for duplicate reports, and to allow providers the option of simultaneously using the incident management report (which is already required under the incident management protocol) to meet the written report requirement under the APS Act. The decision as to which format to use is reserved for provider agencies and any of the optional formats is acceptable to APS.



4. *The State Agency that licenses my program requires that a written report is completed 5 days after the initial report. APS requires the written report to be completed within 48 hours. Which procedure do I need to follow?*

The Adult Protective Services Act takes precedence over agency procedures, so the facility is required to complete either a PB-22 or the Mandatory Abuse Report form prescribed by the PA Department of Human Services (available on the DHS website, www.dhs.pa.gov, under Report Abuse>Adult Protective Services) within 48 hours of making the initial Report of Need (RON).

5. *Does the mandated reporting form replace the Act 13 form?*

Yes and no—the Act 13 form can still be used. Act 13 is the 1997 amendment to the Older Adult Protective Services Act (OAPSA), and the Mandatory Abuse Report form was recently developed to accommodate both the OAPSA and the APS Acts, and their respective mandatory reporting requirements. That said, while the Act 13 form can still be used, the PA Department of Human Services/APS Division would prefer that mandatory reporters now use the Mandatory Abuse Report form, in lieu of the Act 13 form.

6. *When will providers have training on APS?*

APS offers training through webinars that are held monthly. Here is the direct link to the APS page on the Department of Human Services website, <http://www.dhs.pa.gov/citizens/reportabuse/dhsadultprotectiveservices/index.htm>. Scroll to the bottom of the APS page to Adult Protective Services Webinar Opportunities. Click on the link for upcoming dates and the registration link for each date. In addition, there is a wide range of resources available under the “Information for Mandatory Reporters” heading on the APS page. APS is also available to answer any questions and to provide clarification, as needed. APS staff can be reached at RA-PWAPSQuestions@pa.gov or by phone at **717-736-7116**.



Consumer Rights

1. If a consumer has the capacity to make his or her own decisions and is self-neglecting, should this be reported to Adult Protective Services?

Yes, this should still be reported to APS, especially if the consumer is “at imminent risk or danger to his person or property.” This would not violate the consumer’s right to self-determination, because he or she will still be afforded the opportunity to accept or refuse services.

2. Can adults refuse an assessment or other services offered by Adult Protective Services?

Yes. Adults have the right to refuse consent to access to records, refuse consent to an assessment and refuse some or all protective services that are offered. In the case of an emergency where the adult is at imminent risk of death, serious injury, or serious bodily injury if protective services are not provided, an emergency order can be petitioned through the court without the consent of the adult.

3. When is Adult Protective Services (APS) entitled to copies of a patient’s medical record without a signed authorization?

Section 304 of the APS Act provides:

g) Access by consent.--An agency's access to confidential records held by other entities or individuals or an adult reported to be in need of protective services shall require the consent of the adult or a court-appointed guardian except as provided for under this section or section 307.

(h) Denial of access to records.--If the agency is denied access to records necessary for completion of a proper investigation of a report, assessment, service plan or the delivery of needed services in order to prevent further abuse, neglect, exploitation or abandonment of the adult reported to be in need of protective services, the agency may petition the court of common pleas for an order requiring the appropriate access when either of the following conditions apply: (1) The adult has provided written consent for any confidential records to be disclosed and the keeper of the records denies access.

(2) The agency can demonstrate that the adult denies access to records because of incompetence, coercion, extortion or justifiable fear of future abuse, neglect, exploitation or abandonment.



Contact Information

1. *How can I speak to someone from Liberty Healthcare?*

In the event of an emergency after regular business hours, please call Liberty Healthcare at:

888-243-6561

The contact information for Liberty Healthcare’s management staff is as follows:

Kirk Golden	Statewide Director	kirkg@libertyhealth.com	724-679-1728
Sheila Caperelli	Central Regional Program Manager	scaperelli@libertyhealth.com	267-264-8761
Cinda Watkins	Western Regional Program Manager	cwatkins@libertyhealth.com	267-264-8652
Carlotta Alston	East Regional Program Manager	calston@libertyhealth.com	267-264-8719

2. *Who do I call with questions about the Adult Protective Services (APS) Act?*

Questions or requests for additional information regarding the Adult Protective Services Act can be sent to the following email address:

RA-PWAPSQuestions@pa.gov or for those who do not have access to email, please call 717-736-7116.