State of Vermont – Agency of Human Services – Department of Disabilities, Aging & Independent Living
Division of Licensing and Protection – Adult Protective Services

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Authorizing Signatures:

Susan Wehry 09/27/13 — Susan Wehry, Commissioner/Date

Veda Lyon — Program Chief for Division Director

Objective

The APS Policy and Procedures Manual establishes program policies and operating procedures to direct staff in providing services authorized by Title 33, Chapter 69 of the Vermont Statutes annotated. This Manual replaces all prior APS manuals and will be updated as needed or when required by State statute.

All new staff are expected to familiarize themselves with the policy and procedure manual during orientation and all staff are to review at least annually. Staff will be asked to certify they have reviewed the contents upon completion of their review.

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SECTION I –APS Purpose and Mission	Effective Date: January 2012

Authorizing Signature: _____ _____ _____

Susan Wehry, Commissioner — Program Chief for Division Director

Policy Objective

To familiarize all Adult Protective Services staff with the purpose and mission of the APS program.

APS (Adult Protective Services) is a unit within the Division of Licensing and Protection, Department of Disabilities, Aging and Independent Living, Agency of Human Services. APS is mandated by Vermont state law, as set forth under as authorized by Title 33 of the Vermont Statutes Annotated, Chapter 69, to receive reports and investigate allegations of abuse, neglect and exploitation of vulnerable adults and to carry out other statutory responsibilities.

Purpose and Mission

Adult Protective Services' purpose and mission is to:

1. Protect vulnerable adults whose health and welfare may be adversely affected due to abuse, neglect or exploitation.
2. Ensure the vulnerable adult is provided a temporary or permanent nurturing and safe environment, when necessary.
3. Require the reporting of suspected abuse, neglect and exploitation of vulnerable adults and the investigation of such reports and provision of protective services, when needed.
4. Intervene in the family or substitute care situation only when necessary to ensure proper care and protection of a vulnerable adult; and
5. Carry out other statutory responsibilities.

All employees are expected to meet the expectations outlined in this manual, including professional standards of conduct and/or dress. If an issue related to employee conduct and/or dress arises a supervisor may ask an employee to leave the workplace in an off-payroll status and not return until the issue(s) have been addressed.

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SECTION II – Ethical Principles	Effective Date: January 2012 Last Revised:

Authorizing Signature: _____ _____

Susan Wehry, Commissioner — Program Chief for Division Director

Policy Objective

To articulate the principles which inform the work of Adult Protective Services (APS). APS will balance its duty to protect the safety of the vulnerable adult with the individual's right to self-determination by adhering to the principles and practices described in this section. The principles outlined below are derived from the Ethical Principles and Best Practices of the National Association of Adult Protective Services (NAAPSA) program.

A. <u>APS Principles and practice ensure that</u>:

1. Adults have the right to be safe.
2. Adults retain all their civil and constitutional rights unless some of these rights have been restricted by court action.
3. Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.
4. Adults are presumed to have decision-making capacity unless a court adjudicates otherwise.
5. Adults have the right to accept or refuse services.
6. Vulnerable adults who are victims of abuse, exploitation or neglect will be treated with honesty, caring and respect.

B. <u>APS Practice Guidelines ensure that APS staff shall</u>:

1. Recognize the interests of the adult are the first concern of any intervention.
2. Avoid imposing personal values on others.
3. Seek informed consent from the adult before providing services.
4. Respect the adult's right to keep personal information confidential.
5. Recognize individual differences such as cultural, historical and personal values.
6. Honor the right of adults to receive information about their choices and options in a form or manner that they can understand.
7. To the extent possible, involve the adult in developing the service plan.
8. Maintain clear and appropriate professional boundaries.
9. Do no harm. Inadequate or inappropriate interventions may be worse than no intervention.

C. <u>Applying Values, Principles and Practice</u>: APS staff shall integrate and apply these values, principles and practice guidelines in their work, including, but not limited to:

1. Intake, screening, casework, investigation, fieldwork and related activities
2. Community education, interagency communications and networking
3. Internal and external training

4. Preparation of documents, publications and related communications

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SECTION III – **Professional Conduct and Appearance**	Effective Date: January 2012 Last Revised:
Authorizing Signature: _____ Susan Wehry, Commissioner _____ Program Chief for Division Director	

Policy Objective

To codify the expectation that all employees of Adult Protective Services will conduct themselves in a professional manner and dress in a manner appropriate to a professional work place.

Adult Protective Services staff are representatives of the State of Vermont and are expected to demonstrate a high degree of personal integrity, professionalism and competence.

A. <u>APS Employees will</u>:

1. Demonstrate competence and professionalism in all aspects of their position.
2. Use the authority of their position and the power of the State responsibly and only for its intended purpose.
3. Maintain strict confidentiality.
4. Conduct themselves in a professional manner at all times in office and field based settings.
5. Staff are required to carry their State of Vermont ID badges at all times and to display the badge when working in field-based settings.

B. <u>Investigator Conduct</u>: APS Investigators have significant autonomy and a great deal of discretion in carrying out an investigation, but are expected to follow the legal requirements set forth in law and adhere to the Policies and Procedures set forth in this manual. In the course of an investigation the Investigator must:

1. Maintain objectivity, impartiality and fairness throughout the investigative process;
2. Disclose any actual or potential conflicts of interest and recuse themselves from any involvement in an investigation if such conflict exists; and
3. Make findings and recommendations based on substantiated facts and related analysis, not supposition(s) or assumption(s).

C. <u>Professional Dress</u>: APS employees are expected to dress in a manner that is suitable to a professional work place whether performing their duties in an office or field-based setting. Employees will avoid wearing clothing that is very casual, such as:

1. Blue jean pants, sweat suits, athletic clothing, shorts, T-shirts or hoodies
2. Items of clothing that bear prominent logos or sayings. Discreet manufacturers' logos and labels are acceptable. Four-inch lettering that spells out a manufacturer's brand is not.
3. Clothing that reveals undergarments, cleavage, buttocks or belly flesh.

4. Clothing that bears profane or offensive language, messages or images that reasonably might be interpreted as prohibited by State policy, or would cause or contribute to discrimination based upon race, color, religion, ancestry, national origin, sex, sexual orientation (as provided by 21 V.S.A. Section 495), gender identify, place of birth, age or physical or mental condition.
5. Clothing that is ripped, torn or excessively soiled.

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SECTION IV – Intake, Screening and Disposition of Reports	Effective Date: January 2012 Last Revised: September 26, 2013

Authorizing Signature: _____ _____
Susan Wehry, Commissioner — Program Chief for Division Director

Policy Objective

To describe the process by which APS receives reports and commences an investigation of abuse, neglect and exploitation of vulnerable adults.

A consistent, standardized process is critical for an accurate, timely and responsive system for receiving reports. All reports will be reviewed by the Program Specialist to determine whether the allegations meet the statutory definitions of abuse, neglect or exploitation and whether the individual is eligible for Adult Protective Services (APS).

The APS Program Specialist or designated staff person will accept reports of abuse, neglect and exploitation by telephone, facsimile transmission or through online, e-mail submission. The Program Specialist shall make every effort to obtain the necessary information from the Reporter to ensure an accurate Intake is completed and entered into the Harmony database.

A. Process for Receipt and Disposition of Reports

1. Reports to APS may be made orally or in writing.
2. APS will accept anonymous reports.
3. A toll-free reporting line will be maintained and staffed by APS during normal business hours to receive reports.
4. Voice mail messages left on the APS voice messaging system will generally be returned by the Program Specialist within eight (8) business hours. See § IV(A)(8), below.
5. The Program Specialist will make every effort to ensure that all information obtained is complete and accurate
6. In those instances in which the event that the reporter describes is an emergency, the Program Specialist or designated staff person will instruct the caller to call 9-1-1.
7. In those instances in which the reporter describes a situation in which the health and safety of the alleged victim is in immediate jeopardy and/or they are at immediate risk of serious harm, the Program Specialist or designated staff person will instruct the caller to contact the local police or the Vermont State Police, whichever is applicable.
8. All intakes shall be completed and a determination made:
    a. Within forty-eight (48) hours of receipt of the report, if no additional information is needed to complete the Intake.
    b. Within four (4) business days, if the initial report provides insufficient information to complete the Intake.

c. If the report provides insufficient information for a complete Intake, the Program Specialist shall make two (documented) attempts to contact the Reporter by phone within forty-eight (48) hours of receipt of the report.

B. Commencement of an Investigation

1. Within forty-eight (48) hours of receipt of a report, the Program Specialist commences the investigation as follows:

a. If the report is incomplete as received, the Program Specialist will:
   i. Contact the Reporter or alleged victim; and
   ii. Conduct a structured in-depth telephone interview to determine:
      a. Whether the alleged victim for whom a report has been made is a vulnerable adult as defined by relevant law.
      b. Whether the facts reported meet the statutory definition(s) for abuse, neglect or exploitation as defined by law.

b. If the report is complete as received and appears to meet the statutory requirements regarding vulnerability and abuse, neglect or exploitation, the Program Specialist will open the report for investigation and assign it to an investigator.

c. If the report is incomplete as received, the Program Specialist will assign the report for a field screen, as detailed in sections IV(C)(1)(b) and IV(C)(2)(b).

C. Disposition: Intakes Closed as Contacts

1. Determination of vulnerability:
   a. If the alleged victim for whom a report has been made does not satisfy the statutory definition of vulnerable adult, the intake will not be accepted for investigation and will be closed as a Contact.
   b. Subject to subsection 2(a), below, if the information provided by the reporter is inconclusive or insufficient to make a determination of vulnerability, the intake will be assigned for a field screen to determine vulnerability.
2. Determination of abuse, neglect or exploitation:
   a. If the allegation on behalf of an alleged victim does not appear to meet the statutory definition(s) of abuse, neglect or exploitation it will not be accepted for investigation and will be closed as a Contact.
   b. Subject to subsection 1.a. above, if the information provided by the Reporter is inconclusive or insufficient to make a determination about whether abuse, neglect or exploitation occurred, the intake will be assigned for a field screen to make a determination.
3. If the allegation does satisfy the statutory provisions of Title 33, Chapter 69 the case will be opened and assigned to an Investigator to complete the investigation.
4. If APS:
   a. Receives a report with insufficient information to proceed with a screening and disposition, including no identified victim and/or information on how to reach the alleged victim, the Program Specialist:
      i. Shall make two attempts by telephone to reach the Reporter and gather more information to complete the Intake.
      ii. Shall use other available contact information included in the Report to reasonably attempt to contact the Reporter if the attempts to contact the Reporter by phone are unsuccessful.

iii. Shall send a determination letter to the Reporter stating that the Intake was screened out because the Report provided insufficient information to proceed with an investigation, if all attempts to contact the Reporter are unsuccessful. The letter shall also state that should more information be provided, the decision whether to investigate may be revisited.

b. Receives a report that is not facility-based, with an identified victim and allegation(s) of abuse, neglect or exploitation, but has no identified perpetrator, the Program Specialist shall make a diligent effort to contact the Reporter to gather this information. If the staff is not successful in reaching the Reporter, the report may be:
   i. Opened for a full investigation; or
   ii. Closed and appropriate referrals may be made to law enforcement and/or other services.

c. Receives a report that is facility-based, with an identified victim and allegation(s) of abuse, neglect or exploitation, but has no identified perpetrator or identifying information for the perpetrator, the Program Specialist shall refer the report to the Survey and Certification Unit for screening and disposition. See § IV (J), below.

D. <u>Disposition: Intakes Assigned for Field Screening</u>: The Program Specialist may open and assign an Intake for a field screen if there is insufficient information at intake to complete a full screening or determine if an alleged victim meets statutory definition of a vulnerable adult. The assigned Investigator will:

1. Make a diligent effort (see § VII(D)) to locate the alleged victim and conduct a face-to-face assessment and screening, which may include: an interview with the victim, witnesses, collateral contacts; review of relevant medical, legal or financial documents; assessment of the alleged victim's capacity to make decisions; etc.
2. The Investigator will determine whether the alleged victim is eligible for APS services, the risk and/or severity of harm to the alleged victim, and if there is need for immediate intervention to ensure the alleged victim's safety.
3. If a field screen case closure results in no finding for a full investigation, the closure report will include a description of the investigator's findings (interview with alleged victim, collateral contacts, assessment of AV's capacity, etc.) and a recommended disposition for the report.
4. The report will be entered into the Harmony system for closure and reviewed and approved by the assigned Supervisor.
5. If a field-screen investigation determines that the report satisfies the statutory provisions of Title 33, Chapter 69, the case will be opened for a full investigation.

E. <u>Screening/Assignment</u>: All cases opened for investigation will be triaged by the Program Specialist for risk of harm, severity of harm and/or the need for protective service referrals. A value of 1, 2 or 3 will be assigned to each opened case as summarized below:

1. **Level 1:** Assigned to all cases in which an alleged victim has suffered life-threatening or severe injuries, required hospitalization as a result of maltreatment, or was the victim of sexual abuse or sexual exploitation. The Investigator shall make direct contact with the alleged victim within twenty-four (24) hours of assignment.

2. **Level 2:** Assigned to all cases in which the alleged victim has suffered or is suffering moderate harm as a result of abuse, neglect or exploitation. The Investigator shall make direct contact with the alleged victim within two (2) business days.
3. **Level 3:** Assigned to all cases in which the alleged victim has experienced minimal harm and the alleged perpetrator has no continued access to the alleged victim. The Investigator shall make direct contact with the alleged victim within ten (10) business days.

F. **Supervisory Review:** Supervisory staff shall review a representative sample of all open and closed intakes:

1. For accuracy and complete information within the Report;
2. To ensure the appropriate determination status re: Title 33 statutory requirements.
3. To consult with or provide guidance to the Program Specialist:
    a. When an initial determination or other question arises;
    b. To reverse the initial determination disposition of a Report; or
    c. To ensure timely and adequate communication between the Program Specialists and the Survey and Certification Unit's Screeners.

G. **Referrals:** The Program Specialist is responsible for making appropriate referrals and documenting these within Harmony, as follows:

1. Law Enforcement and/or Special Victims' Units: A referral shall be made at the time of Intake for reports involving:
    a. Suspected acts of sexual abuse, sexual exploitation or lewd and lascivious conduct against a vulnerable adult.
    b. Other violent crimes perpetrated against a vulnerable adult; or
    c. If the report indicates the vulnerable adult is at risk of serious and irreparable harm.

    APS will to the extent possible coordinate investigations with law enforcement personnel but shall commence, conduct and conclude its own investigation within the required investigative timeline, provided such action(s) do not jeopardize the victim's safety and/or the law enforcement agency's investigation.

2. Other required referrals include:
    a. Office of Professional Regulation (OPR): When the alleged perpetrator (AP) is a licensed individual, the OPR (or other appropriate licensing board) shall be informed of the report.
    b. Medicaid Fraud Unit (MFU), Office of Attorney General: Reports of alleged Medicaid fraud by a provider of service (e.g. licensed facility; developmental home provider; etc.) shall be referred to the MFU's office.
    c. Office of the Medical Examiner (OCME): If a report alleges that a vulnerable adult's death resulted from abuse or neglect, the Program Specialist shall make an immediate referral to the OCME regardless of when the death occurred.
    d. If APS receives a report of untimely death, it will refer the report to the OCME. If OCME finds that no abuse or neglect has occurred, APS will include this information in the Intake screening, and the report will not be opened for investigation. If the OCME informs APS that an autopsy will be performed or that results are pending autopsy, the Intake will be assigned for investigation.

e. Domestic Violence: Reports of domestic violence involving a vulnerable adult may be referred to local law enforcement and/or a domestic violence service provider.

3. Survey and Certification: If the report is about a licensed facility or certified provider, the Program Specialist shall refer following types of allegations to the S/C unit on the same day they are received:
    a. Reports of fires with injury or death resulting;
    b. allegations of serious bodily injury or death resulting to the patient/client;
    c. reports of poor or inadequate treatment in an Emergency Room;
    d. any other report that in the Program Specialist's judgment placed the patient/client at extreme risk for bodily injury or death;
    e. anonymous reports with no phone number given; and
    f. reports of an untimely death.

    The following facilities and organizations are licensed and/or certified by the Survey and Certification Unit, Division of Licensing and Protection:
    a. Assisted Living Residence
    b. Ambulatory Surgical Care
    c. End Stage Renal Dialysis Provider
    d. Federally Qualified Health Center
    e. Intermediate Care Facility (ICF-ID)
    f. Home Health Agency
    g. Hospice Provider
    h. Hospital
    i. Home for the Terminally Ill
    j. Medical Laboratory
    k. Nursing home
    l. Physician's Office
    m. Portable X-Ray provider
    n. Residential Care Home
    o. Rural Health Clinic
    p. Therapeutic Community Residence (TCR)

4. **Other Referrals:** The Program Specialist may determine the need for additional referrals and offer these to the Reporter, the victim and/or their representative. Referrals may include but are not limited to:
    a. An area agency on aging
    b. Disability Rights Vermont
    c. Domestic Violence intervention/service program
    d. Mental health and/or developmental disability service provider
    e. VT 2-11
    f. Vermont Legal Aid
    g. Vermont Long Term Care Ombudsman
    h. Vermont Office of Public Guardian
    i. Vermont Center for Independent Living

H. Notification of Parties: The APS Program Specialist will ensure that the reporter, alleged victim and/or their legal representatives are informed of the Report disposition at the conclusion of the screening and assessment process, as follows:

1. Reports closed as Contacts must include notification in writing to the reporter, the alleged victim and their legal representative, if any, if APS decides not to investigate the report. The notification shall be provided within five (5) business days after the decision is made. The reporter must be informed that s/he may ask DAIL's Commissioner to review the Intake/Screening decision.
2. Intakes resulting in Referrals must include notification in writing to the reporter, the victim and the victim's legal representative, if any, if APS refers the report to another service provider or agency. Notification shall be provided within five (5) business days after the referral is made

I. Reports of Self-Neglect: Self-neglect is defined as failure of a person to satisfy their own basic needs, and to protect him/herself from harm, including provision of food, shelter, clothing, health care and/or management of finances. APS does not have the statutory authority to investigate allegations of self-neglect.

When APS receives a report of self-neglect, the information will be entered into the Harmony database, screened and a determination made as follows:

1. If the report is of a self-neglecting adult sixty (60) years of age or older and there is no evidence the individual has been abused, neglected or exploited by another, a referral shall be made to the appropriate Area Agency on Aging.
2. If the report is of self-neglecting adult under sixty (60) years of age, and there is no evidence the individual has been abused, neglected or exploited by another, the Program Specialist may contact the Field Service Director (FSD) in the region where the person resides to consult on potential resources/options for the individual.
3. The Program Specialist will provide the reporter with resource and referral options that may be of help to the individual who is self-neglecting (e.g. an area agency on aging, a regional FSD).
4. If there is any question the person who is reportedly self-neglecting is a victim of abuse, neglect, exploitation by another, the Program Specialist will assign the report for a Field Screen by an APS Investigator.
5. If there is no perpetrator, the Investigator will close the Field Screen.
6. If a perpetrator is identified, a full investigation will be conducted.

J. Facility-Based Resident-to-Resident or Patient-to-Patient Reports:

1. APS will screen all reported incidents of facility-based resident to resident or patient to patient abuse, and:
2. APS will open a reported incident for a full investigation when:
    a. The alleged victim reports they have been abused, neglected or exploited by another resident; and/or
    b. The alleged incident requires that either party receive medical treatment; and/or
    c. Non-consensual sexual activity occurs between two residents; and/or
    d. There is a pattern of repeated abuse between the alleged perpetrator and one or more alleged victims.
3. A copy of the reported incident shall be referred to the Survey and Certification Unit within forty-eight (48) hours of receipt.

K. **Week-end, Holiday and After Hours Reports:** The Department of Disabilities, Aging and Independent Living has an agreement (Memorandum of Understanding) with the Department for Children and Families (DCF) to handle calls received by Adult Protective Services during evening, week-end and holiday hours. The calls will be handled by DCF as follows:

1. When responding to calls coming in from APS, on either the direct line or the toll-free line, DCF will utilize the Division of Licensing and Protection (DLP) web-based Abuse Reporting Form.
2. DCF will process all calls received from the APS line and will record all of the calls as intakes on the DLP Abuse Reporting Form.
3. All intake forms will be submitted to DLP/APS upon completion of intake.
4. In those instances in which the event that the reporter describes is an emergency, the DCF intake specialist will instruct the caller to call 9-1-1.
5. In those instances in which the reporter describes a situation in which the health and safety of the victim is in jeopardy and/or they are at immediate risk of harm, the DCF intake specialist will instruct the caller to contact the local police or the Vermont State Police, whichever is applicable.

State of Vermont – Agency of Human Services – Department of Disabilities, Aging & Independent Living Division of Licensing and Protection – Adult Protective Services	
SECTION V – Confidentiality	Effective Date: January 2012 Last Revised:
Authorizing Signature: Susan Wehry, Commissioner	Program Chief for Division Director

Policy Objective

To ensure that all information obtained through reports and investigations is safeguarded, that unauthorized use or disclosure is restricted, and that no information is released except as authorized by law.

APS staff will adhere to certain procedures and practices to ensure confidentiality in regards to any information gathered by, released to or maintained by APS. Staff will follow the procedures and practices outlined below to ensure confidentiality of all APS records and information.

A. Records: Records include any files, reports, communications or working papers developed in an investigation or in provision of services as a result of an investigation.

B. Reporter's Identity: The name and identifying information of the person who reports suspected abuse or neglect shall not be disclosed and investigative reports shall not contain any identifying information pertaining to the reporter, with some exceptions. Per Vermont Statute (33 V.S.A., 6903), disclosure of the reporter's identity may occur under certain circumstances, if:
1. The person making the report consents to disclosure.
2. A court orders the Agency of Human Services (AHS) to identify the reporter.
3. A judicial proceeding results from the case, and necessitates release of the reporter's name.

C. Identifying Information: Identifying information is defined as information that can be used to distinguish a person's identity, directly or indirectly, including first or last name, or nickname; details specific to physical, physiological, mental, economic, cultural or social identity; or any information combined with other personal details that builds a more complete profile of the individual for the purpose of identification.

D. Release of Information: APS case files and other information obtained through reports and investigations are not open to public inspection and shall not be released, with the following exceptions (33 V.S.A, Chapter 6911):

1. Investigative Reports: Upon receipt of a written request, a copy of the investigative report may be released to the following,
   a. DAIL's Commissioner or designee.
   b. The person accused of having abused, neglected or exploited a vulnerable adult.
   c. The vulnerable adult or his/her legal representative.
   d. The Office of Professional Regulation.
   e. A law enforcement agency, State's Attorney or Attorney General's office.
   f. The Vermont Office of Public Guardian.

2. Other Case Specific Information: Information pertinent to an investigation may be disclosed under the following circumstances:
   a. When AHS needs the information to remediate or prevent abuse, neglect or exploitation.
   b. To assist AHS in its oversight and monitoring responsibilities.
   c. In cases of Relief from Abuse proceedings, Guardianship proceedings or any other court proceeding necessary to protect a vulnerable adult.

E. <u>Confidential Personal Health Information (PHI):</u> Confidentiality of records involving personal health information (PHI) is protected by the privacy provisions of the federal Health Insurance Portability and Accountability Act (HIPAA) at 45 CFR 164.512. These privacy provisions apply to 'covered entities'.

1. Definition of PHI: PHI is defined as any individually identifiable health information, whether oral or recorded in any form or medium, that is created for or received by a covered entity and relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual. Examples of PHI include:
   a. All oral communications
   b. Computer screen print-outs
   c. Fax documents
   d. Hard copy birth or death certificates
   e. Paper records
   f. Printed E-mails that identify an individual's health information, claim or billing information
2. **<u>Definition of a Covered Entity</u>:** A 'covered entity' is defined as, but not limited to, health insurance providers/plans; health care providers such as doctor's offices; home health agencies; hospitals; nursing homes; residential care homes; mental health providers; pharmacies; drug and alcohol treatment providers; medical labs; etc. As such, covered entities may not release PHI without the individual's permission.

   APS is not a covered entity.

F. <u>APS Access to PHI</u>: APS investigators often need to obtain information from a covered entity related to a client who is a victim of abuse, neglect or domestic violence. The covered entity may disclose this PHI/HIPAA protected information to APS as defined in 45 CFR 164.512 under the following circumstances:

1. By legal requirement: The covered entity must provide, to the extent the information is available, the following information as required for reporting under Vermont's Adult Abuse Statute (33 V.S.A. 6904):
   a. The name and address of the reporter.
   b. The name, age and address of the vulnerable adult.
   c. The name and address of any person responsible for the vulnerable adult's care.
   d. The nature and extent of the vulnerable adult's disability or impairment.
   e. Any evidence of previous abuse, neglect or exploitation.
   f. Any other information to help establish the cause of injuries or reasons for the abuse, neglect or exploitation.

2. By permissive authorization: Authorization for the covered entity to release protected health information to APS may also be obtained by asking the vulnerable adult's permission. The covered entity can disclose the information if the individual agrees to the disclosure.
3. By release without the victim's permission: PHI may be released by the covered entity without the victim's permission, but only to the extent the information is directly relevant to the APS program's interest in the vulnerable adult's health care status. The covered entity may disclose PHI if:
    a. The information needed by APS is protected health information, is required to investigate a report of abuse, neglect, abandonment or exploitation under the APS Statute, and the disclosure is necessary to prevent serious harm to the vulnerable adult or other potential victims; or
    b. The vulnerable adult is unable to agree to release because s/he is mentally incapacitated and the Investigator and the covered entity has determined that disclosure of the information is in the vulnerable adult's best interests, and APS:
        i) Agrees not to use the information against the vulnerable adult; or
        ii) Believes that an immediate enforcement activity would be materially and adversely affected by waiting for the vulnerable adult to regain the mental ability to agree to the disclosure; or
        iii) The vulnerable adult is not present, or is unable to consent due to incapacity, or due to an emergency is unable to be present.

G. **Best Practice and Procedures:** The APS program's best practice requires that the Investigator request the minimum amount of information necessary to carry out an intervention or conduct an investigation. APS staff will confine their inquiry to information directly relevant to the investigation, and:

1. When requesting HIPAA protected information shall:
    a. Determine if the additional information is necessary or if the report content contains enough information to proceed with the case.
    b. Determine whether the additional information required is considered personal health information (PHI).
    c. Determine if the additional information must be provided by the covered entity or can be obtained from another source.
2. If the Investigator determines the information is required, and is covered under HIPAA/PHI, they will:
    a. Contact the covered entity;
    b. Provide State of Vermont ID as an APS Investigator; explain the APS statutory mandate and authority to investigate allegations of abuse, neglect or exploitation of vulnerable adults; and
    c. Make a written or oral request to the covered entity's representative, requesting the protected health information.
3. If the covered entity refuses to provide the information the Investigator will send a written request via fax using the APS-HIPAA letter format to the covered entity's representative. If the covered entity has further questions the APS staff will contact DAIL's Legal Department for assistance.

State of Vermont – Agency of Human Services – Department of Disabilities, Aging & Independent Living Division of Licensing and Protection – Adult Protective Services	
SECTION VI: **Conducting an Investigation**	Effective Date: January 2012 Last Revised: September 26 , 2013
Authorizing Signature: _____ Susan Wehry, Commissioner	_____ Program Chief for Division Director

Policy Objective

To insure investigations meet the requirements of Vermont's Adult Abuse Statute (Title 33, Chapter 6906) and are accurate, thorough, timely and conducted in a manner consistent with best practices and procedures.

The Vermont Adult Abuse Statute requires that certain procedures be followed when conducting an investigation into allegations that a vulnerable adult has been abused, neglected or exploited.

APS Investigators are expected to carry out investigations in a manner that is thorough, accurate and timely and to keep the Program Chief appraised regarding the development of assigned cases. While Investigators have significant autonomy and discretion in how they proceed with an investigation, they must conduct themselves within the parameters established by law and adhere to the following procedures:

A. <u>Commencing the Investigation</u>: In commencing an investigation APS shall at a minimum:

1. Provide a full screening, assessment and determination within forty-eight (48) hours of receipt of the report;
2. Determine a Priority Level of 1-3 (See § IV (D)) for each report;
3. Assign for a Field Screen or a full investigation.

B. <u>Notification Requirements</u>: APS will:

1. Notify in writing the reporter, the victim and the victim's legal representative, if any, of the outcome of the investigation.
2. Provide the notification within five (5) business days after the determination is made and inform the reporter that he or she may ask DAIL's Commissioner to review the determination.
3. Provide written notice to the alleged perpetrator (AP) of the outcome of the investigation.
    a. If the investigation results in a recommended finding of substantiated, the AP will be notified of the evidence which forms the basis of the recommendation, how the report might be used and offered an opportunity to dispute the recommendation and may, within fifteen (15) days of notification request an administrative hearing in front of the Commissioner or designee.

b. If no hearing is requested within fifteen (15) days of notification the Commissioner or designee shall make a finding of substantiated or unsubstantiated, and notify the person of the decision and right to appeal to the Human Service Board.

C. **Face-to-Face Contact with alleged victim:** The Investigator is required to make face-to-face contact with the alleged victim to assure their safety and well-being, and must document this within the Harmony investigative report, as follows:

1. Level 1: within twenty-four (24) hours of assignment.
2. Level 2: within two (2) business days of assignment, dependent upon need.
3. Level 3: within ten (10) business days of assignment.
4. If face to face contact with the victim is not possible due to illness, because contact could jeopardize their health or well-being, or for another valid reason, the Investigator will contact a person who represents the victim's interest (e.g. a trusted friend, family member, medical personnel, guardian, case manager, social worker, mental health clinician, etc.)

D. **Investigative Requirements:** The investigation shall include, except where inclusion would jeopardize the health, welfare or safety of the vulnerable adult:

1. A visit to the reported victim's place of residence or place of custody, and to the location of the reported abuse, neglect or exploitation.
2. Interviews with all relevant witnesses to the alleged abuse, neglect or exploitation who are available.
3. An interview with the reporter.
4. An interview with the reported victim:
    a. Shall occur without the reported perpetrator present; and
    b. May take place without the approval of the vulnerable adult's parents, guardian or caregiver; but cannot take place over the objection of the reported victim. Interviews with the alleged victim shall generally occur in person.
5. An opportunity for the person who allegedly abused, neglected or exploited the vulnerable adult to be interviewed.
6. As appropriate, an offer of protective service(s) in cases where there is evidence that abuse, neglect or exploitation occurred.
7. A written Investigative Summary report describing all evidence obtained and recommending a finding of substantiated or unsubstantiated. All investigative reports will be reviewed by a Field Supervisor and/or the Program Chief prior to case closure and submission to DAIL's Commissioner or designee. The Investigator will submit a signed, dated copy of the report and hard file copy with all required forms and reports to the APS Program Chief or designee for review

E. **Additional Investigative Steps:** APS staff may elect to take additional steps to gather, review and/or secure information, including but not limited to:

1. Comparing statements made by the alleged victim, the accused, witnesses and collateral contacts for consistency and to identify discrepancies and/or contradictions.
2. A review of all documents related to the investigation, including written materials, audio/video tapes, photographs, bank statements, legal documents, court orders and statements of witnesses to fully evaluate all information pertinent to the investigation.
3. When available, a review of previous reports or case records relevant to the current case.

F. **Client Capacity to Consent:** APS clients are presumed competent to make decisions regarding protective services and other assistance offered during the course of an APS investigation. If questions arise regarding a client's capacity to give informed consent the Investigator will evaluate client's ability to do so. At a minimum, the evaluation will assess the client's:

1. Ability to give informed consent.
2. Degree of dependency on others for their care and well-being.
3. Level of risk for further abuse, neglect or exploitation by the accused or other individuals.

G. **When an Alleged Victim Refuses APS Assistance:** If an alleged victim refuses the assistance of APS and requests that the investigation stop, the Investigator shall at a minimum:

1. Document steps taken to assess the alleged victim's capacity to consent or refuse services/assistance.
2. Offer protective services, referrals and safety planning to the alleged victim, and document same.
3. If the Investigator has information and/or evidence that supports continuation of the investigation (e.g. the alleged victim's statement, police reports, photographs), after consult with supervisory staff they may determine that the investigation should continue.
4. The Investigator may determine that a continued investigation requires a search of the alleged perpetrator's prior history of abusive behavior (for e.g. Harmony database, the Adult Abuse Registry, the VCIC) and;
5. May also include identification and interview of other potential victims.
6. If the alleged incident occurred in a licensed facility or other setting (such as Choices for Care) where the alleged perpetrator may have continued access to other vulnerable adults, the Investigator will identify, contact and interview those individuals, and take protective measures as needed.

State of Vermont – Agency of Human Services – Department of Disabilities, Aging & Independent Living Division of Licensing and Protection – Adult Protective Services	
SECTION VII: **Conclusion of the Investigation**	Effective Date: January 2012 Last Revised: September 26 , 2013

Authorizing Signature: _____ Susan Wehry, Commissioner

_____ Program Chief for Division Director

Policy Objective

APS investigations shall be conducted in a thorough, timely and complete manner. The final investigative report and conclusion(s) will meet all investigative and statutory requirements.

Investigative staff will adhere to the following procedures to ensure thorough, timely and complete investigations:

A. **Requirements for Timely Investigations:** APS Investigators shall complete all investigative tasks and submit a final report within sixty (60) days for cases involving abuse and neglect, and within ninety (90) days for cases involving financial exploitation.

B. **Coordination of Investigations:** APS shall commence, conduct and conclude its own investigation as soon as possible. As necessary, APS will coordinate investigations with other entities, including law enforcement agencies. At its discretion, APS may adjust investigative timelines and/or procedures to ensure the victim's safety and/or to avoid conflict with an ongoing law enforcement agency's investigation.

C. **Extension Requests:** In certain circumstances it may not be possible for the APS Investigator to complete an investigation in the required time frame. In these cases the Investigator will contact the APS Program Chief to request an extension. The APS Program Chief or designee may grant an extension of the investigation, or a delay in releasing the report, under one or more of the following conditions:

1. One or more individuals who are critical to the investigation are unavailable due to illness, hospitalization, travel, incarceration or other circumstances out of the Investigator's control.
2. The investigation is an extremely complex case that requires additional time to complete, to ensure a thorough and accurate process.
3. Temporary protective services have been implemented, and the scheduling of a judicial proceeding extends beyond the required time line for closure.
4. Scheduling conflicts with other parties, such as the attorney for the accused.
5. The case involves multiple victims and/or perpetrators, and requires additional time in order to complete all critical interviews and related activities.
6. A natural disaster has delayed the investigation.
7. The Investigator has requested and is waiting for medical, financial or other records critical to reaching a conclusion.
8. The Program Chief may choose to delay release of a final investigative report when the

investigation has been conducted jointly with another agency (law enforcement or OPR), the partner agency is unable to complete its investigation within APS time parameters and release of the APS report would compromise the partner agency's investigation.

9. One or more individuals who are critical to the outcome of the investigation cannot be located despite the Investigator's 'diligent search efforts'. (Section VIII-D).

D. <u>Requirements for a Diligent Search Effort</u>: In cases where the Investigator has been unable to locate an individual critical to the investigation, s/he must demonstrate that they have made a diligent effort to search for and locate the individual (s). The following activities constitute a diligent effort, and must be documented in the case file records:

1. Making two (2) or more visits to the individual's reported location during different times of the day.
2. Calling the reporter to verify reported information and attempting to obtain this information.
3. Interviews with neighbors who may have information as to the location of the individual(s).
4. Contact with local, county and/or state law enforcement agencies to request a check of their records for information regarding the location of the individual.
5. Research of local telephone directories for contact information.
6. Preparing and sending a certified letter to the individual(s) requesting that they contact APS.
7. Researching prior APS records and/or interviewing prior Investigative staff involved in the prior case(s).
8. Contacting any known relatives of the individual(s).
9. Contacting the individual(s) landlord(s), if applicable.

E. <u>Assessment at Case Conclusion</u>: At the conclusion of all investigations the APS Investigator will review any protective service actions taken during the course of the investigation and determine whether the victim has need for any additional assistance and/or referrals.

Decisions regarding provision of protective services will be based upon the vulnerable adult's needs and preferences. The Investigator will gather sufficient information to identify the client's:

1. Current services, such as medical treatment, mental health counseling, medications, public benefits such as Medicaid, 3 Squares VT, Area Agency on Aging (AAA) assistance;
2. Living arrangements;
3. Existing financial management resources, such as, but not limited to, a representative payee or guardian;
4. Support systems, including family, friends and community service providers;
5. Legal issues, such as the need for court action (e.g., guardianship, relief from abuse order, durable power of attorney); and
6. Need for referrals for additional services.

If the investigation produces evidence that the vulnerable adult has been abused, neglected or exploited, the Investigator shall arrange for provision of protective services in accordance with a written, coordinated treatment plan. A summary of the services and plan shall be included in the Investigative Summary Report, in the Investigative Results sub-section. All actions taken by APS

to implement a coordinated treatment plan shall be documented in the Harmony database as they occur.

F. **Compliance Checklist and/or Summary; Protective Services; Coordinated Treatment Plan:** At the case conclusion the Investigator shall indicate within the Investigative Summary report whether one or more protective services were offered or provided to the victim and whether the victim accepted or declined these services, as indicated in the coordinated treatment plan.

   Protective services may include but are not limited to: guardianship; counseling; securing safe/sanitary living conditions; temporary restraining order; protection of financial or other assets; securing a Power of Attorney; etc.

G. **Client Right to Refuse Assistance:** Any decisions regarding the provision of protective or other services will be made in consultation with the victim. APS recognizes that individuals with the capacity to give informed consent have a right to request, accept or refuse services, including declining to participate in an investigation. If protective services or service referrals were declined by the vulnerable adult, the Investigator will note this in the investigative closure report.

State of Vermont – Agency of Human Services – Department of Disabilities, Aging & Independent Living Division of Licensing and Protection – Adult Protective Services	
SECTION VIII: **Case Disposition and Notification**	Effective Date: January 2012 Last Revised:

Authorizing Signature: _____ _____

Susan Wehry, Commissioner — Program Chief for Division Director

Policy Objective

To ensure the process for making a final case disposition is standardized, fair, accurate and timely, the final case disposition requires submission of a full report with findings based upon accurate and reliable information. The final disposition of a case includes completion of the Compliance Checklist and the final, written investigative report.

A recommendation for a substantiation or non-substantiation will be made at the conclusion of the investigative report, as follows:

A. **Non-substantiation Recommendation:** The recommendation is based on a finding that the allegation(s) cannot be substantiated because a preponderance of evidence does not support the allegation(s). A non-substantiation recommendation will be made when:

1. The evidence and facts gathered do not support the allegations; or
2. Further investigation poses a danger or substantial risk of danger to a vulnerable adult, and protective measures are sufficient so that the individual is at no further risk of harm; or
3. The client/victim cannot be located or is deceased and APS cannot obtain a preponderance of evidence to support a substantiation; or
4. The alleged victim refuses to participate in the APS investigation, and the Investigator has determined they have capacity to make an informed decision.

B. **Substantiation Recommendation:** The recommendation is based on a finding that the allegation(s) can be substantiated because a preponderance of evidence would lead a reasonable person to believe that the vulnerable adult has been abused, neglected or exploited.

C. **Letters of Notification:** The Investigator is responsible for providing written notice of the outcome of the investigation within five (5) days of completing the investigation. The Investigator will send a letter informing the following individuals of the case disposition:

1. The perpetrator will be notified that a recommendation for substantiation or non-substantiation has been made. The letter will include the basis for the recommendation, and in the case of substantiation, information regarding the individual's right to appeal.
2. The victim and/or their legal representative will be notified that a recommendation of substantiation or non-substantiation has been made.
3. The reporter will be notified of the outcome of the investigation.

State of Vermont – Agency of Human Services – Department of Disabilities, Aging & Independent Living Division of Licensing and Protection – Adult Protective Services	
SECTION IX: **Contents of the Investigative Case Record**	Effective Date: January 2012 Last Revised: September 26, 2013
Authorizing Signature: _____ Susan Wehry, Commissioner _____ Program Chief for Division Director	

Policy Objective

To insure that all information gathered during the course of the APS investigation is documented in a standardized manner, maintained in a confidential case record file and reflect an accurate and thorough investigation.

APS case files and contents will be submitted upon completion of an investigation. All case files will be maintained in two-clasp or four-clasp folders, dependent upon the size of the case file record. All case file information pertinent to the investigation will be included in the case file record including documents, evidence and other materials, as follows:

A. **Case Records for Unsubstantiated/Substantiated Reports:** These records shall include the following:

1. A printed copy of the Intake /Screening form.
2. Face to Face document
3. The Investigation Summary Report including:
    a. Investigative sources
    b. Findings
    c. Application of relevant statute and recommendation
    d. Case determination and allegation findings
4. Identification of all protective services provided or referrals made.
5. Description of the coordinated treatment plan, if applicable. See §VII. E., above.
6. The investigative notes.
7. All correspondence.
8. All evidence (e.g. photos, records, audio recordings, etc.).

State of Vermont – Agency of Human Services – Department of Disabilities, Aging & Independent Living Division of Licensing and Protection – Adult Protective Services	
SECTION X: **Retention of Records**	Effective Date: January 2012 Last Revised:

Authorizing Signature: _____ _____

Susan Wehry, Commissioner — Program Chief for Division Director

Policy Objective

To insure the maintenance of well organized, complete records are kept in a confidential location and retained according to legal requirements.

APS records will be maintained according to type of record, program, legal and/or other requirements, as follows:

A. **Contact Closures:** Reports determined to be Contacts will be retained for one year from date of receipt of the original report.
B. **Reports:** A record of all reports received shall be maintained in the APS data base, including the date of the allegation, the names, addresses and phone numbers of the alleged victim and perpetrator, and the nature of the allegation.
C. **Non-Substantiations:** If a report is found to be unsubstantiated, the records shall be retained as part of the confidential records of DAIL (6906(e). If no court proceeding is brought pursuant to subdivision 6903(c)(3) of this title within six years of the date of the notice to the person against whom the complaint was lodged, the records relating to the unsubstantiated report shall be destroyed after notice to such person, unless he or she requests that the records not be destroyed.
D. **Substantiations:** Records of substantiated case files shall be maintained in a secure, locked file cabinet. When an appeal for expungement from the Adult Abuse Registry has been granted the case file shall be retained for one year from the date of expungement, unless an additional allegation against the individual has occurred.
E. **Consent for Release Forms:** Adult Abuse Registry Consent for Release Forms will be retained for seven (7) years if the Registry check confirms an individual's name is on the Adult Abuse Registry. If the check is negative, the Consent for Release Form will not be retained by APS.
F. **Letters:** All letters related to contacts, withdrawals and non-substantiated reports will be retained for one year.

State of Vermont – Agency of Human Services – Department of Disabilities, Aging & Independent Living Division of Licensing and Protection – Adult Protective Services	
SECTION XI: **Adult Abuse Registry**	Effective Date: January 2012 Last Revised:
Authorizing Signature: _____ Susan Wehry, Commissioner	_____ Program Chief for Division Director

Policy Objective

To describe the process by which names of individuals substantiated for abuse, neglect or exploitation of a vulnerable adult are added to the adult registry and the circumstances when this information may be released.

The Division of Licensing and Protection shall maintain the Adult Abuse Registry.

The procedures for maintenance of the Adult Abuse Registry will be as follows:

A. **Addition of Name to the Registry:** In cases of a substantiated finding the name of the perpetrator shall appear on the Adult Abuse Registry only after all the appeals processes have been exhausted. If the recommendation for substantiation is upheld after completion of the appeals process, the individual name shall be placed on the Adult Abuse Registry.

B. **Disclosure of Information:** APS may disclose information from the Registry to employers who employ or contract with one or more persons to care for a vulnerable adult.

C. **Registry Access by Employers:** Employers may access the Registry by submitting a Consent for Release of Information Form to APS, as follows:

1. The form must be an original, signed by the individual who is employed by, or has applied for employment with the employer, and/or who has been given a conditional offer of employment.
2. The prospective employee must provide their name; other names they have used; their original signature; current address; date of birth; social security number; and a telephone number.
3. The request will be processed by the designated APS staff person within seven (7) working days of receipt of the consent form and request.
4. APS/Division of Licensing will retain registry checks resulting in a finding that the employee or prospective employee's name is on the Adult Abuse Registry. A copy of the processed Consent for Release Form shall be returned to the requesting employer for their records.
5. When a Registry check results in a finding that the prospective employee's name is not on the Registry, the original Consent to Release Form will be returned to the requesting employer for retention in their records. APS/the Division will not retain a copy.

D. **Registry Access by Department Personnel:** Access to the Registry is limited to designated staff within DAIL, including the Commissioner and his/her designee, the Director of the Division of Licensing/Protection and his/her designee, and the APS Program Chief and his/her designee.

E. **Expungement from the Registry:** An individual whose name has been placed on the Registry may petition to have their name expunged as follows:

1. The request must be made in writing to the Commissioner. The burden of showing why their name should be expunged rests with the petitioner.
2. The Commissioner's office will schedule an informal hearing with the petitioner and provide written notice of their decision regarding the request for expungement.
3. APS will be responsible for removal of the person's name from the Registry within three (3) working days of receiving notice of the decision to expunge.
4. APS will notify the Office of Professional Regulation/VT Nursing Board when a licensed individual's name is expunged from the Registry.

State of Vermont – Agency of Human Services – Department of Disabilities, Aging & Independent Living Division of Licensing and Protection – Adult Protective Services	
SECTION XII: **Conflict of Interest**	Effective Date: January 2012 Last Revised: September 26, 2013
Authorizing Signature: _____ Susan Wehry, Commissioner _____ Program Chief for Division Director	

Policy Objective

To insure all reports of abuse, neglect or exploitation of a vulnerable adult are handled in an objective and impartial manner.

From time to time a conflict of interest may arise related to an APS report and/or investigation. In such circumstances APS will take the following steps:

A. **Conflict of Interest re: DLP and/or APS**: If the Secretary of the Agency of Human Services or DAIL's Commissioner or a member of his/her staff receives a report alleging abuse, neglect or exploitation as a result of acts or omissions on the part of the DLP Director, APS Program Chief or APS staff:
   1. S/he shall cause the report to be investigated by another Department within AHS.
   2. If an APS Investigator has an actual or potential conflict of interest regarding an assigned investigation they will inform the APS Program Chief and request to be recused from further involvement with the case. The Program Chief will promptly review the information, make a determination as to how to proceed and reassign the case accordingly.

B. **Conflict of Interest re: Secretary of AHS, DAIL, DLP, APS**: If a report is received alleging abuse, neglect or exploitation occurred as a result of acts or omissions on the part of the Secretary of AHS or DAIL's Commissioner or a member of his/her staff, other than staff of DLP/APS, the Director of the Division of Licensing and Protection shall cause the report to be investigated by another Department within AHS.

C. **Conflict of Interest re: Appeals**: If the DAIL Commissioner has an actual or potential conflict of interest regarding an assigned appeal s/he will inform the DAIL legal division and request the appeal be reassigned.