

<b>Section</b>	<b>Policies &amp; Procedures</b>	<b>6.3</b>	05/30/91 - Effective
<b>Subject</b>	<b>Departmental Operations</b>		01/27/2009 - Reviewed
<b>Policy</b>	<b>Protective Services To Elderly And Disabled Persons</b>		01/27/09- Revised Care Management - Author

## Protective Services To Elderly And Disabled Persons

### Policy Overview

Texas State law mandates that persons having cause to believe or suspect that an elderly or disabled person is at risk of abuse, neglect or exploitation must report to Adult Protective Services (APS). All Care Managers have the responsibility to cooperate with the Texas Department of Family & Protective Services (DFPS) in obtaining information, providing psychosocial assessments and coordinating appropriate post-hospital placement activities related to patients seen in this setting who have been determined to be in a state of abuse, exploitation or neglect.

### Audience

Care management staff.

### Definition Of Terms

An elderly person is described as a person 65 years or older. A disabled person is a person with mental, physical or developmental disability who is 18 years or older, or under 18 years who has had the disabilities of minority removed. The Texas Department of Family and Protective Services is referred to in this policy as DFPS.

### Report Content

A Care Manager with reasonable cause to believe that a patient has been or will be abused, exploited or neglected should inform the DFPS verbally first and, if requested, in writing. Both verbal and written reports should include:

- a) the name, age and address of the elderly or disabled person;
- b) the name and address of the person responsible for the elderly or disabled person's care;
- c) the nature and extent of the elderly or disabled person's condition;
- d) the basis of the reporter's knowledge; and
- e) any other relevant information.

- 1) In some cases the DFPS may request that a written statement by a physician with medical documentation identifying the nature and extent of injuries or evidence of neglect or abuse be submitted with the Care Manager's report.
- 2) If the elderly or disabled person has been abused, exploited or neglected in a facility operated, licensed, certified, or registered by a state agency, the report shall additionally be made to the state agency that operates licenses, certifies or registers the facility. This must include a written report.

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**Where To Report**

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The report must be made by calling the Adult Abuse Hotline 1-800-252-5400

Nursing Home Hotline (if abuse occurred in a nursing home): 1-800-252-5400

Medicaid Fraud Hotline (if patient is in a Medicaid facility): 1-800-252-8011

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**Immunity / Penalty**

A person filing a report under this Chapter is immune from civil or criminal liability unless the person acted in bad faith or with malice. Any medical facility or physician treating an elderly or disabled person pursuant to an emergency order under this Chapter is not liable for any damages arising from the treatment, except those damages resulting from the negligence of the facility or physician. Failure to report in accordance with this code is a criminal offense of a Class B Misdemeanor.

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**DFPS Response**

The DFPS is mandated to initiate a prompt and thorough investigation within 24 hours of receipt of a report to determine if the patient is in need of protective services. These services may include casework, psychiatric and health evaluation and treatment, home care, day care, legal assistance, social services, and other services consistent with legal provisions.

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**Advocacy**

If DFPS response to the report is inadequate in the judgment of the Care Management and their supervisor, the supervisor may pursue higher levels of authority both within and without the DFPS system.

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**Voluntary Services**

An elderly or disabled person may receive voluntary protective services if the person requests or consents to receive those services, and will participate in all decisions regarding his or her welfare. If the elderly or disabled person withdraws or refuses consent, the service may not be provided. A person may not interfere with the provisions of voluntary protective services to an elderly or disabled person.

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**Emergency Order**

If a patient is incapable of understanding the nature of the services offered because of mental or physical impairment and therefore cannot agree to receive or reject protective services, the DFPS may petition the probate, statutory or constitutional county court that has probate jurisdiction in the county in which the elderly or disabled person resides for an emergency order authorizing protective services. This emergency order expires at the end of 72 hours from the time of the order unless the 72 hour period ends on a Saturday, Sunday, or legal holiday. In this case the order is automatically extended to 4:00 p.m. on the first succeeding business day. An order may be renewed for not more than two additional 72 hour periods. A renewal order that ends on a Saturday,

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Sunday, or legal holiday is automatically extended to 4:00 p.m. on the first

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**Emergency  
Order,  
continued**

succeeding business day. If the DFPS cannot obtain an emergency order because the court is closed on a Saturday, Sunday, or a legal holiday or after 5:00 p.m., the DFPS may remove the elderly or disabled person to safer surroundings, authorize medical treatment, or order or provide other available services necessary to remove conditions creating the threat to life. The DFPS must obtain an emergency order not later than 4:00 p.m. on the first succeeding business day after the date on which protective services are provided, or immediately return the person to the place of apprehension or to the person's place of residence in the state or other suitable place. Any emergency order must be documented in the patient's medical record with a copy of the court order and / or the name, title, phone number and date and time the verbal order was obtained.

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**References**

- 1) Vernon's Texas Codes Annotated, Human Resources Code, Title 2, Sec. 48.001 - 48.084, Chapter 48. Protective Services for the Elderly.
- 2) "Abuse of the Elderly", Texas Attorney General's Office, Pamphlet, 3/91.