

## Administrative Policy No. 8.02

<b>Subject:</b>	Client Abuse Reporting
<b>Information Contact:</b>	Assistant Secretary, Developmental Disabilities Administration MS 45310, (360) 407-1501
<b>Authorizing Source:</b>	<a href="#">42 CFR 483.420</a> Chapters <a href="#">9A.16</a> , <a href="#">11.88</a> , <a href="#">11.92</a> , <a href="#">18.20</a> , <a href="#">18.51</a> , <a href="#">18.130</a> , <a href="#">26.44</a> , <a href="#">70.124</a> , <a href="#">70.127</a> , <a href="#">70.128</a> , <a href="#">71A.12</a> , <a href="#">71A.20</a> , <a href="#">72.36</a> , <a href="#">74.34</a> RCW
<b>References:</b>	<a href="#">Administrative Policy 9.01 Incident Reporting</a> <a href="#">Administrative Policy 18.62 Allegations of Employee Criminal Activity</a>
<b>Effective Date:</b>	September 15, 1990
<b>Revised:</b>	September 29, 2017 <sup>i</sup> <a href="#">Housekeeping 7/15/2020</a> <sup>ii</sup> <a href="#">Housekeeping 9/25/2020</a>
<b>Approved By:</b>	<u>original signed by Sharon Swanson</u> Senior Director, Policy & External Relations

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### Purpose

This policy establishes the department process to:

- Protect, to the extent possible, the health and safety of department clients;
- Ensure that client abuse is reported, investigated, and resolved; and
- Ensure that procedures are in place to prevent abuse.

Several state laws require department employees to report to the appropriate authorities any suspected abandonment, abuse, financial exploitation, and neglect of vulnerable adults and suspected abuse or neglect of children:

- [Chapter 26.44 RCW](#) mandates the immediate reporting of any suspected abuse or neglect of a child to either the Department of Children, Youth, and Families (DCYF) or to law enforcement.
- [Chapter 74.34 RCW](#) mandates an immediate report to DSHS of suspected

abandonment, abuse, financial exploitation, or neglect of a vulnerable adult. When there is suspected sexual or physical assault of a vulnerable adult, it must be reported to DSHS **and** to law enforcement.

- [RCW 70.124.030](#) mandates the immediate reporting of suspected abuse or neglect of state hospital patients.

## Definitions

Definitions of terms used in this policy may be found in [Attachment A](#) – Definitions.

## Scope

This policy applies to all department employees, interns, volunteers, work study students and any person or entity working under contract with or licensed by the department. **All DSHS employees are mandated reporters.**

## Policy Requirements

### A. **Mandatory reporting for suspected abandonment, abuse, financial exploitation, and neglect**

1. The department must immediately report and process allegations of suspected abandonment, abuse, financial exploitation, and neglect of clients in a manner that ensures appropriate and prompt investigation.
2. Each administration or division must maintain procedures and practices that ensure timely reporting, investigation, and prompt corrective action.

### B. **Confidentiality of reporter's identity**

Department managers must take steps to ensure that the identity of any reporter acting under [chapter 74.34 RCW](#) remains confidential and is not subject to disclosure except when confidentiality is waived by the reporter, or disclosure is permitted by RCW 74.34.035, RCW 74.34.095, or otherwise required by law.

### C. **Employee responsibility**

1. If a department employee, intern, volunteer, or work study student has reasonable cause to believe any client has been abandoned, abused, neglected, or financially exploited, regardless of the source of information, **the employee must:**
  - a. Call the appropriate department reporting unit (listed in [Section E](#)) immediately; and
  - b. Notify his or her supervisor or manager. The employee is not required

to report to his or her supervisor a referral for non-work related situations, such as family, friends, and neighbors.

2. These reports must be made immediately after suspecting abandonment, abuse, financial exploitation, or neglect, regardless of employee leave or days off.
3. Mandated reporters calling a DSHS reporting unit must provide, to the extent possible, all of the following information:
  - a. The mandated reporter's name and contact information.
  - b. The name and address of the child or vulnerable adult, and the name of the facility or agency providing care, if applicable.
  - c. The name and address of the client's legal representative, if applicable.
  - d. The nature and extent of the abandonment, abuse, financial exploitation, or neglect.
  - e. Any known history of previous abandonment, abuse, financial exploitation, or neglect.
  - f. The name of the alleged perpetrator, if known.
  - g. Other information that may be helpful in establishing the extent of abandonment, abuse, financial exploitation, or neglect.
4. DSHS employee's mandatory reporting responsibilities are not limited to the work place, and apply at all times, including off-duty hours.
5. In addition, employees are expected to follow their respective administration's applicable policies regarding reporting and supervisory case reviews.
6. Employees who fail to report suspected client abandonment, abuse, exploitation, financial exploitation, or neglect may be subject to disciplinary or criminal action, or both. Failure to report for vulnerable adults is a gross misdemeanor under Washington state law ([RCW 74.34.053](#)).

**D. Requirement for administration and division procedures and training**

1. Each administration or division must have written procedures in place and provide training to employees, interns, volunteers, and work study students on recognizing and reporting allegations of client abandonment, abuse, financial exploitation, or neglect. At a minimum, procedures and training must include each of the following:
  - a. Timelines for reporting.
  - b. Reference to, or attachments of, relevant federal and state statutes and regulations regarding client abuse and the specific types of programs to which they pertain.
  - c. Current telephone numbers of departmental reporting units.

- d. The responsibilities of reporting staff, supervisory and administrative staff, witnesses, and direct care staff (where applicable).
  - e. Instruction on recognizing abandonment, abuse, financial exploitation, and neglect.
  - f. Instructions for emergency client protection.
  - g. Mandatory reporting requirements, including instructions for notifying local law enforcement if there is reason to suspect that sexual or physical assault has occurred.
  - h. Instructions for coordinating with a sexual assault specialist or center, as appropriate.
  - i. Instructions for evidence preservation and collection, where applicable.
  - j. Instruction on the investigation process and procedures, where applicable.
  - k. Information on implementing preventive measures and corrective action.
  - l. Instruction on initiating an external review when a report of known or suspected client abuse or neglect involves the acts or omissions of an administrator.
2. Administrations and divisions must review their procedures regularly and update as needed.
  3. Organizations that include employees or volunteers subject to mandatory reporting requirements under chapter 26.44 RCW must clearly display in a common area an informational poster provided by DSHS that includes the mandatory reporting requirements under RCW 26.44.030.

#### **E. Contact numbers for reporting**

The reporting entities for department employees, interns, volunteers, and work study students are as follows:

##### **1. Reports involving children**

*Contact the local Child Protective Services (CPS) office. After business hours: DCYF CPS statewide number: **1-866-363-4276 (EndHarm)***

##### **2. Reports Involving 18-21 Year Olds in Certified State-Operated Facilities Providing 24-Hour Care for Children**

*DCYF Central Intake: **1-866-363-4276 (EndHarm)***

##### **3. Reports Involving Adults Living in the Community or in Department- Licensed or Certified Facilities and Programs**

Online reporting: [www.dshs.wa.gov/altsa/reportadultabuse](http://www.dshs.wa.gov/altsa/reportadultabuse)

DSHS Adult Protective Services (APS) Central Intake: 1-877-734-6277

4. **Reports Related to Provider Practice Issues Involving Adults Living in Nursing Homes, Assisted Living Facilities, Adult Family Homes, or Supported Living Program Settings**

Online reporting: [www.dshs.wa.gov/altsa/reportadultabuse](http://www.dshs.wa.gov/altsa/reportadultabuse)

Residential Care Services (RCS)/Complaint Resolution Unit (CRU)  
statewide number: 1-800-562-6078

TTY: 1-800-737-7931

5. **Reports Involving Adult Patients at Eastern and Western State Hospitals**

Eastern State Hospital: 1-509-565-4000

Western State Hospital: 1-253-761-7599

**F. Investigations**

1. All allegations of client abandonment, abuse, financial exploitation, and neglect by department employees must be investigated.
2. Multiple administrations within DSHS are authorized to investigate allegations of client abandonment, abuse, financial exploitation, and neglect by department employees. Such investigations must be conducted in accordance with:
  - a. Applicable RCWs and WACs.
  - b. DSHS Administrative Policy [9.01](#).
  - c. DSHS Administrative Policy [18.62](#).
  - d. Any negotiated agreements and other applicable policies or memoranda of understanding.

**G. Notification of Appointing Authority**

If a DSHS employee is the alleged perpetrator of abuse or neglect of a child or abandonment, abuse, financial exploitation, or neglect of a vulnerable adult, APS, or RCS must notify the employee's appointing authority of all allegations if:

- a. The alleged perpetrator is in a DSHS covered position having unsupervised access to children or vulnerable adults and the employee is being investigated by CPS, APS, or RCS; or

- b. A referral for an investigation is accepted by local law enforcement or the Washington State Patrol.
2. APS and RCS must not disclose a report to an employee's appointing authority if the report has been "screened out."
3. If CPS, APS, or RCS discloses a report that has not been "screened out" and the subsequent investigation is unfounded or inconclusive, DSHS must remove all references to the report and investigation from the employee's personnel file.
4. Appointing authorities should contact their human resources consultant or manager for advice before placing an employee on an alternative work assignment.

#### **H. Operating Procedures**

1. APS and RCS must develop operating procedures to implement this policy.
2. The operating procedures must include reporting protocol to the Medicaid Fraud Control Unit for allegations of fraud by a Medicaid provider.

## Attachment A –Definitions

### General Definitions

**Good faith** means a state of mind indicating honesty and lawfulness of purpose.

**Reasonable cause to believe** means that the reporter, in making the report of abuse or neglect, acts with good faith intent, judged in light of all the circumstances then present.

### Definitions Pertaining to Children

**Abuse or neglect** means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under [RCW 9A.16.100](#); or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child ([RCW 26.44.020](#)).

**Child or Children** means any person under eighteen (18) years of age ([RCW 26.44.020](#)).

**Mandated reporter** means any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombuds or any volunteer in the ombuds's office. This also includes any person, in his or her official supervisory capacity with a nonprofit or for-profit organization that has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority ([RCW 26.44.030](#)).

**Negligent treatment or maltreatment** means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under [RCW 9A.42.100](#). When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.

Poverty, homelessness, or exposure to domestic violence as defined in [RCW 26.50.010](#) that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself ([RCW 26.44.020](#)).

**Sexual exploitation** includes:

- Allowing, permitting, or encouraging a child to engage in prostitution by any person ([RCW 26.44.020](#)); or

Allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person (RCW 26.44.020).

### **Definitions Pertaining to Vulnerable Adults**

**Vulnerable adult** means a person who is:

- 60 years of age or older who has the functional, mental, or physical inability to care for himself or herself; **or**
- 18 years of age or older and is in one of these situations:
  - Is found incapacitated under chapter [11.88 RCW](#)
  - Has a developmental disability as defined under RCW [71A.10.020](#);
  - Admitted to a facility, as defined in this policy;
  - Is receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter [70.127 RCW](#);
  - Is receiving services from an individual provider;
  - Self-directs his or her own care and receives services from a personal aide under chapter [74.39 RCW](#).

**Abandonment** means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care ([RCW 74.34.020](#)).

**Abuse** means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, personal exploitation, and improper use of restraint against a vulnerable adult, which have the following meanings ([RCW 74.34.020](#)).

- **Sexual abuse** means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter [71A.12 RCW](#), and a vulnerable adult living in that facility or receiving service from a program authorized under chapter [71A.12 RCW](#), whether or not it is consensual ([RCW 74.34.020](#)).
- **Physical abuse** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.



**Mental abuse** means any willful verbal or nonverbal action or inaction that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing ([RCW 74.34.020](#)).

- **Personal exploitation** means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another ([RCW 74.34.020](#)).
- **Improper use of restraint** means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that:
  - Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under [chapter 71A.12 RCW](#);
  - Is not medically authorized; or
  - Otherwise constitutes abuse under [RCW 74.34.020](#).
- **Chemical restraint** means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition ([RCW 74.34.020](#)).
- **Mechanical restraint** means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are:
  - Medically authorized, as required; and
  - Used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under [chapter 71A.12 RCW](#).
- **Physical restraint** means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include
  - Briefly holding without undue force a vulnerable adult in order to calm or comfort him or her; or
  - Holding a vulnerable adult's hand to safely escort him or her from one area to another.

**Facility** means a residence licensed or required to be licensed under [chapter 18.20 RCW](#), assisted living facilities; [chapter 18.51 RCW](#), nursing homes; [Chapter 70.128 RCW](#), adult family homes; [chapter 72.36 RCW](#), soldiers' homes; chapter [71A.20 RCW](#), residential

habilitation centers; or any other facility licensed by the department ([RCW 74.34.020\[6\]](#)).

**Financial exploitation** means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage (RCW 74.34.020 ). "Financial exploitation" includes, but is not limited to:

- The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;
- The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or
- Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds ([RCW 74.34.020](#)).

**Mandated reporter** means an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility, or an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to [chapter 18.130 RCW](#) ([RCW 74.34.020](#)).

**Neglect** means:

- A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; **or**
- An act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under [RCW 9A.42.100](#) ([RCW 74.34.020](#)).

**Self-neglect** means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being.

This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider ([RCW 74.34.020 \[19\]](#)).

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<sup>i</sup> Removed references to Children’s Administration, updated to the Department of Children, Youth, and Families (DCYF)

<sup>ii</sup> Updated reporting requirements, removing the regional reporting requirements table and adding centralized intake for APS in E.3.

DSHS Official