

## A HELPING HAND HOME CARE SERVICE

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Category: Rights, Responsibilities and Ethics                      Number: 3.004.1  
Subject: Reporting Abuse, Neglect or Exploitation  
Applies: All Staff    Page: 1 of 9

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**Purpose:** To protect clients from abuse, neglect and/or exploitation by Agency staff or other individuals.

**Policy:** All suspected abuse, neglect, or exploitation of a client will be reported immediately to the appropriate agencies. All home care staff are required to report the circumstance of suspected abuse, neglect or exploitation of clients or other individuals in the home upon discovery.

**Duty To Report:**

- (1) This agency shall immediately report abuse, neglect or misappropriation of property to the adult protective services division.
- (2) This agency shall report abuse, neglect, misappropriation of property, and injuries of unknown sources to the DADS immediately.
- (3) This agency shall ensure that the reporter with direct knowledge of an incident has immediate access to the incident report form to allow the reporter to respond to, report, and document incidents in a timely and accurate manner.

Contact Information:

Department of Aging and Disability Services, DADS' Consumer Rights and Services Division, P.O. Box 149030, Austin, Texas 78714-9030, toll free 1-800-458-9858	Texas Department of Aging and Disability Services at 1-800-458-9858	Texas Department of Family and Protective Services at 1-800-252-5400
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**Definitions:**

- “Abuse” means: The negligent or willful intention of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to an elderly or disabled person by the person’s caretaker, family member or other individual who has an ongoing relationship with the person; or sexual abuse of an elderly or disabled person, including any involuntary or nonconsensual sexual conduct that would constitute an offense, committed by the person’s caretaker, family member, or other individual who has an ongoing relationship with the person.

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”Child Abuse” includes the following acts or omissions by a person:

- mental or emotional injury to a child that results in an observable and material impairment in the child’s growth, development, or psychological functioning;
- causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child’s growth, development, or psychological functioning;
- physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian or managing or possessory conservator that does not expose the child to a substantial risk or harm;
- failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
- sexual conduct harmful to a child’s mental, emotional, or physical welfare and/or failure to make a reasonable effort to prevent sexual conduct harmful to a child.
- compelling or encouraging the child to engage in, or allowing the photography, filming or depicting of the child if the person knew or should have known that the resulting photograph, film or depiction of the child is obscene or pornographic.

- “Neglect” means: The failure to provide for one’s self the goods or services including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide such goods or services.

“Child Neglect” includes:

- the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

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- the following acts or omissions by a person:
  1. Placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;
  2. Failing to seek, obtain or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development or functioning of the child.
  3. The failure to provide a child with food, clothing or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused, or
  4. Placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or
  5. The failure by the person responsible for a child's care, custody or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.
  
- "Exploitation" means: The deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent.
  
- "Family violence" means: An act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault or sexual assault, but does not include defensive measures to protect oneself.

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### **Procedure:**

1. Staff must report suspected abuse to the Agency management and client's physician, and professional licensing boards.
2. This agency shall report incidents utilizing the division's incident report form consistent with the requirements of the division's incident management system guide and state regulations as applicable. The licensed health care facility shall ensure all incident report forms alleging abuse, neglect or misappropriation of consumer property submitted by a reporter with direct knowledge of an incident are completed on the division's incident report form and received by the division within twenty-four (24) hours of an incident or allegation of an incident. The licensed health care facility shall ensure that the reporter with the most direct knowledge of the incident prepares the incident report form.
3. This agency shall maintain the immediate response to all reported allegations of incidents involving abuse, neglect, misappropriation of consumer property, injuries of unknown sources, and deaths, as applicable.
4. Any individual who, without false intent, reports an incident or makes an allegation of abuse, neglect or exploitation will be free of any form of retaliation.
5. If you suspect abuse, neglect, exploitation or family violence, misappropriation of property of a client, contact your supervisor right away, stating clearly that you are reporting a suspected case of abuse, neglect or exploitation, and reporting at least the following:
  - ◆ Name, age and address of client
  - ◆ Name and address of responsible person
  - ◆ The client's condition
  - ◆ The basis of your knowledge
  - ◆ Any other relevant information
6. The supervisor must:
  - ◆ Document all Information completely and accurately
  - ◆ Immediately alert the PAS Supervisor of the incident and forward the Case Information Form to him/her.

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7. The PAS Supervisor must:
  - ◆ Review the Case Information Form for accuracy and completeness.
  - ◆ Decide if a joint visit is indicated and, if so, who should participate.
  - ◆ Incidents related to Family Violence shall be reported to the local law enforcement Agency.
  - ◆ Decide on appropriate follow-up action(s).
  - ◆ Notify the Administrator regarding the incident and follow-up status.
  - ◆ Offer to provide referrals to the victim for care.
  
8. The Administrator will investigate the report including:
  - ◆ Deciding if the appropriate action has been followed.
  - ◆ Presents new or changed policies/procedures to the Governing Body for review that could reduce or eliminate future re occurrences.
  - ◆ Reporting licensed staff to their respective licensing boards if found to be guilty of abuse neglect or exploitation.
  - ◆ Reports the findings and follow-up action(s) to the Governing Body.
  - ◆ Administrator or designee documents and investigates the report within 10 calendar days of receipt of the complaint. The Administrator must complete the investigation and documentation within 30 calendar days after the Agency receives the report of ANE unless the Agency has and documents reasonable cause for delay
  
9. This agency must investigate complaints made by a client, a client's family or guardian, or a client's health care provider regarding:
  - a) treatment or care that was furnished by the agency;
  - b) treatment or care that the agency failed to furnish; or
  - c) a lack of respect for the client's property by anyone furnishing services on behalf of the agency.

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10. This agency must complete the investigation and documentation within 30 days after the agency receives a complaint or report of abuse, neglect, and exploitation, unless the agency has and documents reasonable cause for a delay.
11. This agency may not retaliate against a person for filing a complaint, presenting a grievance, or providing, in good faith, information.
12. This agency is not prohibited from terminating an employee for a reason other than retaliation.
13. The Provider Investigation Form must be sent to DADS Complaint Intake Unit no later the 10<sup>th</sup> day after reporting the act to DFPS and DADS.
14. Abuse must be reported to local authorities and DADS immediately.
  - (1) This agency shall immediately report abuse, neglect or misappropriation of property to the adult protective services division.
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