

VULNERABLE ADULT PROTECTIVE SERVICES  
POLICES AND PROCEDURES

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**Vulnerable Adult Protective Services Policies and  
Procedures 690-01**

**Purpose 690-01-01  
(Revised 10/1/08 ML 3152)**

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This manual outlines the Policies and Procedures governing the administration, management, funding, and implementation of state and community services funded under the Older Americans Act, Title VII – Vulnerable Elder Rights Protection Activities.

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**Legal Authority 690-01-05**  
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- Public Law 109-365, Older Americans Act of 1965, as amended in 2006; 42 U.S.C. § 3001 et seq.;
- North Dakota Century Code Chapter 50-25.2; and
- North Dakota Century Code Section 50-06-05.3

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**Definitions 690-01-10**  
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**Abuse** – Any willful act or omission of a caregiver or any other person which results in physical injury, mental anguish, unreasonable confinement, sexual abuse or exploitation, or financial exploitation to or of an vulnerable adult. N.D.C.C. § 50-25.2-01(1).

**Administrative Action** – any action or decision made by an owner, employee, or agent of a long-term care facility, or by a public agency, which affects the provision of services to a resident of a long-term care facility. N.D.C.C. § 50-10.1-01(1).

**Adult** – Includes a minor emancipated by marriage. N.D.C.C. § 50-25.2-01(2).

**Adult Protective Services** – Remedial, social, legal, health, mental health, and referral services provided for the prevention, correction, or discontinuance of abuse or neglect which are necessary and appropriate under the circumstances to protect an abused or neglected vulnerable adult, ensure that the least restrictive alternative is provided, prevent further abuse or neglect, and promote self-care and independent living. The term includes the following services provided by the department or the department's designee:

1. Receiving, evaluating, and assessing reports of alleged abuse or neglect;
2. Short term crisis intervention and arranging for the provision of essential services such as case management and counseling;

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3. Arranging for and coordinating the provision of other services, including financial management or assistance, legal assistance, and the services of domestic violence programs;
4. Monitoring the delivery of services to vulnerable adults making progress assessments; and
5. Arranging for or providing and coordinating other services consistent with state law. N.D.C.C. § 50-25.2-01(3).

**Aging Services Division** – The North Dakota Department of Human Services, Aging Services Division is the designated state agency in North Dakota to carry out the provisions of the Older Americans Act of 1965, as amended. The provisions include Title VII - Elder Abuse Protection Program.

**Caregiver** – Any person who has assumed the legal responsibility or a contractual obligation for the care of a vulnerable adult, or has voluntarily assumed responsibility for the care of a vulnerable adult. The term includes a facility operated by any public or private agency, organization, or institution that provides services to, and has assumed responsibility for the care of a vulnerable adult. N.D.C.C. § 50-25.2-01(4).

**Department** – The North Dakota Department of Human Services.

**Department Designee** – Any individual or entity that has been given the responsibility for duties delegated under this Service Chapter.

**Essential Services** – Those services necessary to maintain and safeguard the physical and mental health of the vulnerable adult which include sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for mental or physical needs, appropriate treatment for medical needs as determined by a physician or other health care provider, and proper supervision. N.D.C.C. § 50-25.2-01(6).

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**Financial Exploitation** – The taking or misuse of property or resources of a vulnerable adult by means of undue influence, a breach of a fiduciary relationship, deception, harassment, criminal coercion, theft, or other unlawful or improper means. N.D.C.C. § 50-25.2-01(7).

**Least Restrictive Alternative** – Adult protective services provided in a manner no more restrictive of a vulnerable adult’s liberty and no more intrusive than necessary to achieve and ensure the provision of essential services. N.D.C.C. § 50-25.2-01(8).

**Living Independently** – Includes using the telephone, shopping, preparing food, housekeeping, and administering medications. N.D.C.C. § 50-25.2-01(9)).

**Mental Anguish** – Psychological or emotional damage that requires medical treatment or care, or is characterized by behavioral change or physical symptoms. N.D.C.C. § 50-25.2-01(10).

**Neglect** – The failure of a caregiver to provide essential services necessary to maintain the physical and mental health of a vulnerable adult, or the inability or lack of desire of the vulnerable adult to provide essential services necessary to maintain and safeguard the vulnerable adult’s own physical and mental health. N.D.C.C. § 50-25.2-01(11).

**Physical Injury** – Damage to bodily tissue caused by non-therapeutic conduct, which includes fractures, bruises, lacerations, internal injuries, dislocations, physical pain, illness, or impairment of physical function. N.D.C.C. § 50-25.2-01(12).

**Self-Care** – Includes maintaining personal hygiene, eating, and dressing. N.D.C.C. § 50-25.2-01(13).

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**Sexual Abuse or Exploitation** – Includes sex offenses defined in North Dakota Century Code Chapter 12.1-20-02, 12.1-20-03, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, and 12.1-20-11. N.D.C.C. § 50-25.2-01(14).

**Substantial Functional Impairment** – A substantial incapability, because of physical limitations of living independently or providing self-care as determined through observation, diagnosis, evaluation, or assessment. N.D.C.C. § 50-25.2-01(15).

**Substantial Mental Impairment** – A substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or ability to live independently or provide self-care as revealed by observation, diagnosis, evaluation, or assessment. N.D.C.C. § 50-25.2-01(16).

**Vulnerable Adult** - An adult who has a substantial functional or mental impairment. [(A) Substantial functional impairment is a significant limitation in the adult's ability to live independently or provide self-care. This limitation is due to physical incapacities that are determined through observation, diagnosis, evaluation or assessment. (B) Substantial mental impairment is a significant disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or ability to live independently or provide self-care. It is determined through observation, diagnosis, evaluation or assessment.] N.D.C.C. § 50-25.2-01(17).

**Vulnerable Adult Protective Services** - See Adult Protective Services.

**Willfully** – To engage in conduct or actions intentionally, knowingly, or recklessly. N.D.C.C. § 50-25.2-01(18).

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**Division Administrative and Management Functions  
690-01-15**

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The Department of Human Services, Aging Services Division, has been given the authority to develop and administer the Vulnerable Adult Protective Services Program in North Dakota.

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**Program Implementation 690-01-15-01**  
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Aging Services Division has established the Vulnerable Adult Protective Services Program in accordance with the requirements of Title VII of the Older Americans Act and consistent with State law. The Regional Human Service Centers provide statewide program services.

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**Hearings 690-01-15-01-01**  
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Aging Services Division conducts public hearings to obtain input for the development of the State Plan on Aging, which includes the Vulnerable Adult Protective Services Program. The views of older individuals and other interested parties are considered in the development of the State Plan.

Additional public hearings are scheduled upon request or as necessary.

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**Funding 690-01-15-01-05**  
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Each year Congress appropriates Older Americans Act funds to carry out programs for the prevention of elder abuse, neglect, and exploitation. Funds are included in the Regional Human Service Centers budgets.

Older Americans Act funds cannot be expended for clients under the age of 60.

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**Technical Assistance 690-01-15-01-10**  
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Aging Services Division provides technical assistance to Regional Human Service Centers in the implementation of the Vulnerable Adult Protective Services Program. Upon request, technical assistance is provided to other agencies, organizations, and individuals.

All requests for technical assistance, including inquiries requiring legal clarification and guardianship, should be directed to Aging Services Division Elder Rights Administrator. The Elder Rights Administrator will contact the Department of Human Services' Legal Advisory Unit as necessary for information and clarification.

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**Confidentiality 690-01-15-01-15**  
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Aging Services Division and the Regional Human Service Centers are governed by the confidentiality policies of the Department of Human Services, Service Chapter 110-01.

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**Appeals 690-01-15-01-20**  
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An individual receiving services funded under the Older Americans Act may appeal a decision to deny or terminate services. The individual should first contact the appropriate Regional Human Service Center and request a review of the decision.

If the individual still disagrees with the decision, an appeal must be made in writing to the Director of Aging Services Division, and, thereon, through the Department of Human Services appeal procedures in accordance with North Dakota Administrative Code Chapter 75-01-03. The appeal must be made in writing within thirty days of the date of the decision.

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**Education and Training 690-01-15-01-25**  
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Aging Services Division, in cooperation with other agencies, shall conduct a public education program to identify and prevent abuse, neglect, and exploitation. The education program shall include but not be limited to:

- Information regarding the laws governing the abuse, neglect, or exploitation of vulnerable adults;
- Voluntary reporting;
- The need for and availability of vulnerable adult protective services; and
- Information for caregivers regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the caregiver or vulnerable adult relationship. N.D.C.C. § 50-25.2-13.

Aging Services Division, in cooperation with other agencies, shall institute a program of education and on-going training for staff, law enforcement agency staff, and other persons who provide vulnerable adult protective services. N.D.C.C. § 50-25.2-13. The training shall include but not be limited to:

- The philosophy of the Vulnerable Adult Protective Services Program;
- State and Federal law;
- Department policies and procedures;
- Voluntary reporting;
- Evaluation and assessment;
- Legal remedies;
- Confidentiality; and
- Community resources.

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**Duties of Regional Human Service Centers**

**690-01-15-01-30**

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North Dakota Century Code section 50-06-05.3(2) requires Regional Human Service Centers to provide human services to prevent or remedy the neglect, abuse, or exploitation of adults unable to protect their own interests.

Regional Human Service Centers have designated staff or have entered into contractual agreements with other agencies to accomplish this requirement.

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**Program Reporting Requirements - Regional  
Human Service Centers 690-01-15-01-30-01  
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Designated staff at Regional Human Service Centers are required to submit quarterly data on Vulnerable Adult Protective Services activities to the Aging Services Division Elder Rights Administrator fifteen days after the end of the quarter.

Required program reporting includes SFN 605, Mandatory VAPS form - See Section 01-75.

Optional program reporting includes:

- Vulnerable Adult Protective Services Screening Report form, SFN 1268 – See Section 01-60, “Completing the Vulnerable Adult Protective Services Screening Report”.
- Vulnerable Adult Protective Services Risk Assessment form, SFN 1267 – See Section 01-50, “Contact With the Vulnerable Adult/Other Individuals” and Section 01-65, “Assessment”.
- Vulnerable Adult Protective Services Service Recommendations or Plans form, SFN 1266 – See Section 01-70-01, “Development of a Service Plan”.

Case Activity Log, SFN 351 – See Section 01-75, Forms Appendix.

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**Fiscal Reporting - Regional Human Service Centers**  
**690-01-15-01-30-05**  
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Designated staff at Regional Human Service Centers are required to complete fiscal transactions for vulnerable adult protective services activities on monthly basis.

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**Maintenance of Client Files - Regional Human  
Service Centers 690-01-15-01-30-10  
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The following must be adhered to:

- Vulnerable Adult Protective Service client files will be maintained under a separate filing system.
- Files will be maintained in a locked file cabinet in the Regional Aging Services Program Administrator's (RASPA) Unit. It is recommended that the current and most recent two years be kept in the RASPA's office and that inactive records be kept in a secure locked area.
- Files will be filed by year and alphabetically, (no numbering system).
- Destruction or storage of files will be conducted in accordance with the records management policy of the Department.
- Contract entities must follow the same procedures for confidentiality of and maintenance of client's files. If the entity is no longer under contract with the Department, the records are property of the Department and must be transferred to the respective human service center.

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**Eligible Clients 690-01-20**  
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An eligible client is an individual age 18 and older or a minor emancipated by marriage who has a substantial mental or functional impairment that compromises health, safety, or independent life style. It does not include an individual who lives in a long-term care facility or an individual who lives in a group home for a defined population.

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**Voluntary Reporting or Referral of Abuse, Neglect,  
or Exploitation 690-01-25**  
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Any individual who has reasonable cause to believe that a vulnerable adult has been subjected to conditions or circumstances that would result in abuse, neglect, or exploitation may report the information to Aging Services Division or the Regional Human Service Center.

Mandatory reporting is not required except for law enforcement agencies and various professional organizations that may require reporting of suspected abuse, neglect, or exploitation in their individual code of ethics. N.D.C.C. § 50-25.2-03.

A law enforcement agency receiving a report, under this law, shall immediately notify the Aging Services Division or the Department's Designee.

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**Confidentiality of Reports or Referrals and Records  
690-01-25-01**

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All reports or referrals, including the identity of the reporter, and all records and information obtained or generated as a result of the report or referral are confidential.

An individual making a report or referral should be advised of the confidentiality of the report or referral; however, the reporter should also be informed that the right to remain anonymous is not guaranteed, especially if the identity of the reporter is subject to disclosure by subpoena or court order. The individual making the report or referral should also be informed of his or her immunity from liability and, if applicable, the prohibition against employer retaliation.

Neither the State, nor the Department may require any provider of legal assistance to reveal any information that is protected by the attorney-client privilege.

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**Authorized Disclosures 690-01-25-01-01**  
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Records and information obtained or generated as the result of a report or referral must be made available to the following:

- A physician who examines a vulnerable adult whom the physician reasonably suspects may have been subjected to abuse or neglect;
- Authorized staff of the Department or the Department's designee, law enforcement agencies and other agencies investigating, evaluating, or assessing the report or providing adult protective services.
- A person who is the subject of a report or referral, if the identity of the person(s) reporting the alleged abuse, neglect, or exploitation is protected;
- Public officials, and their authorized agents, who require the information in connection with the discharge of their official duties;
- A court when it determines that the information is necessary for determination of an issue before the court; and
- A person engaged in a bona fide research or auditing purpose if no information identifying the subjects of a report or referral is made available to the researcher or auditor. N.D.C.C. § 50-25.2-12.

The Aging Services Division Elder Rights Administrator must be contacted prior to the disclosure of any reports or referrals or records to the courts.

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**Immunity From Liability 690-01-25-05**  
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The following are immune from any civil or criminal liability that might result from actions taken in reporting of any alleged abuse, neglect, or exploitation:

- Any individual acting in good faith, other than the individual responsible for the alleged abuse, neglect, or exploitation; and
- Any individual employed by the Department or a law enforcement agency conducting or supervising an investigation, evaluation or assessment, or enforcing provisions of the law if the individual is acting in good faith and exercising due care. N.D.C.C. § 50-25.2-09.

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**Penalty and Civil Liability for False Reports or Referrals 690-01-25-10**  
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Any individual who willfully makes a false report or referral or provides false information that causes a report or referral to be made is guilty of a class B misdemeanor. If the false report or referral is made to a law enforcement official, the individual is guilty of a class A misdemeanor. False reports or referrals may be reported to the state's attorney or law enforcement official having jurisdiction in that area.

An individual who willfully makes a false report or referral or provides false information that causes a report or referral to be made is liable in civil action for all damages reported by the person reported.  
N.D.C.C. § 50-25.2-10.

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**Employee Retaliation 690-01-25-15**  
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An employer who imposes any form of retaliation against an employee who reports an alleged abuse, neglect, or exploitation in good faith is guilty of a class B misdemeanor.

An employer who retaliates against an employee who reports an alleged abuse, neglect, or exploitation in good faith is liable to that employee in a civil action for all damages.

A rebuttable presumption that retaliation has occurred arises when an adverse action is taken within ninety days of the report or referral. An adverse action includes the discharge from or termination of employment; the demotion, negative work performance evaluation, reduction of hours worked, reduction of benefits or work privileges, or reduction in remuneration for services of the employee; or the restriction or prohibition of access by the employee to any place of employment or persons affiliated with the place of employment. N.D.C.C. § 50-25.2-11.

Employee retaliation may be reported (by the employee) to the state's attorney having jurisdiction in that area.

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**Content of Voluntary Report or Referral**  
**690-01-25-20**  
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To the extent reasonably possible, a report or referral, either oral or written, should include the following:

- The name, age, and residence address of the alleged vulnerable adult;
- The name and residence address of the caregiver, if any;
- The nature and extent of the alleged abuse, neglect, or exploitation and the conditions and circumstances that would reasonably be expected to result in abuse or neglect;
- Any evidence of previous abuse, neglect or exploitation, including the nature and extent of the abuse, neglect, or exploitation;
- The identity of the individual responsible for the alleged abuse, neglect, or exploitation; and
- Any other information that may be helpful in establishing the cause of the alleged abuse, neglect, or exploitation.

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**Evaluation and Assessment 690-01-30**  
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Upon receipt, Aging Services Division or the Department's Designee must evaluate and assess any report or referral of alleged abuse, neglect or exploitation.

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**Evaluation of a Report or Referral - Priority of  
Response 690-01-30-01**  
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The following levels must be used to determine priority of response:

- Emergency intervention – initiated when the vulnerable adult’s life or safety is in jeopardy. Immediate response is required. Appropriate law enforcement or medical personnel should be contacted.
- Imminent danger – initiated when the vulnerable adult is at significant risk of bodily harm. Response time is as soon as possible or one working day.
- Non-emergency response – initiated when there is no emergency or significant risk of bodily harm. Assessment should take place as soon as possible or within ten working days.

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**Referral of Report Concerning Long-Term Care  
Facilities 690-01-30-05**

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The State Long-Term Care Ombudsman must be notified of any report or referral concerning any administrative action that may adversely affect the health, safety, welfare, or personal or civil rights of a resident in a long-term care facility or tenant in an assisted living facility. The State Long-Term Care Ombudsman must also be notified if there is an alleged administrative action on a person who was discharged from a long-term care facility within nine months of the complaint.

The State Long-Term Care Ombudsman will collaborate with the vulnerable adult protective services worker to clarify roles. The intent is that the referral or assessment be done in a cooperative manner with all interested parties.

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**Referral of Report Concerning Qualified Service  
Providers 690-01-30-10  
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The Home and Community-Based Services Case Manager has the responsibility to examine alleged quality of care issues for clients receiving home and community-based services funded under Service Payments for Elderly and Disabled, Expanded Service Payments for Elderly and Disabled, and the Medicaid Waivers, such as Family Personal care, Home Delivered meals, and Extended Personal Care.

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**Referral of Report Concerning Adult Family Foster  
Care 690-01-30-15**

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If a resident of an adult family foster care home is receiving Home and Community-Based Services (HCBS), the HCBS Case Manager has primary responsibility to resolve concerns in collaboration with the vulnerable adult protective services worker. If there is no case manager, the licensing worker has primary responsibility to resolve licensing or quality of care issues in collaboration with the vulnerable adult protective services worker. The intent is that the referral or assessment be done in a cooperative manner with all interested parties.

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**Referral of Report Concerning Family Caregivers  
690-01-30-20**

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Department of Human Services Caregiver Coordinators who suspect alleged abuse, neglect, or exploitation shall collaborate with the respective Regional Aging Services Program Administrator or vulnerable adult protective services worker in their region. The intent is that the referral or assessment be done in a cooperative manner with all interested parties.

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**Referral of Report Concerning Special Populations  
690-01-30-25**

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The Protection and Advocacy agency has responsibility to investigate allegations of abuse, neglect, or exploitation for individuals with developmental disabilities and adults suffering from a mental illness who are an in-patient or resident in a facility rendering care or treatment, even if the location of the person is unknown. Adults who suffer from a mental illness who are in the process of being admitted to a facility rendering treatment, including persons being transported or who within the last 90 days was an in-patient or resident of a facility rendering treatment of care. N.D.A.C. § 25-013.01.

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**Access to Records of the Vulnerable Adult**  
**690-01-35**  
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For the purpose of evaluating or assessing a report or referral or providing other adult protective services, Aging Services Division or the Department's Designee may have access to all records of the vulnerable adult if the vulnerable adult, or the caregiver or legal representative of the vulnerable adult has authorized access; or if the vulnerable adult, because of a substantial functional or mental impairment, is unable to authorize access, does not have a legal guardian or other legal representative, and is the individual who is the alleged vulnerable adult addressed in the report.

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**Entry to the Residence or Premises 690-01-40**  
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Aging Services Division or Department's Designee may enter any premises in which the alleged vulnerable adult is an occupant, with the consent of the alleged vulnerable adult or the caregiver.

N.D.C.C. § 50-25.2-05(1)(b).

If the alleged vulnerable adult denies entry, a search warrant may be issued by a magistrate pursuant to law upon a showing of probable cause to believe that abuse, neglect, or exploitation has occurred. A law enforcement officer may make a reasonable entry of the premises without a search warrant or consent of the alleged vulnerable adult or caregiver for the purpose of rendering assistance if the officer has probable cause to believe that the delay of entry would cause the alleged vulnerable adult to be in imminent or serious physical injury or death. N.D.C.C. § 50-25.2-05(3).

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**Contact with Law Enforcement Officials 690-01-45**  
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In all cases of alleged abuse, neglect, or exploitation, Aging Services Division or the Department's Designee may request assistance from law enforcement officials in an evaluation for the provision of other adult protective services.

If a report or referral indicates violation of a criminal statute or an imminent danger of serious physical injury or death of the vulnerable adult, the law enforcement agency may investigate the allegations of the report or referral, take immediate steps necessary to protect the vulnerable adult, and if appropriate, institute legal proceedings. N.D.C.C. § 50-25.2-05(2).

Law enforcement officials are authorized to take photographs as a part of a criminal investigation.

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**Contact With the Vulnerable Adult or Other  
Individuals 690-01-50**

**(Revised 10/1/08 ML 3152)**

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Aging Services Division or the Department's Designee may interview the alleged vulnerable adult with or without notice to the caregiver or any other individual. N.D.C.C. § 50-25.2-05(1)(a).

Face-to-face contact is considered the optimal assessment environment. The worker should identify him or herself and explain the purpose of the visit.

Whenever possible, the vulnerable adult should be interviewed alone. The caregiver and any other individual who may have knowledge of the circumstances regarding the report or referral may also be interviewed. Whenever possible, each individual should be interviewed alone. A comparison of information obtained by the individual interviews, will give the worker a more accurate picture of the circumstances and potential needs of the vulnerable adult and other individuals in the household.

The Vulnerable Adult Protective Services Risk Assessment Form, SFN 1267, may be used to record interactions and observations. A copy of the form and instructions for completion are located in the Forms Appendix.

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**Collateral Contacts 690-01-55**  
**(Revised 10/1/08 ML 3152)**

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Collateral contacts are sources that have information on special circumstances that will assist in the evaluation or assessment of a report or referral. Collateral sources may include but not be limited to the following: law enforcement, medical professionals, relatives of the vulnerable adult, neighbors, other agencies and providers, the reporter of the referral, educators and state's attorneys.

Law enforcement officials are encouraged to provide collateral information. The vulnerable adult may need to sign an authorization to disclose information in order for information to be disclosed by these sources. When necessary, the authorization to disclose information may be witnessed by an individual other than the worker.

Whenever possible, the worker should inform the vulnerable adult of his or her intent to contact collateral sources and obtain a signed authorization for disclosure of information for this purpose. Circumstances that may prohibit informing the vulnerable adult of intent to contact collateral sources include when there is reason to believe that a serious emergency exists that endangers the health and safety of the vulnerable adult; when the worker lacks sufficient information to evaluate the seriousness or appropriateness of the report or referral; and when the worker has attempted to inform the vulnerable adult, but because of impaired mental functioning, the adult may be unable to consent to such contacts and no guardian has been appointed. If the vulnerable adult is impaired and does not have a court appointed guardian, the worker is empowered to request collateral information in order to provide needed services for the vulnerable adult.

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**Completing the Mandatory Vulnerable Adult  
Protective Services Report 690-01-60  
(Revised 10/1/08 ML 3152)**

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The Vulnerable Adult Protective Services Mandatory Report form, SFN 605, must be used.

Client Screened or Information Referral - This option applies if, during the course of the referral, it is apparent that the referral is inappropriate or does not meet vulnerability criteria; the referral is an inquiry regarding general vulnerable adult protective services; or the referral is administrative – requesting a speaker or information from a client file.

'Brief Services' applies if short term or brief services are indicated. Emergency transport, hospitalizations or one-time services may be sufficient to meet the vulnerable adult's needs. This service must be completed in two hours or less.

'Case to be Opened' applies to situations that meet the eligibility criteria and are in need of a full assessment.

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**Assessment 690-01-65**  
**(Revised 10/1/08 ML 3152)**

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A full assessment will be conducted to:

- Determine if criteria for vulnerability are met. Criteria for vulnerability include substantial mental or functional impairment or both.
- Determine if the vulnerable adult is in need of adult protective services or is in need of services to support or maintain independent living.
- Determine the vulnerable adult's capabilities and limitations. The worker may use the Vulnerable Adult Protective Services Risk Assessment form, SFN 1267. A copy of the form and instructions for completion are located in the Forms Appendix.
- Formulate, with the vulnerable adult and other support persons a service plan to meet those needs in the least restrictive environment.
- Evaluate the effectiveness of the service plan and reassess needs as necessary.

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**Observation of the Environment 690-01-65-01**  
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The assessment should include careful observation of the vulnerable adult's environment. Areas to observe include:

- The Neighborhood – Does it appear safe? Are the buildings, sidewalks, etc., well maintained? Is public transportation available? Is there access to health care, shopping, religious and social activities?
- The Home – What is the general impression of the home? Is the access uncluttered? Does the home accommodate physical disabilities of the vulnerable adult? Are there expensive items that would be easy to steal or otherwise exploit?
- The Living Environment – Are there environmental factors that suggest the vulnerable adult may have difficulty maintaining independent living skills without assistance, i.e. spoiled food on the counters, excess garbage, urine odor, too hot, too cold, etc.?

Observations should be recorded in the case file narrative.

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**Observation for Physical Evidence 690-01-65-05**  
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It is necessary to locate items that could be used to identify and describe incidences of abuse, neglect or exploitation made in the report or referral. Physical evidence may include clothing worn by the vulnerable adult that contains blood, semen, other body fluids; clothing that is torn; weapons; photographs; and x-rays. **The worker should not collect physical evidence – it should be left undisturbed until law enforcement can be called to collect it for possible criminal charges.**

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**Observation for Abuse, Neglect, and Exploitation  
690-01-65-10**

**(Revised 10/1/08 ML 3152)**

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- Physical abuse – occurs when an individual causes physical injury to a vulnerable adult. Probable cause for physical abuse includes: bruises, abrasions, welts, cuts, broken bones, dislocations, puncture wounds, brain injury, and death. If there is probable cause for physical abuse, the worker may refer the vulnerable adult for physical examination, notify law enforcement, or otherwise ensure the safety and appropriate care for the vulnerable adult through local domestic violence programs or agencies.
- Emotional abuse – exists when an individual acts in a manner that produces psychological stress or distress for the vulnerable adult. Emotional abuse may exist when the caregiver or legal guardian refuses the vulnerable adult access to services necessary for well-being; when an individual subjects a vulnerable adult to terrorization, excessive humiliation or verbal abuse; when an individual threatens the vulnerable adult's family, friends, pets, or otherwise subjects the vulnerable adult to coercive measures.

The worker should be aware of behaviors that would suggest emotional abuse and if necessary, link the individual and vulnerable adult with appropriate community resources.

- Sexual abuse and exploitation – involves using the vulnerable adult in non-consenting sexual acts, or other activities, to satisfy or arouse sexual or aggressive desires in the other initiating individual. Sexual abuse includes sexual contact, including touching of intimate body parts or penetration; sexual exploitation, using the vulnerable adult to create pornography; rape; incest; and sexual harassment.

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If sexual abuse is believed to have occurred, the worker shall notify law enforcement and refer the vulnerable adult to a local health care facility, domestic violence program, or sexual abuse crisis center.

- Neglect – the withholding of goods or services by an individual that are necessary to maintain the health and well being of the vulnerable adult. Neglect may include failure to provide hygienic living conditions; failure to administer medications properly; failure to provide adequate supervision during caregiver absences; failure to provide adequate basic needs (food, medical care, shelter); and failure to correct inadequate housing (windows broken, lack of indoor plumbing, heating).

The worker should record observations of neglect in the case file and link the caregiver and vulnerable adult with appropriate community resources.

- Self-neglect – the most common form of abuse and neglect in vulnerable populations, occurs when the adult, of his or her own choice, fails to provide adequate self-care. Examples of self-neglect include choosing not to take medications prescribed by a physician, choosing not to eat adequate meals and maintain nourishment; choosing to utilize finances improperly (failure to pay bills); inadequate personal hygiene (matted hair, soiled clothing).

The worker should document evidence of self-neglect as well as evidence of the adult's competency to make decisions. The competent vulnerable adult has the right to choose self-neglecting behaviors. The worker's responsibility is not to force the vulnerable adult to change his or her behavior, but to ensure that the adult is linked with services or resources to alleviate self-neglect if the adult desires them.

- Financial exploitation – involves the use or misuse of the vulnerable adult's finances, property, or real estate without the knowledge or consent of the vulnerable adult. Financial exploitation includes extortion, embezzlement, illegal rental or sale of property, scams, fraud, theft, or abuse of property or assets.

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Financial exploitation can be difficult to determine. Upon referral, the worker should provide services appropriate to the needs of the vulnerable adult. This may include budgeting information, and financial resource information. If criminal activity is suspected referrals must be made to law enforcement, state's attorney, Consumer Protection Division of the Attorney General's Office, or other local financial services for investigation.

- Conflicting needs – occurs when there are health and safety needs for both the vulnerable adult and the caregiver or other individuals. Examples include a vulnerable adult who is physically threatening to a caregiver; a chemically dependent or mentally ill parent with minor children; and a pregnant, chemically dependent woman (both she and the unborn child have safety needs).

While the worker may see the vulnerable adult as needing services, the worker may be legally mandated to report other aspects of the case. The legal mandate to report supersedes the right of confidentiality or the needs identified in a voluntary program. The worker must also be concerned with the health and safety needs of caregivers or other individuals.

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**Providing Adult Protective Services 690-01-70**  
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If Aging Services Division or the Department's Designee determines a vulnerable adult demonstrates a need for adult protective services, the worker shall arrange for provision of adult protective services provided that the vulnerable adult consents to and accepts the services.

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**Development of a Service Plan 690-01-70-01**  
**(Revised 10/1/08 ML 3152)**

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After the worker has conducted the assessment, collected collateral information, and ensured that the vulnerable adult is currently safe, the worker will develop a service plan that identifies the vulnerable adult's needs and activities to address each identified area of need.

The Plan should include the specific services or activities to be used; identify who is responsible for what activities; where the activities will take place; and specify a time frame.

Whenever possible, the service plan should be developed in conjunction with the vulnerable adult. If the vulnerable adult has an appointed legal guardian or a legal representative, the plan should be developed with the legal guardian. The legal guardian is under no obligation to implement all or any of the elements of the service plan.

The Vulnerable Adult Protective Services Service Recommendation or Plans form, SFN 1266, may be used in the development of the Service Plan. A copy of the form and instructions for completion are located in the Forms Appendix.

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**Voluntary Services 690-01-70-05**  
**(Revised 10/1/08 ML 3152)**

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The Vulnerable Adult Protective Services Program was established to safeguard the rights, safety, and well being of vulnerable adults. If services are provided on a voluntary basis, the following issues must be considered:

- If the vulnerable adult has the capacity to reach rational decisions, he or she should be allowed to live in a manner he or she chooses.
- Vulnerable adults who receive voluntary services have the right at any time and within their abilities, to make an informed choice and refuse services.
- In determining if voluntary services are appropriate, the worker shall consider the vulnerable adult's ability to consent. If a question exists, the worker shall seek input from other appropriate professionals.

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**Involuntary Services 690-01-70-10**  
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If a vulnerable adult who is subject to abuse, neglect, or exploitation is unable to make an informed consent or accept services or if the caregiver refuses, involuntary services may be pursued. The worker may pursue any administrative, legal and other remedies authorized by law that are necessary and appropriate under the circumstances to protect the vulnerable adult and prevent further abuse or neglect. The state's attorney of the county in which the vulnerable adult resides may assist the worker, upon request, in pursuing an appropriate remedy. Available remedies include:

- The appointment of a guardian under North Dakota Century Code Chapter 30.1-28 or a conservator under North Dakota Century Code Chapter 30.1-29;
- A restraining order or other court order necessary under the circumstances;
- The removal of an abusive or neglectful guardian or conservator and the appointment of a suitable person as a guardian or conservator, (pursuant to North Dakota Century Code Chapters 30. 28-07 and 30.1-29.15);
- The provision of appropriate treatment under North Dakota Century Code Chapter 25-03.1 (Commitment Procedures);
- The criminal prosecution of the individual responsible for abuse or neglect; and
- Any other available administrative, legal, or other remedies on behalf of the vulnerable adult. N.D.C.C. § 50-25.2-07.

When providing involuntary services, the worker shall consider that the vulnerable adult receiving involuntary services has the right to receive services that are the least restrictive alternative available

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that still meet the vulnerable adult's needs and that the vulnerable adult has a right to representation through formal or informal channels.

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**Cost of Services 690-01-70-15**  
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Except for the receipt, evaluation and assessment of a report or referral, the vulnerable adult is responsible for the costs of providing adult protective services if it is determined that the vulnerable adult is financially capable of paying for the services, either through the vulnerable adult's own income or through benefits received as a result of enrollment in services for which the vulnerable adult is eligible. The Department is not responsible for the cost of providing services unless a law specifically provides for the provision of services and funding exists to provide the service.

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**Denial of Services 690-01-70-20**  
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Vulnerable Adult Protective Services may be denied if:

- The individual is not an adult.
- The individual is not vulnerable by program criteria.
- The individual is not residing within the state of North Dakota.
- The vulnerable adult is already receiving sufficient services to prevent, correct, or discontinue abuse, neglect and self-neglect; the services are being provided in the least restrictive manner possible; and the services are promoting the self-care and independent living of the vulnerable adult.
- Existing support systems are willing to assist the vulnerable adult with appropriate services.
- The individual is residing on an Indian reservation and no cooperative agreement has been developed between the tribal government and the Department of Human Services.
- The referral requests only specific services (such as guardianship or conservatorship services) that are obtainable through other agencies.

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**Termination of Services 690-01-70-25**  
**(Revised 10/1/08 ML 3152)**

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Services may be terminated through action of the vulnerable adult protective services worker, the vulnerable adult, or the adult's legal representative. The vulnerable adult will be involved in the termination process to the maximum degree possible.

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**Worker Initiated Termination of Services**  
**690-01-70-30**

**(Revised 10/1/08 ML 3152)**

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The worker may initiate termination of services and the case file closed when:

- The service plan is complete and the vulnerable adult has been linked with appropriate services. Follow-up contact, if required, should be made within thirty days after closure.
- After reasonable attempts, and with the help of appropriate collaterals, the worker has been unable to locate the vulnerable adult.
- The death of the vulnerable adult.
- The vulnerable adult is institutionalized or otherwise receiving appropriate services.
- The case is transferred to another agency, such as domestic violence or Protection and Advocacy.
- The vulnerable adult has moved to another location in North Dakota.
- The vulnerable adult has moved out of the state.
- Appropriate resources do not exist within the community or region to assist the vulnerable adult, or existing services have been exhausted.
- Crisis intervention has successfully resolved current problems with no additional needs identified.

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**Vulnerable Adult Initiated Termination of Services  
690-01-70-35**

**(Revised 10/1/08 ML 3152)**

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The vulnerable adult may initiate activities to terminate vulnerable adult protective services. These activities include:

- The vulnerable adult has refused contact – no assessment was possible and there was insufficient information to pursue legal remedies.
- The vulnerable adult or the caregiver misrepresented the adult's needs, willingness to participate, or financial ability to pay for services received.
- The vulnerable adult has withdrawn his or her request for services.

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**Forms Appendix 690-01-75**

**SFN 1265, Vulnerable Adult Protective Services  
Data Collection Form & Instructions 690-01-75-01  
(Revised 10/1/08 ML 3152)**

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SFN 1265 is an eform. Click [here](#) to view. No hard copies will be available.

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**SFN 1268, Vulnerable Adult Protective Services  
Screening Report Form & Instructions  
690-01-75-05**

**(Revised 10/1/08 ML 3152)**

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**SFN 1267, Vulnerable Adult Protective Services  
Risk Assessment Form & Instructions  
690-01-75-10**

**(Revised 10/1/08 ML 3152)**

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**SFN 1266, Vulnerable Adult Protective Services  
Service Recommendations or Plans Form &  
Instructions 690-01-75-15**

**(Revised 10/1/08 ML 3152)**

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**SFN 351, Case Activity Log 690-01-75-20**  
**(Revised 10/1/08 ML 3152)**

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**SFN 605, Mandatory VAPs Form, 690-01-75-25**  
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